



California Fair Political Practices Commission

December 14, 1989

Robert Maddow, General Counsel
East Bay Municipal Utilities District
P.O. Box 24005
Oakland, CA 94623

Re: Your Request for Advice
Our File No. I-89-564

Dear Mr. Maddow:

You are seeking advice on behalf of Mr. John Gioia regarding application of the conflict-of-interest and campaign contributions provisions of the Political Reform Act (the "Act")¹ to his duties as a member of the East Bay Municipal Utilities District (EBMUD) board of directors. We provide you with formal written advice only with respect to Mr. Gioia's responsibilities regarding the receipt and reporting of campaign contributions. Because your questions regarding possible conflicts-of-interest do not refer to a specific pending governmental decision, the portions of this letter dealing with these questions are informal guidelines for your information, pursuant to Regulation 18329(c) (copy enclosed).²

The following advice is based upon the facts provided in your letter of September 26 and subsequent telephone conversations with Nancie Ryan of your office. It is limited to provisions of the Act and does not address other conflict-of-interest laws, such as Government Code Section 1090.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

QUESTIONS

CONFLICT-OF-INTEREST

Can Mr. Gioia participate in the following EBMUD decisions:

(1) The award of compost distributorship contracts with American Soil Products, Inc. (American) for whom he has acted as attorney and serves as a member of its board of directors?

(2) The award of compost distributorship contracts with other vendors within and outside the American's distributorship area?

(3) The development of EBMUD's short-term and long-term sludge management program?

(4) EBMUD's entering into an agreement for landfill acceptance and disposal?

CAMPAIGN CONTRIBUTIONS

Mr. Gioia established a "new" campaign committee in March 1989 to retire unpaid debts incurred by his "old" campaign committee which was formed to raise funds for his November 1988 election campaign.

(5) Can the new committee make payments to pay off debts and loans incurred by the old campaign committee?

(6) Would the new committee's payment of \$25,000 to Mr. Gioia to satisfy a loan from Mr. Gioia to his old committee, create any potential conflicts of interest?

(7) Are contributors to the new committee sources of income or gifts to Mr. Gioia when the new committee makes payments to Mr. Gioia to satisfy the personal loan?

CONCLUSIONS

CONFLICT-OF-INTEREST

(1) Mr. Gioia may not participate in decisions concerning the award of compost distributorship contracts with American.

(2), (3), & (4) Mr. Gioia may participate in decisions concerning the award of compost distributorship contracts with vendors other than American, the development of EBMUD's sludge management program, or the forthcoming landfill acceptance and disposal agreement if these decisions will not have a foreseeable material financial effect on American.

CAMPAIGN CONTRIBUTIONS

(5) The new committee can make payments toward the debts and unpaid loans incurred by the old committee.

(6) No conflict of interest is created by the new committee's payment of the \$25,000 to satisfy Mr. Gioia's personal loan made to the old committee.

(7) Contributors to the new committee are not considered sources of income or gifts to Mr. Gioia even when the funds are used to repay his loan to the old committee.

FACTS

EBMUD, a public utility providing water and waste water services in Alameda and Contra Costa Counties, produces compost as a by-product of its wastewater operations. This compost is sold to various distributors, including American Soil Products, Inc. (American), a company engaged in selling soils and soil amendment products to landscape contractors and the public. A contract under which American purchased compost from EBMUD was first executed in 1985. A second such contract was executed on April 1, 1989, to terminate at the conclusion of either 12 months or American's purchase of an agreed quantity of compost, whichever occurs first.

No decision involving American is presently pending before the EBMUD board of directors. American is a business entity, but is not listed on the New York, American, or Pacific Stock Exchanges, the National Association of Securities Dealers National Market List, or the Fortune Magazine Directory of the 500 largest U.S. industrial and non-industrial corporations, and does not meet the standards for listing on the New York Stock Exchange. In addition to its contractual relationship with EBMUD, American's president has occasionally participated with EBMUD personnel in making presentations to landscape architects.

John Gioia is an elected member of the EBMUD board of directors, having assumed office on January 1, 1989. Mr. Gioia has also acted as an attorney for American. He is a member of American's board of directors and has served on American's board since its incorporation in 1985. Mr. Gioia has received more than \$250 in income from American in the preceding 12 months.

EBMUD is presently developing a sludge management program with short-term and long-term components. In the short-term, no board decisions concerning compost marketing are anticipated because EBMUD has already decided that the use of the sludge during this period will be limited to landfill and non-agricultural purposes. You have stated that none of the board's implementing decisions for this short-term component would have any financial impact on American.

In the long-term, you have indicated that EBMUD seeks to develop an expanded compost marketing operation. As the implementation of any plans for the long-term component of the program awaits the promulgation of federal regulations, the Board will not presently make any decisions on the long-term plan. Instead, the Board intends to adopt what you have described as "tentative and flexible" guidelines designed to maximize sludge reuse. These guidelines will provide for further development and expansion of both the compost product program from the present 12 distributors, of which American is one, and of other sludge uses, such as tree and sod farms, landscaping, and sludge solidification for engineering applications. Once federal guidelines have been promulgated, EBMUD staff, and not the Board, will determine which applications from the strategy to implement. The Board will retain final approval for these applications and for any contracts and agreements that will be required for their implementation.

Finally, you have stated that EBMUD expects to conclude a long-term agreement for landfill acceptance and disposal sometime during 1990. A new landfill agreement is required because EBMUD's current contractor does not have sufficient landfill space for EBMUD's non-compost waste products. You have indicated that under the anticipated landfill agreement it is possible that the new contractor may wish to insist upon a minimum quantity of dry sludge for landfill placement. If more dry sludge than is currently deployed for such purposes is required by the new landfill agreement, there may be less sludge available for compost marketing purposes.

The Friends of John Gioia campaign committee ("old committee") was Mr. Gioia's campaign committee for election to a seat on the EBMUD board of directors in the November 1988 election. The old committee has unpaid expenses of approximately \$5,000 and an outstanding loan of almost \$25,000 from Mr. Gioia to the committee.

In March 1989, Mr. Gioia formed a new committee to receive contributions in compliance with the limits of Proposition 73. The John Gioia Campaign Committee ("new committee") was formed to pay Mr. Gioia's current officeholder expenses, and to pay off the debts of the old committee, including the \$25,000 loan from Mr. Gioia. The new committee does not solicit contributions for expenses relating to any future election.

ANALYSIS

CONFLICT OF INTEREST

The Act prohibits a public official from making, participating in, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. (Section 87100.) A public official has a financial interest in a decision if it is reasonably foreseeable that

the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his immediate family or on, among other things,

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 87103 (c) and (d).

Mr. Gioia is a public official because he is an elected member of the EBMUD board of directors. (Section 82048.) American is a source of income to Mr. Gioia of more than \$250 in the last 12 months. Additionally, Mr. Gioia serves as a director of American. Therefore, Mr. Gioia must disqualify himself from any EBMUD decision which will have a reasonably foreseeable material financial effect on American. (Sections 87103(c) and (d).)

Foreseeable Material Financial Effect

The effect of a decision is reasonably foreseeable if there is a substantial likelihood that it will occur. While certainty is not required, an effect that is merely a possibility is not reasonably foreseeable. (Downey Cares v. Downey Community Development Com. (1987) 196 Cal.App.3d 983; In re Thorner (1975) 1 FPPC Ops. 198.)

In order to determine whether the foreseeable effect of a decision is material, the Commission has adopted Regulations 18702 et seq. (copies enclosed). Regulation 18702.1 provides that the effect of a decision is material when:

(1) Source of Income or Gifts - Any person (including a business entity) which has been a source of income (including gifts) to the official of \$250 or more in the preceding 12 months is directly involved in a decision before the official's agency or there is a nexus (as defined in subdivision (d)) between the purpose for which the official receives income and the governmental decision; or

Regulation 18702.1(a)(1).

A person or business entity is directly involved in a decision before an official's agency when that person or entity:

* * *

(2) Is a named party in, or is the subject of, the proceeding concerning the decision before the official or the official's agency.

Regulation 18702.1(b)(2).

A person or business entity is the subject of a proceeding if a decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the subject person or business entity. (Regulation 18702.1(b)(3).)

A decision regarding a distributorship contract between EBMUD and American will have a foreseeable material financial effect on American because such a decision involves American as "a named party in, or the subject of, the proceeding concerning the decision before the official or the official's agency." (Regulation 18702.1(b)(3).) Any decision on a compost distributorship contract on which American has bid will result in either (1) the award of the contract to American, in which case American will profit from the decision, or (2) the award of the contract to a competitor of American, in which case American will not realize a profit from its failure to obtain the contract. (See also Roberts Advice Letter, I-87-044; Combs Advice Letter, A-89-177, copies enclosed.) Therefore, Mr. Gioia must disqualify himself from any EBMUD decision regarding the award of any compost distributorship contract to American.

A public official must also disqualify himself from participation in a governmental decision which would indirectly have a foreseeable material financial effect on his economic interest. Regulation 18702.2 provides guidelines to determine when there is a material financial effect on a business entity indirectly involved in a decision.

Because of American's financial size Regulation 18702.2(g) should be applied. This regulation provides that the effect of a decision is material if:

(1) The decision will result in an increase or decrease in the gross revenues for a fiscal year of \$10,000 or more; or

(2) The decision will result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more; or

(3) The decision will result in an increase or decrease in the value of assets or liabilities of \$10,000 or more.

Regulation 18702.2(g).

Consequently, Mr. Gioia is disqualified not only from participating in decisions regarding whether to award compost distributorship contracts to American (Regulation 18702.1), but also from participating in decisions regarding compost distributorship contracts if it is reasonably foreseeable that the decisions would affect American's gross revenues or assets by at least \$10,000, or expenses by at least \$2,500.

For example, if EBMUD were to develop guidelines for distributorship contracts, or were to set limits on such contracts, these types of decisions could have an indirect financial effect on American. Under such circumstances the provisions of Regulation 18702.2(g) would apply. However, the awarding of a specific contract to a competing distributor by itself would not have an indirect effect on American if American has not submitted a bid on a proposal. (See Downey Cares, *supra*; In re Thorner, *supra*.); when American has submitted a bid, but lost, the effect is direct. See Kay Advice Letter, A-83-157; Lober Advice Letter, I-87-267; Casey Advice Letter, I-86-310 (copies enclosed).

The short-term component of the sludge management program incorporates the use of sludge exclusively for landfill and non-agricultural purposes. No EBMUD compost distributorship contracts are anticipated in this component. Therefore, no EBMUD decisions implementing the short-term component will impact American's revenues, assets, or expenses. Consequently, Mr. Gioia may participate in the decisions regarding the development of the proposed short-term program.

On the other hand, the long-term component of the program is expected to include, among other things, an expanded compost marketing operation. In anticipation of federal regulations, the Board plans to adopt tentative and flexible guidelines to maximize sludge reuse. These guidelines will include the expansion of the compost product program from the present 12 distributors, among which American is included.

At the present time any impact from these guidelines is purely speculative and lacks the requisite foreseeability that would create a conflict of interest. (See Downey Cares, *supra*; In re Thorner, *supra*.) The Board's long-term guidelines are merely expressions of "preferences" or "wishes" that must await federal regulations and subsequent staff determinations before any Board action can take place. Once the federal regulations are promulgated, the Board will be in the position of making decisions regarding the long-term program. At that time Mr. Gioia would be disqualified from participating in decisions which could have a material financial effect on American, as discussed above.

EBMUD's anticipated long-term agreement for landfill acceptance and disposal does not involve the compost distributorship program. While you have stated that there is a possibility that this agreement may require an increased quantity of dry sludge for landfill placement, and thereby result in less sludge for compost marketing purposes, a mere possibility is insufficient to create a foreseeable effect on an economic interest. (See Downey Cares, supra., and In re Thorner, supra.) Thus, Mr. Gioia does not appear to have a financial interest in the decisions pertaining to this agreement.

CAMPAIGN FINANCING

A candidate must establish a campaign bank account in order to receive funds to defray the costs of an election campaign and the costs of holding the office to which he or she is elected. (Section 85201.) Section 85304 prohibits the transfer of funds between candidates or their controlled committees. However, a preliminary injunction issued in Service Employees International Union, AFL-CIO CLC, et al. v. FPPC (Case No. CIVS 89-0433-LKK-JFM) enjoins the Commission from enforcing Section 85304 to the extent that it prohibits transfers of funds between a candidate's own controlled committees. Thus, unless the court reverses its position in its final order, a candidate who controls more than one committee may transfer funds between those committees.³

Mr. Gioia controls two committees, the old committee and the new committee. Mr. Gioia's new committee may transfer funds to the old committee to enable the latter to make payments toward the unpaid debts. This transfer of funds between committees controlled by the same candidate must be reported on Schedule E (Form 490) as an expenditure by the old committee and on Schedule G (Form 490) as a miscellaneous increase to cash by the new committee. (Starbuck Advice Letter, No. A-89-423, copy enclosed.) The new committee also would report payment of the debts as expenditures on Schedule E (Form 490).

The new committee can also make payments directly to the vendors or lenders for the unpaid debts and loans of the old committee. The reporting requirements would be identical to the two-step process of transfer-plus-payment described above and would accomplish the same result.

The Act's conflict of interest provisions prohibit participation in governmental decisions where the personal economic interests of elected officials are affected. Sources of income or gifts are economic interests which can create a conflict of interest. (Section 87100.) However, political contributions are specifically excepted from the definitions of both income and gift. (Section 87103(c), 82030(b); see also Woodland Hills Residents

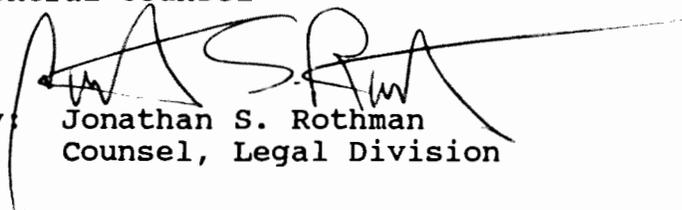
³ A hearing in federal court on this and other issues is scheduled for January 1990.

Association, Inc. v. City Council (1980) 26 Cal.3d 938, 945-946.) Moreover, these prohibitions do not apply to decisions of a campaign committee relative to its debts or expenditures. Therefore, contributions received by the new committee and used to repay the \$25,000 loan made by Mr. Gioia to his old committee do not create a conflict of interest for Mr. Gioia.⁴

I trust this letter has provided you with the guidance you requested. If you have any further questions regarding this matter please contact me at (916) 322-5091.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Jonathan S. Rothman
Counsel, Legal Division

KED:JSR:plh

Enclosures

⁴ Section 84308 creates a conflict of interest for any person holding any appointive office if he or she has received campaign contributions totaling \$250 or more during the preceding 12 months from any party or participant in a proceeding involving a license, permit, or other entitlement for use pending before his or her agency. Section 84308 does not apply to you when you serve as a member of a directly elected board, such as the EBMUD board of directors. (Section 84308(a)(3).)

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District's Board of Directors is elected by ward, and Director John Gioia was elected and took office on January 1, 1989 to represent Ward 1, which is located within Contra Costa County.

District's Compost Operations

Director Gioia has been a member of the Board of Directors of American Soil Products, Inc. ("American") since its incorporation on February 14, 1985. He has also acted as an attorney for American and earned more than \$250.00 during the prior 12 month period.

American sells soil and soil amendment products (compost products, wood chips, fertilizer, etc.) to landscape contractors, landscape architects, and the public generally. American operates a retail outlet and soil lot (where it stores its inventory of soil products) at 2222 - 3rd St., Berkeley. American is not a publicly traded company and does not appear to qualify for public sale.

On July 12, 1983, the District's Board of Directors authorized the District to engage in a program to produce compost from digested sewage sludge and authorized the General Manager or his designee to enter agreements to sell the compost to bulk sale distributors. The Board further provided that said agreements provide for payment to the District of no less than \$6.00 per cubic yard and establish minimum quantities to be purchased by distributors and further that such agreements be subject to termination by either party on thirty days' notice.

Pursuant to this authority, the District's Manager of Wastewater has executed contracts with various firms to distribute the District's compost product ("CompGro"), including a contract with American which was first executed in 1985. The current contract with American, executed on April 1, 1989, obliges American to buy 12,000 cubic yards of compost during the 12-month term of the agreement for an incremental price based on volume:

First 5,000 cubic yards purchased	\$8.00 per c.y.
Next 5,000 " " "	\$7.00 per c.y.
Next 2,000 " " "	
(and any amount above 12,000 c.y.)	\$6.00 per c.y.

The contract also requires American to maintain general liability insurance in the amount of \$1,000,000 and automobile liability insurance coverage in the amount of \$600,000.

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September 27, 1989
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In addition to the distributorship contract, the majority shareholder and President of American has joined with District personnel in making presentations to landscape architects. At those presentations, the District discussed CompGro and American discussed soil chemistry and the use of soil amendments. There was no payment to American for these services. No future services by American are contemplated at this time. However, if the District did engage in such a relationship with American, it is unlikely that the Board would be asked to make any decisions relating to such services.

Furthermore, it is not anticipated that the Board will be asked to make any decisions with respect to contracts for the distribution of CompGro, either in general or with respect to particular distributors.

However, District staff has been studying the District's waste management operations and may recommend that the Board adopt a comprehensive sludge management program. The purpose of this program is to plan for the short-term and long-term disposal or reuse of dry sludge, of which CompGro is a by-product. Board decisions are not likely until later in 1989 or perhaps 1990.

Briefly, the District currently disposes of 75% of the sludge for use as landfill and the remaining 25% is composted. However, because the future availability of landfill is uncertain and because draft federal regulations may preclude the District from marketing composted sludge in the future, the District is seeking to develop other options for disposal or reuse of sludge. A report to the Board describing the various options for disposal and reuse of sludge is attached for your reference.

As you can see, there is no present expectation that the District will increase the amount of sludge that will be marketed as compost within the next 5 years. Instead, the short-term plan will focus on using sludge for landfill purposes and for demonstration projects to evaluate the benefits of using sludge for non-agricultural applications.

The long-term plan depends on the federal sludge disposal regulations which are scheduled to be promulgated in two years and finalized in three to five years. The proposed long-term plan would be sufficiently flexible to accommodate either stringent or relaxed federal regulations, with the goal being to expand the District's sludge reuse program to the fullest extent allowable under the regulations. This would mean that, under the long term plan, the District could expand its future compost

marketing operations if permitted by the federal regulations.

In addition to the sludge management plan, the District will also be entering into a long-term agreement (10 years) for landfill acceptance and disposal sometime before December 1990. It is anticipated that the Board will participate in this decision.

It is not expected that any of the decisions by the Board to implement the short-term phase of the sludge management program will increase or decrease American's gross revenues, liabilities or assets by \$10,000 per year or more or result in American incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more. Likewise, it is not reasonably foreseeable that any Board decision will result in an increase or decrease in the personal expenses, income, assets, or liabilities of Director Gioia or his immediate family. Furthermore, Director Gioia does not receive income from American to achieve a goal or purpose which would be achieved, defeated, aided or hindered by any decisions facing the Board. Thus, there is not a nexus between Director Gioia's duties as legal counsel to American and any decision that will come before the Board.

Given these facts, Director Gioia seeks advice with respect to the questions set forth below. With respect to questions number (1) and (2), please assume that the Board will participate in decisions to award CompGro distributorship contracts even though no such Board decisions are contemplated.

(1) Can I participate in any decision regarding the award of CompGro distributorship contracts with American?

(2) Can I participate in any decision regarding the award of CompGro distributorship contracts with other vendors:

- (a) within American's distributorship area?
- (b) outside American's distributorship area?

(3) Can I participate in any decision regarding the development of the District's short-term sludge management program?

(4) Can I participate in any decision regarding the development of the District's long-term sludge management program?

(5) Can I participate in a decision to enter into a

Ms. Diane F. Griffiths
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long-term agreement for landfill acceptance and disposal?

(6) Are there any other potential conflicts of interest arising out of my relationship with American?¹

Repayment of Personal Loans Made to Campaign Committee

During the November 1988 campaign for election to the District Board of Directors, Director Gioia personally loaned \$25,000 to the "Friends of John Gioia" campaign committee. Most of this loan remains outstanding. The campaign committee also has unpaid accrued expenses of approximately \$5,000. The "Friends of John Gioia" committee is a "restricted account" under the provisions of Proposition 73, meaning that no further campaign contributions may be received by this committee.

A new campaign committee, the "John Gioia Campaign Committee", was established in March 1989 to receive contributions within the limits set by Proposition 73. This new committee has received contributions which have been used to: (1) pay officeholder expenses, (2) make payments (as a third party) towards unpaid accrued expenses of the "Friends of John Gioia" committee, and (3) make payments (as a third party) to John Gioia towards repayment of the \$25,000 in personal loans made by Director Gioia to the "Friends of John Gioia" committee. The "John Gioia Campaign Committee" does not solicit contributions for expenses relating to a future election.

Director Gioia seeks advice with respect to the following questions:

(1) Is it proper for the "John Gioia Campaign Committee" to make third party payments towards unpaid debts and loans incurred by the "Friends of John Gioia" committee. Director Gioia has received informal advice that such third party payments are proper.

(2) Are there any potential conflicts of interest arising out of the repayment of the \$25,000 personal loan made by Director Gioia from contributions received by the "John Gioia Campaign Committee"?

¹This office will advise Director Gioia with respect to the requirements of Government Code 1090.

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September 27, 1989
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(3) Are contributors to the "John Gioia Campaign Committee" deemed to be sources of income or gifts when the "John Gioia Campaign Committee" receives contributions which are then used to repay the personal loan made by Director Gioia?

Please address your response to:

Robert B. Maddow
General Counsel
East Bay Municipal Utility District
Post Office Box 24055
Oakland, California 94623

If you have any questions, please direct those inquiries to myself (415/835-3000, ext. 496) or to Nancie Ryan (415/835-3000, ext. 495). Thank you for your time and attention to this matter.

Very truly yours,



ROBERT B. MADDOW
General Counsel

RBM:NR:ndm

attachment

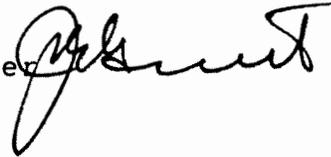
cc: Director John M. Gioia

September 18, 1989

MEMO TO: Board of Directors

F R O M: Jerome B. Gilbert, General Manager

SUBJECT: Sludge Management Plan Update



INTRODUCTION

The District is completing its Sludge Management Plan to provide for disposal or reuse of over 50 tons of dry sludge per day for the next 20 years. The current practices of landfilling 75% of the sludge and composting the remainder may not be available in the future. The District's contract with Redwood Landfill expires in December 1990. Future availability of this landfill is uncertain, and no other landfill will currently accept the District's sludge. The draft Federal regulations governing disposal and reuse of sludge would preclude the District from marketing composted sludge. This memorandum provides a status report on the preliminary findings of the management plan.

SUMMARY

The goal of the management plan is to develop multiple disposal/reuse options that will allow flexibility under any regulatory scenario and maximize beneficial reuse. The attached figure illustrates the plan covering two regulatory scenarios over the next 20 years and the impact of regulations on reuse. Maximizing beneficial reuse requires continuation of composting and establishment of a program for non-agricultural application of sludge, which could allow for beneficial reuse of up to 70% of the District's sludge.

Significant expansion of the District's beneficial reuse options must wait until the proposed Federal regulations are finalized in the next three to five years. Non-agricultural uses of sludge on crops with no chance of entering the human food chain are the most likely to be allowed under the new Federal regulations. The opportunity to beneficially reuse sludge will be explored at: 1) the five Christmas tree farms in Contra Costa and Alameda Counties; and 2) the twelve turf farms within a cost-effective transportation distance of approximately 90 miles.

DISCUSSION

The Sludge Management Plan evaluated three general disposal options (landfilling, non-agricultural reuse, and compost marketing) under two regulatory scenarios. One regulatory approach is very stringent on reuse (forces landfilling or incineration), and the other is similar to existing conditions. These options were selected from over 50 alternatives based on cost, environmental impact, technical considerations and ability to implement.

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the Federal regulations, a long-term agreement (10 years) for landfill acceptance and disposal must be completed before the end of the District's current agreement (December 1990).

The strategy for long-term sludge management focuses on: 1) continued reliance on landfilling as a fallback option to safeguard the District's ability to handle sludge; and 2) maximum expansion of beneficial reuse as allowed by Federal regulations. The attached figure illustrates the expected District sludge management scheme during the planning interval that will accommodate either stringent or less stringent Federal regulations; the anticipated level of beneficial reuse ranges from 0% for the stringent regulations to 67% for the less stringent regulations.

Improvements would be constructed to accommodate full scale on-site solidification or off-site air drying, followed by either landfilling (as cover material) or development of non-agricultural uses of the dry material as regulations and market conditions allow.

Concurrently, other non-agricultural reuse demonstration projects should be completed so the District can be ready to act on them when the regulations are promulgated. In the absence of highly restrictive Federal regulations, the established market for compost would accommodate a 50% expansion, at \$200/dry ton. Planning will be completed to implement the expansion following promulgation of regulations.

JBG:HWL:smg

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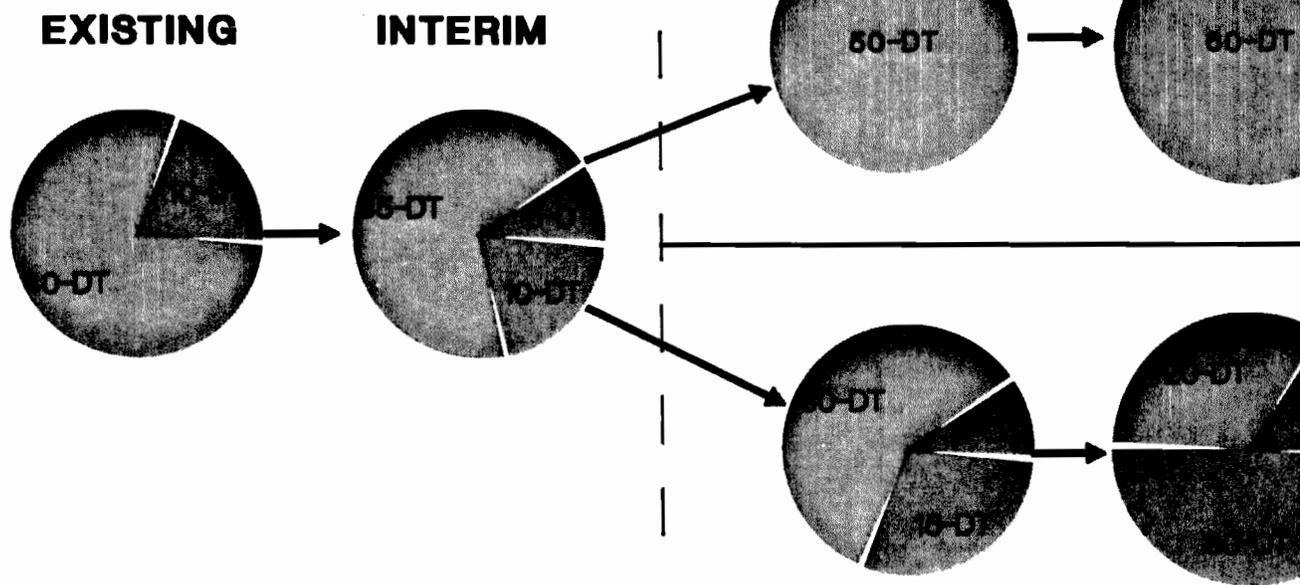
Attachment

LONG TERM SLUDGE MANAGEMENT PLAN

5 YR TIME FRAME

10-20 YR TIME FRAME

40 CFR 503
BECOMES LAW



1989

1992

1994

 - COMPOSTING

 - NON-AG REUSE

 - LANDFILLING



California Fair Political Practices Commission

October 2, 1989

Robert B. Maddow
General Counsel
District
P.O. Box 24055
Oakland, CA 94623

East Bay Municipal Utility

Re: Letter No. 89-564

Dear Mr. Maddow:

Your letter requesting advice under the Political Reform Act was received on September 29, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jonathan Rothman an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh