



2016 – 2017

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Foreperson

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Kern County GRAND JURY

June 14, 2017

Kathleen Krause
Clerk of the Board of Supervisors
Kern County Administrative Office
1115 Truxtun Avenue
Bakersfield, CA 93301

Dear Ms. Krause:

Enclosed is a copy of the Grand Jury Final Report concerning the **Kern County Waste Management** in accordance with the provisions of Penal Code §933.05(f) which states:

"A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report."

Please note that this report is confidential until public release. The Grand Jury will be releasing this report to the public on **June 19, 2017**. Accordingly, you are instructed not to disclose the contents of the report until that time. We have already forwarded a letter to the South Fork Mosquito Abatement District Director.

Thank you for your consideration and cooperation.

Respectfully,

Dwayne Ardis, Foreperson
2016-2017 Kern County Grand Jury

CC: Kern County Public Works Department
County of Kern Department of Agriculture and Measurement Standards

ENCLOSURE: Response - Excerpt Penal Code §933

COUNTY OF KERN

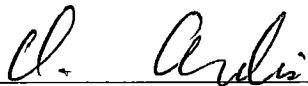
2016-2017 GRAND JURY FINAL REPORT

KERN COUNTY WASTE MANAGEMENT

ADMINISTRATION, AUDIT, AND COUNTY SERVICES COMMITTEE

Fred Garcia, Chairperson
Portia Russell
Mark Smith

APPROVED AS TO FORM FOR RELEASE



Dwayne Ardis, FOREPERSON
KERN COUNTY GRAND JURY

6/8/17

DATE



Mark L. Nations, INTERIM COUNTY COUNSEL

6/9/17

DATE



Charles R. Brehmer, PRESIDING JUDGE OF
THE KERN COUNTY SUPERIOR COURT

6/13/17

DATE

PUBLIC RELEASE DATE:

6/19/17

KERN COUNTY WASTE MANAGEMENT

PURPOSE OF INQUIRY:

The 2016-2017 Kern County Grand Jury (Grand Jury), investigated whether Kern County (County) is meeting the mandates of California State laws regarding the reduction of landfill volume. Pursuant to California Penal Code §925, the Grand Jury has the authority to investigate the operation and function of county departments.

PROCESS:

Kern County Waste Management (Waste Management) is part of the Operations & Maintenance Division of the Kern County Public Works Department (Public Works). Members of the Grand Jury interviewed the Assistant Director of Public Works, who oversees Waste Management, and spoke to other staff. Interviews were also conducted at the office of the County of Kern Department of Agriculture and Measurement Standards (Measurement Standards). Grand Jurors reviewed Waste Management documentation and their website, and visited the Shafter-Wasco Landfill and the Metro Kern County Special Waste Facility. Kern County Auditor-Controller-Clerk staff provided related documentation. State laws and regulations governing landfills and scales were also reviewed.

BACKGROUND:

In the 1980s, California State legislators recognized that State waste volumes were increasing, while remaining landfill capacity was decreasing. In response, a series of laws were enacted, including:

- In 1989, AB 939 mandated that city and county jurisdictions meet waste diversion requirements of 25% by 1995, and 50% by the year 2000.
- Over the next twenty years, additional laws were enacted to increase recycling by decreasing certain types of residential and commercial waste going into the landfills.
- In 2008, SB 1016 required a change in landfill diversion rate calculations, from an estimated diversion percent to the number of pounds of waste per person per day.
- In 2011, AB 341 set the goal that by 2020, 75% of solid waste generated be source reduced, recycled, or composted. It also required businesses and multi-family residential dwellings to recycle.

In accordance with SB 1016, the California Department of Resources Recycling and Recovery (CalRecycle) sets an annual goal for each jurisdiction expressed in pounds of waste disposed of per person per day. For unincorporated areas of Kern County, the following measures represent the County's progress in meeting State goals:

- For 2015, CalRecycle's target for unincorporated areas of the County, was a maximum of 7.6 pounds per person per day. The actual result as reported to CalRecycle, was under the target at 5.6 pounds per person per day.
- Waste Management staff estimates that the unincorporated areas of the County have reduced, recycled, or composted about 60% of solid waste toward the AB 341 goal of 75% by 2020.
- Based on 2015 estimates of current and future disposal amounts, the County reported that landfill capacity was 33 years, exceeding the State's guideline of 15 years.

Calculating the pounds of waste per person per day involves many components. Some of the factors involved in this complex calculation are as follows:

- Waste, carried by large trucks and franchise haulers, is weighed at the landfill. Construction, demolition, and landscaping material, delivered in pickups, is also weighed.
- Residential waste in pickups or small trailers is not weighed. Waste Management does a quarterly survey of these loads at each landfill to calculate the average weights based on the volume and type of materials. Gate attendants use the average weights from the survey, to record each load instead of weighing each vehicle.
- Some materials are weighed when sold or transferred to a third party.
- Some of the useable products brought to the special waste facilities, such as latex paint, insecticides, and fertilizers, are made available to the public at no charge.
- Cities are the County's biggest landfill customers. The weight of waste collected from cities, brought to the County landfills, has to be reported back to each city for the city's report to CalRecycle. This is done by designating certain franchise hauler loads as coming from a particular city, or by zip code for individuals.
- In the County, there are over 100 private collection facilities, which recycle and redeem CRV (California Redemption Value) bottles and cans. Items from these facilities are not credited to the County or cities in the CalRecycle Reports.

Truck scales, at the landfills and transfer stations, play an essential part in the calculation of pounds of waste per person per day. Six of the seven County Landfills have at least one set of truck scales.

Measurement Standards does not have jurisdiction to test or certify scales at County-owned landfills. A 1978 State Attorney General Opinion interpreted sections of the State Business and Professions Code to mean that government-owned scales at landfills were not subject to oversight. Measurement Standards does check the scales at the Special Waste Facilities, which are registered with the County.

Waste Management has an agreement (purchase order) with a vendor to check the calibration of the six locations with truck scales *quarterly*. In addition, the County has a purchase order with the same vendor to check the smaller scales at the three County special waste facilities. Under these purchase orders, the vendor agrees to:

- Inspect and test each scale for an agreed price per location quarterly
- Repair scales as needed, based on agreed hourly rates, mileage, and parts (plus mark-up)
- Maintain scales for tolerance
- Furnish inspection certificates
- Furnish test weights
- Furnish a written report on the condition of each scale

The following table summarizes vendor activity based on claims submitted:

Vendor Visits to Landfills and Waste Facilities by Quarter, 2015-2017									
Facility	Number of Scales	2015			2016				2017
		2nd	3rd	4th	1st	2nd	3rd	4th	1st
Truck Scale Locations									
Bena Landfill	4	5/14/15					8/9/16	12/20/16	
Shafter-Wasco Landfill	2	5/7/15	8/27/15	12/2/15		5/16/16	8/9/16		2/1/17
Ridgecrest Landfill	1	5/28/15				5/19/16	8/18/16		3/13/17
Taft Landfill	1	5/25/15							
Mojave Landfill	1					5/25/16			
Kern Valley Transfer Station	1						8/18/16		
Small Scale Locations									
Metro Kern County Special Waste Facility, Bakersfield	1		9/9/15						3/10/17
Special Waste Facility, Mojave	1								
Special Waste Facility, Ridgecrest	1		9/17/15						

FINDINGS:

- F1. The County has successfully achieved and maintained the mandatory waste diversion goals established by AB 939, and is making progress toward meeting the year 2020 goal for AB 341.
- F2. There are numerous irregularities in both the vendor agreements and their administration, for calibration and maintenance of the landfill and transfer station scales, such as:
- Purchase orders #1778213 and #1670847, specify "Quarterly Maintenance of Landfill Platform Scales," but actual claims submitted, as shown in the table above, indicate that:
 - No scales were checked four times a year
 - Three sites were only checked once during the past two years.
 - Purchase order #1778213 specifies the quarterly cost for maintenance visits to each site, however:
 - Vendor invoice #8077, for a quarterly visit to the Shafter Landfill on 2/1/17, charged \$333.34 instead of \$231.00 per the purchase order.
 - Vendor invoice #8110 for a repair visit to the same site (Shafter Landfill) the next day, charged another \$333.34, instead of

itemizing hours and mileage separately as the purchase order specifies for repair visits.

- The vendor inspected and tested scales at four locations before the purchase order for 2016/2017 was approved.

F3. Measurement Standards checks the scales at the three special waste facilities annually. Waste Management has a vendor purchase order, #1777877, for the calibration and maintenance of the same three scales, but the frequency of visits is not clear. The vendor tested the scale at the Metro Bakersfield Special Waste Facility on 3/10/17 and found it to be within tolerance. Five days later Measurement Standards found this scale to be out of tolerance.

RECOMMENDATIONS:

Kern County Public Works Department, Waste Management should take the following actions:

- R1. Review the purchase orders and amend them as needed to ensure that the specifications describe the work required for scale testing and maintenance. (Finding 2)
- R2. Require the vendor to submit a schedule of planned landfill inspections. (Finding 2)
- R3. Assure all work specified in the purchase orders is completed. (Finding 2)
- R4. Require invoices to be itemized to show labor, parts and mileage for all repair and maintenance. (Finding 2)
- R5. Compare each invoice to the purchase order requirements, and if there are discrepancies, withhold payment until the vendor submits an accurate and detailed invoice. (Finding 2)
- R6. Meet with the County of Kern Department of Agriculture and Measurement Standards to determine which County scales, if any, should be tested annually by Measurement Standards. (Finding 3)

NOTES:

- The Kern County Public Works Department and the County of Kern Department of Agriculture and Measurement Standards should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

§933. Findings and Recommendations (Excerpt)

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every election county officer or agency head for which the grand jury has responsibility pursuant to section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file those offices.

As used in this section "agency" includes a department

§933.05. Responses to Findings (Excerpt)

- (a) For purposes of subdivision (b) of Section 933, as to **each** grand jury **finding**, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

- (b) For purposes of subdivision (b) of section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.