

REQUEST TO COUNTY COUNSEL  
FOR LEGAL SERVICES  
(Please put on Lavender Paper)

TO: COUNTY COUNSEL

DATE: 09/29/2008

FROM: gerei Silva  
DEPARTMENT HEAD SIGNATURE  
(Request must be approved by Dept. Head)

CONTACT PERSON: Jon Souza/Linda Milligin TELEPHONE: 6587/6668

INDEX CODE: 424100 (If Index Code is blank we will assign to general index code for the department)

TYPE OF SERVICE REQUESTED: APPROVAL OF RE-SUBMITTED DOCUMENT WITH THE CHANGES MIKE C. REQUESTED  
(Advice, Opinion, Analysis, Review, Litigation, Personnel, Evaluation, Ordinance, Resolution, Approval, Subpoena Preparation and/or detail review of Contract/Agreement, etc.)

Note: Requesting department must make every effort to find out if this legal services request or a related request has been made in the past prior to making a new request thereby reducing duplicating research/review work. If a related request has been made, please advise below.

SUBJECT: RE-SUBMITTAL OF EDSWAC BY-LAWS FOR BOS APPROVAL

SPECIFIC LEGAL QUESTION(S)/LEGAL ACTION REQUESTED: (Please summarize request and include any attachments. Do not just say "see attached".)

ATTACHED IS A MEMO FROM MIKE CICCOZZI REQUESTING CORRECTIONS TO THE EL DORADO COUNTY SOLID WASTE ADVISORY COMMITTEE BY-LAWS. THE COMMITTEE HAS APPROVED THE CHANGES, AND THEY ARE INCORPORATED IN THE ATTACHED DOCUMENT.

BACKGROUND/DISCUSSION: (Submit all relevant documents. Letter/Memo may be attached in lieu of written discussion.)

ATTACHED IS A COPY OF THE MEMO FROM MIKE AND THE UPDATED BY-LAWS. THIS WAS ORIGNALLY SUBMITTED ON JANUARY 17,2008. WE WOULD LIKE TO HAVE THIS APPROVED BY THE BOARD BY THE END OF THE YEAR, IF POSSIBLE.


RELATED MATTERS: \_\_\_\_\_

ANY HEARING/MEETING DEADLINE DATE TO BE MET:  Yes  No  
DATE NEEDED BY: 10-15-08



OFFICE OF COUNTY COUNSEL  
INTER-DEPARTMENT MEMORANDUM

---

**TO:** Linda Milligan, Department of Environmental Management  
**FROM:** Mike Ciccozzi, Deputy County Counsel   
**DATE:** December 29, 2008  
**RE:** EDSWAC Bylaws

Linda,

I have reviewed the revised El Dorado County Solid Waste Advisory Committee Bylaws and they look good. I made a slight change to the language in Paragraph II.1 and Paragraph III.3. I am assuming that the information printed in purple is going to be deleted (See paragraphs II.1, II.8, VIII.C.) Finally, for consistency purposes, you may want to renumber the subparagraphs of Paragraphs II and III to use capital letters instead of numbers. All other paragraphs use capital letters for the subparagraphs.

I did not find any statute which requires Bylaws for this Committee. That said, there is nothing that prohibits the adoption of Bylaws by the EDSWAC. It will probably assist with the administration of the committee as time passes.

In reviewing the Bylaws, I noticed that under section VII E a staff member of the Environmental Management Department will assist the EDSWAC with administrative, technical and logistic support needed for the conduct of EDSWAC business. The original resolution creating the EDSWAC, Resolution 267-92 mentions in passing the use of a county employee to assist the EDSWAC in the performance of its duties. It states, "...by utilizing available LTF members, interested community members, staff and consultant resources..." the EDSWAC is to perform its duties. The Bylaws however, go beyond the use of interested staff members and mandate that the Director of Environmental Management designate a staff member to assist the EDSWAC. Given the mandatory nature of the assignment expressed in the Bylaws and the rather vague reference in the original resolution, it seems the best approach would be to have the Board of Supervisors approve these Bylaws by way of a resolution.

In the staff report to the Board, it should be pointed out that under the Bylaws as proposed, the Director of Environmental Management will be appointing a staff member to assist the EDSWAC as set forth in the Bylaws.

If after reviewing this memo, you have any questions, please feel free to call me.

Mike.

Encl.

1-17-08



OFFICE OF COUNTY COUNSEL  
INTER-DEPARTMENT MEMORANDUM

---

**TO:** Greg Stanton, Deputy Director, Dept. of Environmental Management  
**FROM:** Mike Ciccozzi, Deputy County Counsel  
**DATE:** June 20, 2008  
**RE:** El Dorado County Solid Waste advisory Committee By-Laws

Greg,

Pursuant to your request, I have completed a review of the El Dorado County Solid Waste Advisory Committee (EDSWAC) By-Laws. The following are my comments:

1. Article II, Goals and Objectives, paragraph 1- The article begins with reference to Resolution 267-92 of the Board of Supervisors. However, paragraph 1 includes a reference to "Non-Disposal Facility Element". While authority to address this element of solid waste handling can be found in 14 CCR 18760 and 14 CCR 18761(b), Resolution 267-92 does not include such authority. The By-laws as presently drafted overstate the specific goals and objectives of the resolution. I would suggest that the opening paragraph of the article be changed to read "The El Dorado County Solid Waste Advisory Committee was established in accordance with Public Resource Code section 40950 and 14 California Code of Regulations 18760 et seq. by Resolution Number 267-92 of the Board of Supervisors of El Dorado County on September 15, 1992. The specific goals and objectives of the EDSWAC are as follows:" )
2. Article II, Goals and Objectives, paragraph 8, indicates that every 5 years the EDSWAC will comment on the CIWMP. However, Resolution 267-92, paragraph 8 indicates that the EDSWAC will submit comments on the adequacy of the plan on the third anniversary of Board approval. I am assuming that was the third anniversary of the board approval of the resolution to identify the responsibilities of the EDSWAC. There is no provision for updates every 5 years, however, the resolution does indicate that the EDSWAC will "provide appropriate progress reports" to the Board and City

Councils. I take it that the 5 year language came from Public Resources Code section 40950 which calls for the convening of the task force every 5 years. Even so, the language of the By-Laws is inconsistent with the Board resolution. The language should be changed to be consistent with the Board Resolution.

3. <sup>(3)</sup> Article III, Membership calls for no less than 11 members but then only sets forth 2 members from the Franchisees and a member each from CPCSD, EDHCSD, Placerville and South Lake Tahoe. That totals only six members. We should identify the source of the remaining members to achieve the required 11 member committee.
4. Article VII, Membership Responsibilities, paragraph F, refers to an "EMD representative." It is unclear whether this is the staff member referred to in Article VII, paragraph E. In order to clarify this, I would suggest that paragraph E be amended to read, "The El Dorado County Environmental Management Department Director shall assign a staff member *as a representative (EMD representative)* to assist the EDSWAC..." <sup>(4)</sup>
5. <sup>(5)</sup> Article VIII, EDSWAC Public Meetings, paragraph B, and delete the following, "[The location should....of meetings]."
6. <sup>(6)</sup> Article VIII, EDSWAC Public Meetings, paragraph C, add the following: "The meeting agenda shall state the date, time and location of the Public Meeting. The agenda shall also set forth a brief general description of each item of business to be transacted or discussed, including any items to be discussed in closed session." Although not legally necessary, the language mirrors the Brown Act requirements for the agenda.
7. Finally Article X, Approvals should indicate Rusty Dupray as the Chairman of the Board of Supervisors.

Thank you again for your patience regarding this matter. If after reviewing this memo you have any questions, please feel free to give me a call. Mike.

Encl.

(Insert EDC Logo)

**EL DORADO COUNTY SOLID WASTE ADVISORY COMMITTEE (EDSWAC)**

**COMMITTEE BY-LAWS**

**I. REGULATORY PRECEDENT**

The El Dorado County Waste Management Task Force was established in 1990 pursuant to the requirements specified in Assembly Bill (AB) 939, The California Integrated Waste Management Act. The Waste Management Task Force name was changed to the El Dorado County Solid Waste Advisory Committee (EDSWAC) in 2006.

**II. GOALS & OBJECTIVES**

The El Dorado County Solid Waste Advisory Committee was established in accordance with Public Resource Code section 40950 and 14 California Code of Regulations 18760 et seq. by Resolution Number 267-92 of the Board of Supervisors of El Dorado County on September 15, 1992. Specific goals and objectives of the EDSWAC are delineated in the Resolution as follows:

1. Develop goals, policies and procedures which guide the development, revising and updating of the County's Source Reduction and Recycling Elements, Household Hazardous Waste Elements, Siting Element, and Integrated Waste Management Plan; {and Non-Disposal Facility Element (NDFE);} Note: Public Resource Code includes the Non-Disposal Facility Element (NDFE) as a document to be reviewed by a task force.
2. Provide review and comment on the scope of work and schedule of city or county proposals and contracts affecting county-wide waste management;
3. Determine the need for solid and hazardous waste systems, facilities, programs and marketing strategies emphasizing regional participation as appropriate;
4. Facilitate the development of multi-jurisdictional arrangements for marketing of materials;
5. Provide review and comment on the establishment of new or expanded solid and hazardous waste management facilities within the County;
6. Assist responsible agencies in developing and reviewing solid and hazardous waste management planning documents;
7. Assist in facilitating resolution of conflicts and inconsistencies in plans and programs;
8. On or before the third anniversary of Board approval, review and submit comments on the adequacy of the plan to meet the goals of AB 939; {Every 5 years, review and submit comments on the adequacy of the Countywide Integrated Waste Management Plan (CIWMP) to meet the goals of AB 939;}.

## (Insert EDC Logo)

~~Note: Public Resource Code section 40950 calls for the convening of a task force every 5 years starting in the year 2000.~~

9. Provide technical guidance and information; and
10. Monitor and evaluate the planning and effectiveness of specific programs implemented to meet the defined solid and hazardous waste management objectives.

### III. MEMBERSHIP

The EDSWAC shall consist of no less than eleven (11) members. Specifically:

1. A maximum of two (2) members representing the Waste Services Companies operating under a franchise within El Dorado County;
2. One (1) member representative from each of the following jurisdictions:
  - Cameron Park Community Services District (CPCSD);
  - City of Placerville;
  - City of South Lake Tahoe; and
  - El Dorado Hills Community Services District (EDHCSD).
3. The remaining five (5) public appointments will ~~come from the El Dorado County~~ <sup>be made by</sup> Board of Supervisors.  
~~{Each City Council and CSD Board will select a member.}~~

### IV. APPOINTMENTS

- A. All EDSWAC members shall be appointed by and serve at the pleasure of the County Board of Supervisors with the approval of their City Councils, CSD Boards, and/or affiliated Company Management (as may be applicable).
- B. In the event of an appointment vacancy, the EDSWAC Chair shall notify the Environmental Management Department (EMD) Director in writing and request the appointment of a replacement member.
- C. The EMD Director (or designee) shall notify the appropriate appointing body as soon as possible after a vacancy, requesting a new appointment as soon as possible.

### V. TERMS OF OFFICE

- A. All EDSWAC appointments shall be for a five (5) year term.

## (Insert EDC Logo)

- B. The offices of Chair and Vice Chair shall be for a one (1) year term. The election of the Chair and Vice Chair shall be held at the EDSWAC meeting held during the first quarter of each year. Election of the Chair and Vice Chair shall be by simple majority vote.

### **VI. ALTERNATE MEMBERS**

- A. Each appointing body may designate an alternate representative to attend EDSWAC Meetings in the event the appointed member is unable to attend.
- B. Appointed members representing the Waste Disposal Franchises and the four designated jurisdictions may each assign an alternate representative to attend EDSWAC Meetings in the event that the appointed member is unable to attend the meeting.

### **VII. MEMBER RESPONSIBILITIES**

- A. The responsibilities of the EDSWAC **Chair** include, but are not limited to, the following:
- Implement the EDSWAC By-Laws as defined herein;
  - Approve the scheduled EDSWAC Meeting Agenda prior to posting it for the general public;
  - Chair the EDSWAC Meetings;
  - Approve EDSWAC Meeting Minutes prior to distribution and/or archiving;
  - Represent EDSWAC by signature authority for all official correspondence as related to EDSWAC business; and
  - Represent EDSWAC at BOS meetings and public hearings.
- B. The EDSWAC **Vice Chair** shall execute the responsibilities of the EDSWAC Chair at such times when the EDSWAC Chair is absent.
- C. The responsibilities of the EDSWAC **Members** include, but may not be limited to, attending regularly scheduled meetings, participating in those meetings, and participating in subcommittee activities that may be needed to achieve EDSWAC goals and objectives as established by BOS Resolution Number 267-92 dated September 15, 1992.
- D. EDSWAC Members shall exclude themselves from voting or unduly influencing decisions that would potentially result in financial gain to themselves or their representative affiliation, and shall openly acknowledge such potential conflicts.
- E. The **El Dorado County Environmental Management Department (EMD) Director** shall assign a staff member as a representative (**EMD Representative**) to assist the EDSWAC with administrative, technical and logistic support needed for the conduct of EDSWAC business.
- F. The responsibilities of the **EMD Representative** include, but may not be limited to, the following:

**Deleted:** [Don, are the goals and objectives defined anywhere? Suggest referring to Section 1. B on page 1.]



## (Insert EDC Logo)

- Assisting the EDSWAC Chairperson with the development of the Meeting Agenda for scheduled EDSWAC Meetings;
- Ensuring that the Agenda for EDSWAC Meetings is clearly posted at the designated public location(s) and on the Environmental Management Department website as soon as practical, but in no instances later than 72 hours prior to a scheduled meeting. Providing the meeting room for EDSWAC Meetings, along with the basic resources necessary to accommodate the participants and conduct the Meeting;
- Providing the technical and human resources necessary to prepare the meeting minutes associated with the EDSWAC Meeting;
- Participating in scheduled EDSWAC Meetings;
- Participating in EDSWAC subcommittee meetings as may be requested;
- Distributing the Meeting Minutes to the EDSWAC Members within 30 days of the EDSWAC Meeting;
- Distributing the Approved Meeting Minutes to the El Dorado County Board of Supervisors no later than one week following approval of the Meeting Minutes as signed by the EDSWAC Chair;
- Assure the EDSWAC web link is maintained by assigned EMD staff.

Deleted: f.

### **VIII. EDSWAC PUBLIC MEETINGS**

- A. EDSWAC Public Meetings are held on the second Monday of every other month starting in January. The EMD representative will provide the schedule for EDSWAC Meetings for the coming year at the November meeting.
- B. EDSWAC Public Meetings are normally held at the County Environmental Management Department (EMD) in Placerville. {*[The location should be normally included in the regular posting of meetings.]*}
- C. A Meeting Agenda for an EDSWAC Meeting shall be posted on the EMD website and at the designated public location(s) as soon as practical prior to the Public Meeting date, but in no instance later than 72 hours prior to the Public Meeting. The Meeting Agenda shall be posted by the EMD Representative. The Meeting Agenda is posted in Board of Supervisors' Building A, across the hall from Human Resources. The meeting agenda shall state the date, time and location of the Public Meeting. The agenda shall also set forth a brief general description of each item of business to be transacted or discussed, including any items to be discussed in closed session. ~~Per County Council, this is not legally necessary, but the language mirrors the Brown Act requirements for the agenda.~~

**(Insert EDC Logo)**

- D. A simple majority of the Committee is necessary for a quorum to be present and for the Committee to take action. All issues shall be resolved and business acted upon by a simple majority vote of the Members present, only when a quorum is present.
- E. The EMD Representative shall ensure that EMD staff resources are available to compile the Meeting Minutes.
- F. The EMD Representative shall prepare the DRAFT Meeting Minutes and distribute the minutes to the EDSWAC Members no later than 30 days following the Public Meeting.
- G. The EMD Representative shall distribute the Approved Meeting Minutes to the El Dorado County Board of Supervisors no later than one week following approval of the Meeting Minutes as signed by the EDSWAC Chairperson. The EMD Representative will assure that the approved Meeting Minutes are posted on the EMD website in a timely manner.

**IX. ABSENCES**

- A. Members who will be absent from an upcoming Meeting shall notify the EDSWAC Chair and the EMD Representative of their planned absence at least 3 business days prior to the EDSWAC Meeting so that a determination can be made as to a quorum being present at the Meeting. The EDSWAC Chair may elect to cancel an EDSWAC Meeting if it appears that a quorum will not be attending the scheduled Meeting.
- B. The appointment of any Member who fails to attend three or more consecutive EDSWAC Meetings without the approval of the majority of the members of the committee shall automatically become vacant. At the EDSWAC meeting following the third consecutive absence of an EDSWAC member, the Chair will call for a vote of the committee to determine if any of the absences are excusable. If the member is determined by the vote of the committee to have three unexcused absences, that member shall be informed by the Chair that he/she is no longer a member of the committee, and the EMD Director (or designee) shall notify the appointing jurisdiction and call for the appointment of a new member as soon as possible. The affected member may be at the meeting to make his/her case to the committee to excuse the absences.
- C. A vacancy shall be filled by the appropriate appointing jurisdiction as soon as possible after a membership seat has been vacated.

**X. APPROVALS**

Dickson Schwarzbach

EDSWAC Chair	Signature	Date
--------------	-----------	------

**(Insert EDC Logo)**

Gerri Silva	_____	_____
EMD Director	Signature	Date

Rusty Dupray	_____	_____
Board of Supervisor, Chairman	Signature	Date