



EXECUTIVE DIRECTOR'S REPORT



STAFF REPORT

To: SBWMA Board Members
 From: Joe La Mariana, Executive Director
 Date: September 30, 2021 Board of Directors Meeting
 Subject: Executive Director’s Report

Staff and Agency partners continue to be hard at work supporting numerous projects, programs, and facility initiatives. Here are the highlights:

1. **COVID-19/Shelter-In-Place (SIP) Status Update:**

As previously reported, Recology of San Mateo County (Recology) and South Bay Recycling and SBWMA have taken appropriate measures to protect their/our colleagues while continuing with high-quality services. All mandated safety protocols have been followed.

a. **SBWMA Administrative Program Staff Ops:**

Staff continues to work remotely from home or, when needed, at Shoreway as our administrative offices remain closed. An Office Return to Work Policy is still being developed that includes a phased reopening of the agency’s administrative offices in accordance with safety protocols that is anticipated to be later this year or early 2022.

2. **Administration & Finance:**

a. **Staffing Update – New Cohort of Fellows**

The Agency will bid adieu to current Environmental Education Fellows Janelle Osteen and Nadia Thompson at the end of September and beginning of October. These women have served our Agency well and we thank them for their notable commitment and wonderful friendship during the past two years.

After a very active summer recruitment period, five new Fellows begin their service with the SBWMA this September. Their information and start dates are referenced below. We are excited for them to join our team and have been impressed with their wonderfully diverse perspectives that they will bring to their/our work.

Table 1:

<u>Public Spaces Program</u>	Rachel Dice UC Santa Barbara Start Date: September 13
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	<p>Daphny Pan San Jose State University Start Date: September 13</p>
<u>Environmental Education Team</u>	<p>Raquel Asi Sonoma State University Start Date: September 13</p> <p>Chiara Barausky-da Silva University of North Carolina, Chapel Hill Start Date: September 27</p> <p>Andy Zhang New York University Start Date: September 13</p>

b. Expiring Operations Agreement RFQ Update

The Ops Agreement RFQ review and preparation process has gone smoothly for preparing the solicitation and Agreement documents and attachments incorporating Ad Hoc TAC Advisory Committee (Roxanne Murray, TAC Chair (City of San Mateo); Andra Lorenz, TAC Vice Chair, (Foster City) and Terence Kyaw, TAC member and DPW Director (Redwood City) and Board Member Ad Hoc Selection Committee (Rick Bonilla, BOD Vice-Chair (City of San Mateo); Michael Brownrigg, BOD member (Burlingame); Jon Froomin, BOD member (Foster City); Cecilia Taylor, BOD member (Menlo Park) feedback along with several rounds of Staff, multiple consultants (HF&H and Sloan-Vazquez), and ADCL legal review. Kudos to staff Project Manager, Grant Ligon; technical support staff Hilary Gans and operations expert Joe Sloan (Contractor); Legal review and guidance from Jean Savaree and Joan Borger; and HF&H Consulting’s senior team (Rob Hilton, Tracy Swanborn, Rick Simonson). This project has been an extraordinary lift and each of these folks has delivered on their part. The devil is in the details!

Based on significant shifts in the marketplace, industry economics and our agency’s real-world contract execution experience during the past 11 years, this review process has resulted in a number of recommended structural changes being proposed to the current Agreement for the new anticipated term, including:

1. Adjustment to the minimum revenue and tonnage guarantees for the Contractor (to de-risk and encourage Proposals)
2. A creative 90%/10% annual revenue split with the Contractor starting at day one (guaranteeing at least \$4.7M commodity revenue for the Agency), and
3. A number of less financially-significant elements were made based on t TAC and Board committee member feedback and consensus.

With Board approval today, this RFQ will be publicly posted on October 1, 2021 with a response deadline of January 12, 2022. The approved RFQ workplan calls for parallel negotiations between the two top-rated responders during the spring/summer 2022. The BOD Ad Hoc Selection Committee will review, evaluate and provide a recommendation for final Board consideration in fall 2022. Upon Board approval, a new Operating Agreement is envisioned to be fully executed no later than December 31, 2022, thereby providing a full 12-month contract mobilization period to allow the

contractor to acquire equipment and, if necessary, develop a new management team to commence their operations on January 1, 2024. More information in today's Agenda Item 10B.

c. **C&D Processing Agreement**

Pending Board approval today (Agenda Item 10D), SBWMA and Zanker have reached an agreement on terms for continuing the partnership for Construction and Demolition (C&D) Debris Processing for another five years, plus potential mutual extensions, based on their response to our RFP posted in late-June. The terms remain largely the same with those in the last five-year contract. The per-ton processing cost rate hike from \$74.33/ton to \$80/ton, and addition of a detailed Liquidated Damages table are some of the major adjustments.

3. **Committee Updates:**

- a. **Finance Committee Meeting** (next meeting is October 12)
- b. **Legislative Committee** (next meeting is September 27)
- c. **Pub Ed/Outreach Committee** (no meeting held)
- d. **Technical Advisory Committee** (no meeting held)
- e. **Zero Waste Committee** (no meeting held)

4. **Collection and Recycling Program Support and Compliance:**

a. **SB 1383 Update**

Implementation Planning: Staff continues to implement the SB 1383 Compliance Plan approved by the SBWMA Board of Directors in November 2020. Staff and contractor HF&H has been busy working with Recology this summer negotiating expanded commercial and multi-family organics program services to meet SB 1383 requirements. This topic is further addressed in Agenda Item 9B.

Staff and contractor Debra Kaufman have also been working with Member Agency staff to customize their Mandatory Organics Reduction Ordinances, as approved by the Board in July as well as scheduling and presenting at Member Agency's elected bodies along with CalRecycle on the upcoming SB 1383 implementation. Table 2 outlines the major presentations and study sessions completed in the past months and upcoming presentations, along with the major presentations completed to the Board and TAC in the last two years. Member Agencies will be passing ordinances and the SBWMA delegation MOU this fall. We will provide an updated list at future meetings.

Lastly, the Agency is holding two Town Hall-style meetings for the public (for residents and businesses) about SB 1383 impacts to both sectors featuring presentations by CalRecycle and Recology. The first one was held September 23 and the second one is October 27 from 6:30pm – 8pm. We have and will be sending out promotional materials to Member Agencies and Chambers of Commerces to promote the events. To sign up for the October Town Hall, please go here:

<https://bit.ly/TownHall102721>

Table 2:

SB 1383 Study Sessions and Presentations	
Member Agency	SB 1383 Study Session/Presentation Date
SBWMA TAC Meeting – CalRecycle presentation on SB 1383	July 12, 2018
SBWMA BOD/TAC Study Session – SB 1383 Compliance Planning presentation from HF&H and CalRecycle	October 15, 2020
Foster City	May 6, 2021
Hillsborough	July 12, 2021
Belmont	July 13, 2021
West Bay Sanitary District	September 8, 2021
Burlingame	September 20, 2021
Menlo Park	September 21, 2021
San Carlos	September 27, 2021
East Palo Alto	November 2, 2021

Procurement Planning: To plan for the long-term impacts of SB 1383, specifically the challenge of finding uses for the large quantities of finished organic materials, the Agency is providing ~\$40,000 in grant funds plus compost from BVON and Newby Island to launch an innovative compost trial with the San Mateo County Resource Conservation District (RCD) and the San Mateo County Office of Sustainability. This trial will apply, and test compost commonly used by agricultural producers with compost produced by waste management entities, including Recology, which agricultural producers have been less willing to use. This trial presents an opportunity to either 1) dispel community distrust in municipally produced compost or 2) communicate the quality requirements for compost to large scale compost manufacturers. If successful, this project will help the local jurisdictions find opportunities for the SB 1383 compost targets for use in agricultural and open space settings.

The RCD is a special district that covers over 157,000 acres in the western, coastal half of San Mateo County, including all watersheds in the county that drain into the Monterey Bay National Marine Sanctuary, and is enabled to work in areas outside of district boundaries as appropriate. The RCD provides comprehensive, integrated services addressing wildlife, water, climate, and agriculture.

b. Recology San Francisco Situation

Earlier this September, Recology agreed to a settlement to pay \$36 million in penalties to avoid federal government prosecution for its role in an alleged bribery conspiracy directed at former San

Francisco Public Works Director Mohammed Nuru.. This item was reviewed by the Executive Committee. This action comes after previous multi-million dollar penalties and a \$90+ million ratepayer reimbursement settlement between Recology, other businesses, non-profits, individuals, and the City and County of San Francisco arising from a wide-ranging corruption probe linked to the City and County's former Public Works Director and others. As noted in the past, this situation appears to not involve the Recology San Mateo County's business unit.

The SBWMA Executive Committee has expressed its concern regarding these matters and the Board's expectation that, at no time, will these settlements impact SBWMA's ratepayers.

See **Attachment A** (*SF Chronicle article, September 9, 2021*) for an overview of the current situation.

c. **Community Outreach and Environmental Education**

i. **Environmental Education (EE) Update**

The EE Team kicked off the school year by hosting a round of virtual class presentations for Redeemer Lutheran School in Redwood City. The EE Team will be contacting all schools participating in the In-Schools Program to offer refresher education this Fall. The team continues to evaluate and revamp educational offerings, including updating educational videos, lesson plans, presentation content, etc.

The EE Team also represented RethinkWaste at the annual San Mateo County Office of Education summer program for educators. The Environmental Solutionary Teacher Fellowship is a yearlong commitment, where staff will support teachers as they learn about waste and integrate waste topics into student curriculum.

The SBWMA's annual Poster Contest for 3rd-5th graders will launch September 27. Please visit RethinkWaste.org/postercontest after this date for more information.

ii. **Shoreway Virtual Tours**

Virtual tours of the Shoreway Environmental Center are well underway! The new two-part tours for 3rd through 6th grade groups are quickly filling up – tours are almost fully booked for September and October. A reduced number of tours are currently available due to limited staff capacity, but we hope to increase tour offerings later this Fall as new staff are trained on the Tours Program.

iii. **Pub Ed and Outreach Updates**

A six-month multi-lingual and multi-channel battery outreach campaign launched in mid-July that is focused on why proper battery disposal is important and the risks improper disposal has in causing fires and an increase in garbage rates. The campaign includes Facebook, Spotify and Instagram ads, along with Google video, display and responsive search ads in English, Spanish and Chinese. Below are some screenshots of the new videos created. Check out the updated RethinkBatteries.org website for more information.



The outreach team is also in the beginning stages of planning a general awareness compost campaign that will focus on SB 1383 and setting up compost services to businesses and MFDs.

5. Shoreway Operations and Contract Management

a. VRS Workers Video

Staff would like to share this informational video made by the County of San Mateo promoting the VRS training program at the Shoreway Environmental Center with South Bay Recycling. It features South Bay Recycling's General Manager, Dwight Herring. You can view the video here:

<https://www.facebook.com/CountyofSanMateo/videos/801212810548384>

b. Organics-to-Energy (O2E) Pilot Update

O2E operations have been running continuously except for a few days where equipment repairs were required. The inbound source separated organics (SSO) food waste volumes are still 50% below pre-COVID, which is hampering the cost-effectiveness of the operations.

c. Commodity Markets Update

Overseas shipments have become inconsistent in September because of limited shipping containers returning to sea from the Port of Oakland. To manage the overflow, SBR has begun storing bales of paper (again!) in areas designated at Shoreway.

d. Everest Labs

Staff is negotiating an agreement with Everest Labs for the AI commodities readers that have been operating at the MRF on a pilot basis. These units are providing valuable data on the effective recovery of recyclables by the MRF equipment and is assisting in an ongoing analysis of MRF Phase II equipment needs.

e. Work at Shoreway

An Area of Concern (AOC) was issued by local enforcement agency (LEA) for two building related issues: 1) areas of the transfer station tipping floor that need repair and, 2) an exterior wall of the MRF that is failing and needs to be rebuilt. Staff is working to expedite both repairs. Staff has also hired an engineering firm to assist in the replacement of the underground storage tanks (UST) at Shoreway. Soil testing will follow the preliminary planning and assessment being conducted over the next few months.

Respectfully submitted,



Joe La Mariana
Executive Director

Attachments:

- A. SF Chronicle article S.F. corruption probe: Recology agrees to pay \$36 million for role in bribes to city official

S.F. corruption probe: Recology agrees to pay \$36 million for role in bribes to city official

[sfchronicle.com/bayarea/article/S-F-corruption-probe-Recology-agrees-to-pay-36-16447138.php](https://www.sfchronicle.com/bayarea/article/S-F-corruption-probe-Recology-agrees-to-pay-36-16447138.php)

Megan Cassidy

Bay Area



Megan Cassidy

Sep. 9, 2021 Updated: Sep. 9, 2021 6:29 p.m.

2



1 of 2

Former Recology employee Paul Giusti lavished S.F.'s ex-Public Works director with gifts to curry favor, prosecutors say.

Mason Trinca / Special to The Chronicle 2017

Three waste management companies that are part of Recology Inc. have agreed to pay \$36 million for their role in a corruption scheme that included high-dollar kickbacks to former San Francisco Public Works Director Mohammed Nuru.

The resolution comes as federal prosecutors announced a charge of conspiracy to commit honest services fraud against the three subsidiaries, which officials said conspired to bribe Nuru for favorable treatment with the trash company's city contracts. In his former role, Nuru had considerable sway in the rate-setting process with Recology.

"San Francisco citizens were victimized for years in a bribery scheme involving public contractors and a powerful, corrupt San Francisco public official," Acting U.S. Attorney Stephanie Hinds said in a statement. "Today, the SF Recology Group and its parent company Recology, Inc. are taking positive steps to rectify that flagrant wrong and have committed to full cooperation in the ongoing investigation into San Francisco City Hall corruption."

Nuru was arrested and charged by federal officials last year for an alleged attempt to bribe a San Francisco airport commissioner in a probe that has since exposed a sprawling pay-to-play and corruption scheme within City Hall.

Court hearings for Nuru have been delayed several times over the past year, partly because of the pandemic. Nuru's next court date was scheduled for Sept. 28.

If approved by a judge, the federal case will enter into what's known as a deferred prosecution, which requires the company to complete a series of remedial measures to avoid criminal charges. In addition to the \$36 million fine, Recology must fully comply with government investigations, implement a "corporate compliance program" that includes a no-gift policy for public officials, and provide annual reports on its progress to the U.S. Attorney's Office.

"This resolution, and the improvements we have agreed to, will build on the substantial steps we have taken over the past year to strengthen our leadership team, ensure we have appropriate internal controls, and significantly modify our approach to community engagement," said Recology CEO Sal Coniglio, who took over on Jan. 1.

The three companies named in court filings — Recology San Francisco, Sunset Scavenger Co., and Golden Gate Disposal & Recycling Co. — are each privately held subsidiaries of Recology Inc., which provides trash collection services for San Francisco.

The federal case is separate from but related to a \$100 million settlement laid out between Recology and the San Francisco City Attorney’s Office earlier this year, after city officials said the waste management company had improperly increased its rates over the past four years. Those funds went to reimburse the tens of thousands of San Francisco customers who overpaid in trash collection fees, and nearly all of the customers have now received their payment, according to a spokesperson for the company.

The company paid a \$7 million fine to the City Attorney’s Office, which was included as a credit in the \$36 million federal agreement. The rest, \$29 million, will go to the U.S. Treasury.

City Attorney Dennis Herrera said his office is pleased that Recology is now facing federal criminal consequences in addition to the remedies required by its civil settlement.

“We will continue to root out corruption wherever we may find it, and we welcome the efforts of other law enforcement agencies as we each endeavor to ensure good, ethical government for the people of San Francisco,” Herrera said in a statement.

Recology officials have described the rate increases as an inadvertent error caused by a miscalculation.

The federal case, meanwhile, stems from the actions of two of Recology’s former employees, Paul Giusti and John Porter, whom prosecutors said lavished Nuru with gifts to curry favor with the ex-Public Works director.

The bribes included an annual \$150,000 payout to a nonprofit organization that Nuru controlled; \$60,000, disguised as charitable donations, to foot the bill of Nuru’s annual holiday parties from 2016 to 2019; and other gifts that included a two-night stay for Nuru and another city official at a New York hotel that topped \$800 per room.

In total, prosecutors said, Recology spent more than \$900,000 in bribes for Nuru.

Giusti was charged in November with bribery and money laundering and has since pleaded guilty to one count of conspiracy to bribe a local official and commit honest services fraud and agreed to cooperate with federal investigators. Porter was charged this year with bribery and money laundering, and his case remains underway.

“As a matter of law, Recology’s San Francisco companies can be responsible for the acts of their current and former employees, and Recology takes that obligation very seriously,” Recology officials said.

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