

In response to the request for public comment to the “Colorado Integrated Solid Waste & Materials Management Plan,” I have made the following observations. I concur more can be done to divert useable materials from landfills in Colorado and we should take every reasonable action to be good stewards of our local environment – to think globally while acting locally. Also, as a taxpayer and as an individual who has to pay solid waste user fees, I am concerned that everything adopted needs to be economically as well as environmentally sustainable. Below is a bullet list of questions and comments that I have regarding the proposed plan.

- On page ES-10, the final paragraph, the first two sentences assert, “Through the analysis provided in Section 3.3 (see Figure ES-3: Landfill Cost Summary), it is shown that the creation of regional landfills will reduce the per ton fees associated with operating landfills. Assuming landfills that are closed can be replaced by drop-off locations or transfer stations, there should be minimal inconvenience to the public and may provide savings for the owner.”

While it may be true that regionalizing could reduce the cost per ton for the regionalized landfills, it may also increase the hauling fees (worst case scenario, see Table 3-14: Summary of Typical Transfer Station Costs on page 3-26). The most costly transfer station cost per ton shown is \$1,560. The correctly assumed problem with regionalizing in this manner is that it will inevitably lead to significant amounts of illegal dumping. Should such a transfer station be considered as a solution, one would have to ask if the solid waste would do less environmental damage in an inadequate landfill where it may contaminate ground water or in arroyos, ditches, etc. where it will not only contaminate ground water, but surface water also.

- On page ES-17, first bullet point, the fourth sentence reads, “Given this is a 20-year plan, the study also explores possible avenues for the state to extend existing authorities with and without action by the legislature.”

The wording here leaves the plan open to the appearance of working around the state’s duly elected legislature. This appearance is also supported several places in the tables in Appendix F, with wording such as, “reinterpretation of existing licensing . . .”, “Non-attainment of air quality may be a strategic approach. Making a scientific link between non-attainment and methane generation from landfills may argue that waste planning to reduce/divert compostables (including paper, etc. from the landfill can help achieve attainment, . . .”, “Water quality may provide a link, making the case that better landfill and diversion planning lessens risk to . . .”, “air quality standard may be a rationale for implementing diversion strategies.”, etc.

- Table ES-13 on page ES-20 number 1 is to “**Enforce Goals.**”

If there are punitive measures for not achieving goals, they are not goals, they are mandates. Further, on page ES-7, the third paragraph opens by confessing, “Setting goals

that require legislation changes to be successful would be inappropriate;” It is my feeling that making a mandate without the legislature to represent those being mandated would not only be inappropriate, but illegal in our state, and in our country. Also, on page 6-19, the first sentence, citing what the state of California has done says, “The state set substantial penalties for not reaching goals.” This indicates to me the “how” of how Colorado would enforce it “goals” (mandates).

See also page 6-28, the final paragraph, the first sentence.

- Table ES-13, page ES-20 number 6. “**Landfill Surcharges: Authority to Increase Landfill Surcharges.**”

While the term is “surcharge,” it is actually a tax since every person in the state who pays to dispose of solid waste must pay this “surcharge” either directly or indirectly. As such, this should be handled in compliance with our state’s Taxpayer Bill of Rights (TABOR). Further, Table 6-2: Level 2 Collection and Diversion Recommendations, number six, again mentions, “**Landfill Surcharges: Authority to Increase Landfill Surcharges.**” Under TABOR, the state government cannot raise taxes without voter approval.

- Table ES-15, on page ES-21, Year 2, the 2nd bullet point is: “Recyclables banned from landfill”

Four points that might be considered and weighed with this disposal ban are:

1. Will this type of ban lead to illegal dumping? In our area (Western Slope) the arroyos, BLM, ditches, etc. are filling up with electronic waste and tires because of disposal bans already in place.

2. How can this be enforced? Will communities have to hire dumpster cops to check the contents of people’s dumpsters?

3. Will this unintentionally further contaminate the recycling stream as citizens concerned about fines for non-compliance, throw non-recyclables into their recycling bins?

4. At this time the recycling market is still not cost effective, though showing some minor growth. When there is little to no demand in a market, what will happen to the market when additional supply is mandated?

- Table ES-15, on page ES-21, under Year 2, the fourth bullet reads, “Haulers must offer residential recycling at no extra charge (embedded).”

It appears that this would encourage an unscrupulous business practice of hiding fees. Hidden fees are a form of false advertisement. Of course, a hauler must purchase and

maintain a truck(s) to offer curbside recycling. The truck must have fuel which costs money. The truck must have a driver, who (we can assume) will expect a wage for driving the truck. Therefore, a hauler cannot actually offer curbside service at no extra charge.

When referring to table 6-18: Planning Level Estimates: Cost per Ton Options by Region, it is obvious that outside the Front Range recycling is by far the highest cost per ton in every scenario (and even in the Front Range, it is not free). So, I wonder, how can haulers be expected to offer it at no extra charge without false advertising and hidden fees?

- Table ES-21: Buried Value of Recyclables in Colorado, ascertains that statewide the value of buried recyclables is \$267 million.

Is this a gross or net value? In other words, what is the value once one subtracts the handling and processing to recognize the value?

- On page ES-29, the final paragraph, first bullet reads: “Closing some compliant landfills and establishing a roll-off collection at the site, transferring materials to a larger, compliant landfill, and making the same change for some inadequate landfills”

Why close a compliant landfill?

- Page 3-12, the final paragraph, the first two sentences read, “Many stakeholder perspectives vary from the opinions of the Project Team relative to potential transfer and disposal solutions for the Eastern/Southeastern region. From the Project Team’s perspective, continuing to operate many of the landfills in this region is a challenge due to the extensive number of facilities that are inadequate.”

Playing devil’s advocate, in a state and country in which the governments derive their power from the consent of the governed, is it then the landfills, or the regulations that are “inadequate”?

Again, if illegal dumping is the concern, will the solid waste be better in an inadequate landfill where it might contaminate groundwater, or in an arroyo, ditch, etc. where it will almost surely contaminate surface and ground water?

- On page 3-42, **3.6.14, Support Sustainable Funding Strategies for Local Programs**, it states, “Through understanding that there is a substantial financial requirement to achieve landfill adequacy or to consider regional options, there is a need to promote funding strategies and sources. Activities to be considered by CDPHE could include the following:”

The section lists three points that CDPHE could consider to help impoverished areas become compliant. One thing I did not see mentioned on the list, but could be, is that

CDPHE could waive its \$125 per hour fee for everything it reviews in order to aid these impoverished areas.

- Table 4-2 on page 4-7 in the right-hand column, in the second row, pertaining to gaps, it says: “For some municipalities that provide or contract service, residents are not charged for solid waste collection.”

Although the residents may not be billed directly for their solid waste collection in some municipalities, one can be assured they are billed for it in their property taxes. Nothing is free. Furthermore, many more are probably paying attention to their property taxes than may have been assumed.

- The map on page 5-12 shows five curbside composting locations in Montezuma County.

This is not accurate. Curbside composting is not currently available in Montezuma County.

- On page 5-31 the third paragraph, second bullet implies that at the Durango meeting stakeholders supported cardboard bans.

Two of my co-workers, a colleague from the City of Cortez, and I attended that meeting and I can assure you this was not the case. See page 5-32, the first bullet point under “Inappropriate Programs:” it says, “For this region, mandates and bans will not be well-received...”

- On page 6-7, the second sentence states, “A high percentage of materials disposed in Colorado have market value if they were recycled instead of disposed.”

I mostly concur with this statement. However, since the broader context of the paragraph refers to single-stream, it should be remembered that the commodities only have value if they are not co-mingled. This study assumes a value of \$140 per ton in single-stream (See page 6-39, the first sentence of the final paragraph.) At this time, not only is \$140 per ton for single stream inaccurate, it is ludicrous. In our region, not only does single-stream not have value, if one can find a Materials Recovery Facility (MRF) that accepts single-stream with no tipping fee, they will still require the producer to pay the shipping charges. That leaves single-stream in the negative values per ton.

- In Table 6-1: Level 1 Collection and Diversion Recommendations, number 8 mentions Extended Producer Responsibility (EPR). I strongly support this because it makes sense for consumers to pay the recycling fee at the time of purchase. That way, at the end of a product’s life, the consumer does not have to pay money for something they no longer want or need.
- In Table 6-5: Potential Funding Sources and Colorado “Fit”, on page 6-12, the second row refers to “Differential Disposal Fee Surcharge” in the far-right column under the heading “Discussion for Colorado,” it states: “Charge a higher surcharge for communities

not meeting goals or without regional planning in place...”

I have two comments regarding this:

1. I still maintain that the surcharge is a tax, and as such, it would be subject to voter approval.
 2. The context of this plan indicates that the areas which are most out of compliance, and would have the furthest to go to meet the goals, are also the most impoverished areas of the state. Would it really make sense to take more money from them as a means of motivating them towards compliance?
- Table 6-5: Potential Funding Sources and Colorado “Fit” on page 6-13, the first row and column mentions Hunter Licenses as a possible revenue source.

As a sportsman in Colorado I object to this. First, it suggests the appearance of misappropriation of funds. Second, since the Departments of Parks and Wildlife merged, there is already squabbling about how those funds are going to be spent without CDPHE getting involved. Further, the license fees for sportsman are already increasing. The extent of those increases are also currently under a public comment period.

- Page 6-13 the only bullet “**RREO grant program revisions:**” the third phrase of the first sentence says: “... phase in revised eligibility criteria, making ineligible grant requests from any actors in those areas without completed (or in-progress) regional plans.

Two thoughts come to mind about this:

1. Again, if the context of this plan is that those furthest behind are the most impoverished, does it really make sense to withhold funding from them, if the reason for their non-compliance is a lack of funds?
2. Since all regions (with and without completed plans) are forced to pay into the RREO system through their landfill surcharge fees, telling some regions they will have no access to the money they paid in unless. . . is coercion and there are laws against coercion in this state/country.

See also page 6-22, final paragraph, and page 6-54 first bullet.

- Page 6-15, second bullet, final sentence reads, “The goal is to create an environment friendlier to increases in the tipping fee for CDPHE and RREO, and potentially to allow incentive-based differentials in the tipping fee’s design based on progress.”

In general, people are not “friendly” about having their taxes raised.

- Table 6-24: Potential Funding Sources for Local Communities in Solid Waste planning/Management/Programs on page 6-50 the second box row speaks about “New Direct Funding Authority”, “New fees at the local level,” and how, “California introduced AB939 planning fees.

We are not California, California is bankrupt.

- The same table on page 6-51 in the first row speaks of “New Taxes” and the last column of the first row goes on to say, “New fee to fund new responsibilities, and gather funds from the business sector. . .”

Again refer to TABOR. Also, small businesses are already burdened with over-regulation and taxes. Instead, would it be better to provide tax breaks for businesses that are helping communities reach their diversion goals by participating in commercial recycling?

- The same table, on the following page, page 6-52 in the first row includes, “Hauler Registration Fees.”

This, again, stifles small businesses. The more fees and taxes assessed against businesses, the less likely it becomes that anyone will want to start businesses hauling and processing recyclables.

- Page 6-57 the second sentence says, “Continue to highlight the job and greenhouse gas abatement advantages, including the literature demonstrating diversion’s **outstanding cost-effectiveness** and speed in achieving progress in GHG.”

Again referring to Table 6-18: Planning Level Estimates: Cost per Ton Options by Region on page 6-35, outside of the Front Range, in every scenario, recycling is by far the most cost prohibitive.

Further, since the vast majority of recovered paper reportedly goes to Seven Dragons Paper Mill in China to be re-processed, is it GHG friendly to ship those recovered commodities to and from China?

- In Appendix F, Table F-2: Authorities and Recommendations that will Assist in Achieving Recommendations in Table F-1, on page F-8, the second box row, second column the first bullet reads, “CDPHE has no authority except regulating disposal sites/facilities” and the second bullet reads, “Counties have apparent solid waste authority in Colorado, but have no particular motivation to plan or cooperate in planning because it incurs extra cost and takes on more responsibility than they have elected to take on previously.”

Please keep in mind that in this state/country the power to govern is derived from the consent of the governed. If the counties have not elected to take something on, the State does not have the right to force them. Furthermore, there is a reason for counties not to elect to incur extra cost at this point; we are still in a recession.

Furthermore, there may be a couple of avenues to divert from landfills in ways the plan did not mention:

- It is my opinion that CDPHE should encourage landfills, transfer stations, and recycling facilities to “upcycle.”

Upcycling would be taking items from landfills, transfer stations, etc. that are still useable and reselling them. For example, at our landfill, in the spring of each year, several lawn mowers appear. They are set aside for scrap metal recycling. Most of them will still work fine if they are given a new spark plug, new fuel, and a clean air filter. Instead of being recycled as scrap, they could be fixed and resold. I got my current lawn mower by doing this. I also got my air compressor from the landfill. It came out of a commercial roll off load. It was still in the box which had a tag on it that read, “will not build air.” I took it to a power source and plugged it in. It was indeed leaking from a shipping plug that was in the place of the pressure relief valve. I found the relief valve in the box, installed it, and the compressor has worked well for years. Much that goes into landfills is still usable in its current state. Some items, such as bikes, need only very minor repairs.

- Also, the state could do more to support closed-loop recycling here in Colorado. While it is true that there are MRFs in the Front Range, there are very few plants in the state that actually turn recovered commodities back into sellable products. The State should consider tax incentives to encourage businesses that will use the recovered commodities to make new, sellable products to build in Colorado.

I am acutely aware of the time and extensive effort involved in composing a major document like the “Colorado Integrated Solid Waste & Materials Management Plan”. I fully appreciate the dedication of all those who are sincerely committed to protecting and preserving the quality of life for the citizens of Colorado. It is commendable that our agencies can work together to allow for flexibility to respond to fluctuations in the recycled materials market. I sincerely thank you for the opportunity to comment about this document and to express my thoughts, concerns, and suggestions.