

**CITY OF SAN DIEGO****Proposition H**

(This proposition will appear on the ballot in the following form.)

**H** CITY OF SAN DIEGO INITIATIVE MEASURE. AMENDS THE CITY OF SAN DIEGO PROGRESS GUIDE AND GENERAL PLAN. Shall the City of San Diego Progress Guide and General Plan be amended to impose the following standards on solid waste facilities burning 500 tons or more per day of solid waste?

1. No such facility shall be built that will:
  - a. increase existing levels of toxic air pollutants within the City as those levels are determined by Federal, State or San Diego public agencies; or
  - b. be located within a three mile radius of a hospital, elementary school, or child care center or nursing home for the elderly licensed by a governmental entity; or
  - c. make additional demands on the treated water distribution system within the City.
2. Any such facility built shall include recycling and separation methods whereby major sources of toxic air pollutants, including but not limited to plastics, metals, industrial wastes, and coatings, are removed from the solid waste prior to the incineration.

ADDS TO THE CITY OF SAN DIEGO PROGRESS GUIDE AND GENERAL PLAN AN AMENDMENT TO READ AS FOLLOWS:

AN AMENDMENT OF THE GENERAL PLAN OF THE CITY OF SAN DIEGO TO ADD SOLID WASTE INCINERATION STANDARDS TO THE ENERGY CONSERVATION ELEMENT GUIDELINES AND STANDARDS TO PROVIDE AS FOLLOWS:

In order to protect the public health, safety and general welfare of the people and to foster a physical environment in San Diego that will be most congenial to healthy human development, the following standards are required for solid waste facilities that will burn 500 tons or more per day of residential, commercial or industrial solid waste.

1. No such facility shall be built that will:
  - a. increase existing levels of toxic air pollutants within the City as those levels are determined by Federal, State or San Diego public agencies; or
  - b. be located within a three mile radius of a hospital, elementary school, or child care center or nursing home for the elderly licensed by a governmental entity; or
  - c. make additional demands on the treated water distribution system within the City.
2. Any such facility built shall include recycling and separation methods whereby major sources of toxic air pollutants, including but not limited to plastics, metals, industrial wastes, and coatings, are removed from the solid waste prior to incineration.

## ARGUMENT IN FAVOR OF PROPOSITION H

Why have the San Diego Lung Association, San Diego Allergy Society, National Association of Registered Nurses and San Diegans for Clean Air taken strong positions against the so-called "Waste to Energy" SANDER plant in Kearny Mesa?

They know while "waste-to-energy" sounds good, the incinerator industry really is proposing a garbage-burner, a 190-foot-high pollution-spewing smokestack, for San Diego, already the nation's 5th-most air polluted city.

Warning: The greatest danger now is in La Jolla, San Carlos, Del Cerro, Temesanta, Scripps Ranch, Clairemont, and Mira Mesa. But, other incinerators are planned in our area. Much more is at stake than the incinerator industry's hoped-for millions in profits.

Our landfill problem must be solved with recycling and appropriate technology, not with plant incinerators that will contaminate our air, and produce very expensive electricity.

The proposed garbage-burning plant will burn 2,250 tons of garbage daily, creating up to 7.5 tons of toxic pollutants each day for us to breathe. Even with sophisticated filtering, the incinerator will emit dioxin, mercury, lead, sulfur dioxide, oxides of nitrogen and other toxics and heavy metals known by doctors to cause cancer, respiratory diseases and serious allergies.

The health hazard is greatest for children, seniors, pregnant women, and the sick.

This initiative creates reasonable standards for dealing with solid wastes. Supporters of SANDER have carelessly waved aside health concerns. One of their health risk analyses was so biased, they received sharp criticism from the county Air Pollution Control District which accused SANDER forces of "ignoring current and proposed emission controls, incorrect emission characterization, and, incorrect projections."

Unlike the incinerator industry, the doctors opposing this facility are not trying to make a sale. Their interest is in our good health.

VOTE YES FOR CLEAN AIR. TRASH TO POLLUTION IS NO SOLUTION.

VOTE YES ON PROP. H

WARREN W. FLESKOW, M.D.,  
President  
San Diego Allergy Society

LINDA MICHAEL, Chairperson  
Sierra Club, San Diego Chapter

ABBE WOLFSHEIMER  
Councilmember, City of San Diego

LAWRENCE W. STIRLING  
Assembly Member, 77th District

KENNETH LASSER, M.D.  
Co-Chairman, San Diegans  
for Clean Air

## Trash.

San Diegans generate enough trash to fill Jack Murphy Stadium every two weeks. Over 1 1/2 million tons a year, more than 3,000 pounds for every San Diegan. And San Diego is running out of precious open space for new landfills. Our last remaining landfill will close in five to seven years!

Solutions to our trash crisis are not simple and the proposed SANDER waste-to-energy facility is a necessary solution to this growing problem.

The City Council has made a commitment to recycle at least 25% of our trash. But we still need SANDER to reduce our reliance on landfills.

A NO vote on Proposition H will only allow the environmental review on SANDER to proceed so we can learn if it is a safe alternative to landfilling.

Don't Be Misled. Vote NO On Proposition H.

Proposition H will doom San Diego to landfills as our only solution to the trash crisis and will cost taxpayers millions of dollars each year.

Landfills are unsafe and pollute the air. This measure will force San Diego to turn an additional 880 acres of open space into a landfill. They have been shown to contaminate the soil and groundwater and produce toxic air emissions and dangerous methane gases.

Vote No On Proposition H.

Supporters of Proposition H want to tie the City's hands by placing a moratorium on the waste-to-energy technology in San Diego. They are asking you to make this decision before you have the facts! Before environmental studies by California Air Resources Board, the Local Air Pollution Control District and the Environmental Protection Agency are even completed on the proposed SANDER project.

Vote No On Proposition H. It's the wrong approach for San Diego.

Let's:

- Finish the environmental studies
- Limit our reliance on polluting landfills
- Save open spaces
- Pitch-in on recycling

Help Solve The Trash Crisis.

BILL CLEATOR  
City Councilmember

JOYCE URBAN  
Environmental Consultant

NORMAN ROBERTS  
Waste Management Consultant

LEE GRISSOM, President  
San Diego Chamber of  
Commerce

ART LUJAN, Business Manager  
San Diego Building  
Trade Council/AFL-CIO

The City Attorney  
City of San Diego  
MEMORANDUM  
236-6220

DATE: December 9, 1987

TO: Mayor Maureen O'Connor  
FROM: City Attorney  
SUBJECT: Impact of Proposition H on Future Waste  
Disposal Methodology

Your memorandum of November 16, 1987 requested our views on the effect of Proposition H, the "Clean Air Initiative," approved by the voters on November 3, 1987. You asked several questions which we shall answer directly. However, because of the ramifications of the initiative on the City's overall waste management policies, we shall first address the issue in a general manner. We are attaching a copy of an earlier memorandum to the City Manager dated September 3, 1987 in which we have expressed similar views on this subject.

Proposition H amends the General Plan of the City of San Diego by adding solid waste incineration standards to the energy conservation element guidelines. It is phrased so as to establish "standards" for solid waste facilities that "will burn 500 tons or more per day of residential, commercial or industrial waste." The initiative provides that:

1. No such facility shall be built that will:
  - a. increase existing levels of toxic air pollutants within the City as those levels are determined by Federal, state or San Diego public agencies;  
or
  - b. be located within a three mile radius of a hospital, elementary school, or child care center or nursing home for the elderly licensed by a governmental entity; or
  - c. make additional demands on the treated water distribution system within the City.
2. Any such facility built shall include recycling and separation methods whereby major sources of toxic air pollutants, including but not limited to plastics,

metals, industrial wastes, and coatings,  
are removed from the solid waste prior to  
incineration. ¶Emphasis added.σ

We perceive a number of problems to be associated with the lack of definitions in the initiative as well as the interpretation to be accorded to it. In the first instance, the initiative does not define what constitutes a "facility" nor what constitutes an "increase" or an "additional demand." Any change, no matter how small, would arguably be included. For example, the installation of a drinking water fountain in such a facility constitutes an additional demand. Similarly, the level of increase in toxic air pollutants restricted under the initiative may be triggered by an emission of even the smallest measurable trace of a toxic pollutant. However, it is also probably impossible to precisely measure the existing levels of toxic pollutants within the City, thereby creating a vague and potentially unenforceable standard since no comparative measurements could be made.

There are other definitions that could use clarification but it suffices to say that a citizen's initiative is subject to the same constitutional standards for specificity and clarity as is required for legislation adopted by legislative bodies.

The second aspect of our review deals with the interpretation or construction to be accorded to the initiative. You identified this aspect when you asked whether the proposition prohibits waste-to-energy incineration entirely or only certain methods of incineration. You also asked whether the City is legally permitted to pursue further waste-to-energy incineration technology.

The initiative creates restrictions on facilities that burn in excess of 500 tons per day (t.p.d.) of solid waste. It prohibits the construction of such facilities if the facilities will either increase existing levels of toxic air pollutants, be located within three (3) miles of certain schools and health care facilities or make additional demand on the treated water distribution system. If the burn is limited to less than 500 t.p.d., the restrictions do not apply, although other restrictions imposed by existing law respecting air quality will apply.

In our view, however, the initiative virtually precludes any incinerator or incineration process that burns in excess of 500 t.p.d. of refuse, regardless of whether it produces energy or not, because the net result of the water and air quality restrictions is to produce a zero net effect, and the three mile radius prohibits such facilities in all but two or three very

small areas of the City.

The initiative does not prohibit the City from studying or entertaining proposals that involve incineration technology regardless of size -- so long as the ultimate development of the project is sized to the permissible limits related to burns of 500 t.p.d.. It also does not preclude multiple facilities each burning less than 500 t.p.d., although it is conceivable that such siting would be subject to challenge.

The types of problems and additional costs associated with these restrictions will need to be addressed in further waste management studies. In our view, however, the initiative creates problems for waste management rather than solutions.

We shall be pleased to answer any further questions you may have.

JOHN W. WITT, City Attorney

By

Rudolf Hradecky

Deputy City Attorney

RH:mrh:454.4

Attachment

MS-87-11

cc John Lockwood

Coleman Conrad

Bob Epler

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