SOUTHERN CALIFORNIA

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Orange County Transportation Authority: Art Brown, Buena Park

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Keith Millhouse, Moorpark

5.15.07

MEETING OF THE

SOLID WASTE TASK FORCE

Monday, July 23, 2007
10:00 a.m. – 12:00 p.m.

SCAG Offices
818 West 7th Street, 12th Floor
Conference Room – Riverside B
Los Angeles, CA 90017
213.236.1800

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Jacob Lieb at 213.236.1921 or lieb@scag.ca.gov

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SOLID WASTE TASK FORCE

AGENDA

		PAGE #	TIME

"Any item listed on the agenda (action or information) may be acted upon at the discretion of the Committee."

1.0 CALL TO ORDER & PLEDGE OF ALLEGIANCE — **Hon. Toni Young, Chair**

2.0 PUBLIC COMMENT PERIOD

Members of the public desiring to speak on an agenda item or items not on the agenda, but within the purview of the Committee, must fill out and present a speaker's card to the Assistant prior to speaking. A speaker's card must be turned in before the meeting is called to order. Comments will be limited to three minutes. The chair may limit the total time for all comments to twenty (20) minutes.

3.0 REVIEW and PRIORITIZE AGENDA ITEMS

4.0 CONSENT CALENDAR

4.1 **Approval Item**

4.1.1 Minutes of June 25, 2007 Meeting with amendments for May 21st meeting
Attachment

4.2 **Receive and File**

4.2.1 Membership List with Contact Information
Attachment

5.0 INFORMATION ITEMS

5.1	Update on Renew LA Update on the City of LA's RENEW LA program.	**Nicole Bernson, City of LA, Council District 12**	20 minutes

AGENDA

			PAGE #	TIME
5.2	City of LA Solid Waste Program Presentation on Solid Waste Integrated Resources Plan (SWIRP).	**Reina Pereira City of LA, Bureau of Sanitation**		25 minutes
5.2	Supreme Court decision – flow control **Attachment** United Haulers Association, Inc. v. Oneida-Herkimer Solid Waste Management Authority – Supreme Court ruling and local implications.	**Justine Block, SCAG Staff**		20 minutes

6.0 CHAIR'S REPORT — **Hon. Toni Young, Chair**

7.0 FUTURE AGENDA ITEMS

Any Committee members or staff desiring to place items on a future agenda may make such request.

8.0 ANNOUNCEMENTS

9.0 ADJOURNMENT

The next meeting of the Solid Waste Task Force will be held on Monday, August 27, 2007 in the SCAG offices in downtown Los Angeles.

Solid Waste Task Force

Minutes for June 25, 2007

The following minutes are a summary of actions taken by the Solid Waste Task Force.

The Solid Waste Task Force held its meeting at the Southern California Association of Governments offices in Los Angeles. The meeting was called to order by Chair Toni Young, City of Port Hueneme.

Members Present	**Representing**
Toni Young	**Port Hueneme**
Mike Mohajer	**LA County IWMTF**
Mike Miller	**LA County Waste Management Task Force**
Stan Carroll	**City of La Habra Heights**
Margaret Clark	**City of Rosemead**
Tracey Anthony (phone)	**San Bernardino County Solid Waste Management District**

1.0 CALL TO ORDER & PLEDGE OF ALLEGIENCE

Toni Young, Chair, called the meeting to order at 10:05a.m.

2.0 PUBLIC COMMENT PERIOD

No public comment.

3.0 REVIEW AND PRIORITIZE AGENDA ITEMS

4.0 CONSENT CALENDAR

4.1 **Approval Item(s)**

4.1.1 The Minutes of April 23, 2007

The Minutes of April 23, 2007, were approved as submitted.

4.1.2 The Minutes of May 21, 2007

The Minutes of May 21, 2007 were approved with the following amendments:

Section 5.2 – Mr. Mohajer stated that at the May 21 meeting, there was a vote to support the email that he had sent out, commenting on SB1016.

Doc #138092v1
07/18/07 D. Salcido

4.2 **Receive and File**

Membership List with Contact Information

Mr. Acosta stated that the member list should show Mr. Mohajer as representing LA County IWMTF.

5.0 INFORMATION ITEMS

5.1. Conversion Technologies

Valentino Tiangco, PH.D., Senior Technical Lead/Biomass-PIER Renewable Program – CEC, provided a presentation from the California Energy Commission on Biomass Conversion Technologies R&D, policy, and barriers to implementation.

6.0 CHAIRS REPORT

7.0 FUTURE AGENDA ITEMS

8.0 SET NEXT MEETING DATE/TIME/LOCATION

- Monday, July 23, 2007, 10 a.m. – 12 Noon

7.0 ADJOURNMENT

The meeting was adjourned at 11:43 p.m.

SOLID WASTE TASK FORCE AGENDA

June 25, 2007
10:00 a.m. to 12:00 noon.

Name	Address	Phone	Fax	e-mail
Acosta, Glenn	Mr. Glenn Acosta, P.E. 1955 Workman Mill Road Whittier, CA 90601	(562) 699-7411 ext.2723	(562) 695-1874	gacosta@lacsd.org
Carroll, Stan	Mr. Stan Carroll 659 Lamat Road La Habra Heights, CA 90631	(562) 690-4645		GW1763@aol.com
Cook, Debbie	Hon. Debbie Cook 6692 Shetland Circle Huntington Beach, CA 92648	(714) 536-5553	(714) 536-5233	hbdac@hotmail.com
Clark, Margaret	Hon. Margaret Clark 3109 N. Prospect Rosemead, CA 91770	(626) 288-7308	(626)307-9218	jsavaadra@cityofrosemead.org
Martin, Kay	Ms. Kay Martin Vice President, BioEnergy Producers Assn. 236 Ferro Drive Ventura, CA 93001	(805) 653-5935		kay4bioenergy@aol.com
Miller, Michael	Mr. Michael Miller P.O. Box 4742 West Covina, CA 91791	(626) 337-1606	(626) 337-3397	millereviron@earthlink.net
Miller, Scott	Mr. Scott Miller 12360 Landale Street Studio City, CA 91604	(818) 508-5514		miller@performancepgraphics.com
Mohajer, Mike	Mr. Mike Mohajer P.O. Box 3334 San Dimas, CA 91773	(909) 592-1147		mikemohajer@yahoo.com
Nelson, Larry	Hon. Larry Nelson Councilmember, City of Artesia 18747 Clarkdale Ave Artesia, CA 90701-5899	(562) 865-6262	(562) 865-6240	lnelson@cityofartesia.org
Paxton, Lynda	Ms. Lynda L. Paxton	Office (805) 347-9990 Cell (714) 412-0745		llpaxton@comcast.net

SOLID WASTE TASK FORCE AGENDA

June 25, 2007

10:00 a.m. to 12:00 noon.

Sansonetti, Nancy	Ms. Nancy Sansonetti Supervising Planner/Chief Planning & Permitting Section Solid Waste Management Division 222 W. Hospitality Ln San Bernardino, CA 92415	(909) 386-8778	(909) 386-8964	NSansonetti@swm.sbcounty.gov
Skye, Coby	Mr. Coby Skye Associate Civil Engineer Environmental Programs Division Los Angeles Department of Public Works 900 S. Fremont Ave. Annex 3rd Floor Alhambra, CA 91803-1331	(626) 458-5163	(626) 458-35943	cskye@ladpw.org
Smith, Greig	Hon. Greig Smith Councilmember, City of Los Angeles District 12 200 N. Spring Street, 4th FL Room 405 Los Angeles, CA 90012	(213) 473-7012	(213) 473-6925	smith@council.lacity.org
Van Arsdale, Lori	Hon. Lori Van Arsdale Councilmember, City of Hemet 445 E. Florida Ave Hemet, CA 92543	(951) 765-2303	(951) 765-3785	lvanarsdale@ci.hemet.ca.us
Vizcarra, Joe	Mr. Joe Vizcarra Lt. Traffic Operations Center Los Angeles Communications Center California Highway Patrol 120 S. Spring Street Los Angeles, CA 90012	(213) 897-6136	(213) 897-0519	jvizcarra@chp.ca.gov
Young, Toni (Chair)	**Hon. Toni Young Councilmember, City of Port Hueneme 766 Polaris Way Port Hueneme, CA 93041-2333**	**(805) 986-6500**	**(805) 986-6581**	**ottoandtoni@verizon.net**

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED HAULERS ASSOCIATION, INC., ET AL. *v.* ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 05–1345. Argued January 8, 2007—Decided April 30, 2007

Traditionally, municipalities in respondent Counties disposed of their own solid wastes, often via landfills that operated without permits and in violation of state regulations. Facing an environmental crisis and an uneasy relationship with local waste management companies, the Counties requested and the State created respondent Authority. The Counties and the Authority agreed that the Authority would manage all solid waste in the Counties. Private haulers could pick up citizens' trash, but the Authority would process, sort, and send it off for disposal. The Authority would also provide other services, including recycling. If the Authority's operating costs and debt service were not recouped through the "tipping fees" it charged, the Counties must make up the difference. To avoid such liability, the Counties enacted "flow control" ordinances requiring private haulers to obtain permits to collect solid waste in the Counties and to deliver the waste to the Authority's sites.

Petitioners, a trade association and individual haulers, filed suit under 42 U. S. C. §1983, alleging that the flow control ordinances violate the Commerce Clause by discriminating against interstate commerce. They submitted evidence that without the ordinances and the associated tipping fees, they could dispose of solid waste at out-of-state facilities for far less. Ruling in the haulers' favor, the District Court held that nearly all flow control laws had been categorically rejected in *C & A Carbone, Inc.* v. *Clarkstown*, 511 U. S. 383, where this Court held that an ordinance forcing haulers to deliver waste to a particular private facility discriminated against interstate commerce. Reversing, the Second Circuit held that *Carbone* and other of

this Court's so-called "dormant" Commerce Clause precedents allow for a distinction between laws that benefit public, as opposed to private, facilities.

Held: The judgment is affirmed.

261 F. 3d 245 and 438 F. 3d 150, affirmed.

THE CHIEF JUSTICE delivered the opinion of the Court with respect to Parts I, II–A, II–B, and II–C, concluding that the Counties' flow control ordinances, which treat in-state private business interests exactly the same as out-of-state ones, do not discriminate against interstate commerce. Pp. 6–13.

(a) To determine whether a law violates the dormant Commerce Clause, the Court first asks whether it discriminates on its face against interstate commerce. In this context, " 'discrimination' simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." *Oregon Waste Systems, Inc.* v. *Department of Environmental Quality of Ore.*, 511 U. S. 93, 99. Discriminatory laws motivated by "simple economic protectionism" are subject to a "virtually *per se* rule of invalidity," *Philadelphia* v. *New Jersey*, 437 U. S. 617, 624, which can only be overcome by a showing that there is no other means to advance a legitimate local purpose, *Maine* v. *Taylor*, 477 U. S. 131, 138. P. 6.

(b) *Carbone* does not control this case. *Carbone* involved a flow control ordinance requiring that all nonhazardous solid waste within a town be deposited, upon payment of an above-market tipping fee, at a transfer facility run by a private contractor under an agreement with the town. See 511 U. S., at 387. The dissent there opined that the ostensibly private transfer station was "essentially a municipal facility," *id.,* at 419, and that this distinction should have saved the ordinance because favoring local government is different from favoring a particular private company. The majority's failure to comment on the public-private distinction does not prove, as the haulers' contend, that the majority agreed with the dissent's characterization of the facility, but thought there was no difference under the dormant Commerce Clause between laws favoring private entities and those favoring public ones. Rather, the *Carbone* majority avoided the issue because the transfer station was private, and therefore the question whether *public* facilities may be favored was not properly before the Court. The majority viewed the ordinance as "just one more instance of local processing requirements that we long have held invalid," *id.,* at 391, citing six local processing cases involving discrimination in favor of *private* enterprise. If the Court were extending this line of cases to cover discrimination in favor of local government, it could be expected to have said so. Thus, *Carbone* cannot be regarded as having decided the public-private question. Pp. 6–9.

(c) The flow control ordinances in this case do not discriminate against interstate commerce. Compelling reasons justify treating these laws differently from laws favoring particular private businesses over their competitors. "[A]ny notion of discrimination assumes a comparison of substantially similar entities," *General Motors Corp.* v. *Tracy*, 519 U. S. 278, 298, whereas government's important responsibilities to protect the health, safety, and welfare of its citizens set it apart from a typical private business, cf. *id.,* at 313. Moreover, in contrast to laws favoring in-state business over out-of-state competition, which are often the product of economic protectionism, laws favoring local government may be directed toward any number of legitimate goals unrelated to protectionism. Here, the ordinances enable the Counties to pursue particular policies with respect to waste handling and treatment, while allocating the costs of those policies on citizens and businesses according to the volume of waste they generate. The contrary approach of treating public and private entities the same under the dormant Commerce Clause would lead to unprecedented and unbounded interference by the courts with state and local government. The Counties' citizens could have left the entire matter of waste management services for the private sector, in which case any regulation they undertook could not discriminate against interstate commerce. But it was also open to them to vest responsibility for the matter with their government, and to adopt flow control ordinances to support the government effort. It is not the office of the Commerce Clause to control the voters' decision in this regard. The Court is particularly hesitant to interfere here because waste disposal is typically and traditionally a function of local government exercising its police power. Nothing in the Commerce Clause vests the responsibility for such a policy judgment with the Federal Judiciary. Finally, while the Court's dormant Commerce Clause cases often find discrimination when the burden of state regulation falls on interests outside the State, the most palpable harm imposed by the ordinances at issue—more expensive trash removal—will likely fall upon the very people who voted for the laws, the Counties' citizens. There is no reason to step in and hand local businesses a victory they could not obtain through the political process. Pp. 10–13.

ROBERTS, C. J., delivered the opinion of the Court, except as to Part II–D. SOUTER, GINSBURG, and BREYER, JJ., joined that opinion in full. SCALIA, J., filed an opinion concurring as to Parts I and II–A through II–C. THOMAS, J., filed an opinion concurring in the judgment. ALITO, J., filed a dissenting opinion, in which STEVENS and KENNEDY, JJ., joined.