

**SUMMARY OF ISSUES**  
**SONOMA COUNTY SOLID WASTE ASSET DIVESTITURE**  
**October 2009**

**Diversion vs. Disposal**

*Concerns over whether the project is simply about disposal and doesn't incorporate adequate provisions for diversion are simply untrue.* Due to the extremely high costs of developing the Central Landfill and the commitment on the part of Republic to construct and operate the MRF, the incremental cost of processing material through the MRF vs. landfill disposal greatly favors diversion. Republic's goal is to extend the life of the landfill to as long as possible and expend the cost to develop the liner system (est. at \$70MM) over as long a time frame as possible. Republic's agreement to construct and operate the MRF as well as assuming financial penalties for not meeting diversion targets is indicative of the degree to which they are committed to diversion over disposal.

*Republic views the project as a place where diversion and innovation happens not where disposal starts.* Republic's background in a wide variety of innovative and successful diversion programs (i.e. commercial food waste, industrial waste diversion) will allow for a large amount of the material currently coming to the facilities to be processed and diverted for beneficial re-use. While incremental amounts of diversion may occur through enhancement of existing curbside programs, the major moves in terms of diversion percentage will come from processing of material that currently comes to the County facilities as refuse. In order for the project to meet the needs of customers in Sonoma County and to remain viable financially, the project focus is geared towards maximizing this opportunity.

**Continuation of Existing Service Levels**

Republic has committed to continuation of the Household Hazardous Waste, bulky item re-use and other diversion programs that currently occur at the facilities. *Republic has also committed to keeping the existing transfer station network open unless the County approves an alternative proposal for movement of wastes and recyclables from a given facility to its end use location.* The divestiture agreement also contains provisions for providing the Sonoma County Waste Management Agency (SCWMA) adequate time (3 years) for relocation of the compost facility and appropriate notice time (six months) if some of the refuse capacity currently occupied by the facility is needed for disposal of waste.

*Republic has worked cooperatively with County staff and local haulers to incorporate provisions into the agreement which allow existing small businesses to continue to operate under the provisions of Chapter 22 of the County Code for collection of C&D and other recyclable materials.*

**Reduction of GHG Emissions**

*Republic is required to fund a study that will establish GHG emissions for various time periods and develop and implement a plan acceptable to the County to reduce these emissions by 25% below 1990 levels by 2015.* Regular reporting by a third party of Republic's progress towards these goals is also a requirement of the divestiture agreement.

The divestiture agreement does **not** foreclose the possibility of addressing in the near future concerns over the GHG emissions due to organics being landfilled. Republic has specific experience with these

types of programs (e.g., diverting and processing organic materials and converting them into energy in coordination with local sewage treatment facilities). Based on the current waste stream and the structure of collection in this County, one approach to address the organics being landfilled is by expanding the green waste program to pick up dirtier materials similar to the San Francisco model. However, the dirtier materials are not appropriate for the organic yard debris windrow composting program that currently is operated by the Sonoma County Waste Management Agency at the Central Landfill. Given the various interests at stake in such a program (e.g., cities and county, SCWMA, community, haulers, local compost company, Republic), it would likely take 12 months or longer to evaluate various options. The divestiture agreement specifically accommodates provisions for exploring new diversion programs.

### **Assumption of Liabilities**

As part of the sale, Republic is agreeing to take on all of the County's and cities' closure and post closure liabilities associated with the Central Landfill (estimated at \$40-\$50 million), as well as all past, present and future on-site environmental liabilities at the Landfill. In addition, Republic will be fully responsible for all claims arising from any potential offsite migration of environmental contaminants associated with the landfill provided there is no such claim during the first 10 year period of their ownership. If there is a claim arising out of offsite migration during the first 10 years, Republic has agreed to be responsible for the claim up to \$7.5 million and has also agreed to provide the County and the cities with \$500,000 per year for up to 20 years so that the County and the cities can either purchase environmental liability insurance or to have the funds available for the County and the cities to use to address any costs that exceed Republic's \$7.5 million. In addition to agreeing to be responsible for these significant liabilities, Republic is agreeing to provide the County and the cities with indemnification and a release for all such liabilities.

Also, as a result of the sale, the County and cities will share approximately \$2.7 million dollars in annual royalty payments and \$10 million in previously accrued monies for landfill closure which can be used to cover any remaining liabilities for the Central Landfill and seven other closed landfills which exist in the county.

### **Viability of Alternatives**

The County has been involved in the divestiture process for more than three years. A key question to ask those wanting to keep the assets under public ownership is *“Are there viable alternatives that will keep the facilities in public ownership and result in the resumption of landfilling at the Central Landfill?”* Attempting to keep the assets in public hands through the existing SCWMA joint powers authority, or by creating a new independent public agency, would result in an extended negotiation process between the County and the cities. In the 2-3 years that such an alternative is being pursued, the County will be forced by the State regulatory agencies to close the Central Landfill. Additionally, any agency would need flow control commitments (with put-or-pay provisions) from all parties in order to finance the significant capital improvements (i.e., liner construction or super MRF). Moreover, it is likely that flow control commitments will not be enough to secure the financing and financial assurances necessary to own and operate the facilities. The financial markets would likely require the County's and the cities' general funds to secure the financing. Given that flow commitments would be required and that the County's and the cities' general funds would likely be at risk, the proposed alternative is extremely problematic. *The prevailing sentiment is that the SCWMA is in no better position to proceed forward with the landfill project than the County is at this point.*

## **Consequences of Not Moving Forward with Divestiture**

The facility is operating under a Stipulated Order from the California Integrated Waste Management Board which requires the County to complete divestiture and commence limited fill operations at the Central Landfill. *Absent divestiture, the County will be forced to commence closure activities immediately. The County is currently \$11-12MM short of the funds needed to complete closure and has not accrued any funds for post-closure maintenance.* Addressing both of these issues would require *immediate payment of pro-rata share by the County and cities* of the shortfall amount and an increase in rates to begin accrual of post-closure maintenance funds. The current fiscal status of many of the Sonoma County jurisdictions makes this option unrealistic at best.

None of the indemnifications and rate stabilization facets of the current divestiture agreement would occur if the divestiture is not supported by the County and the Cities and *rates will likely continue to climb at the pace they have in the past five years.* None of the proposed diversion activities in the current divestiture proposal will occur, thereby eliminating the opportunity for a significant increase in diversion percentages. Refuse will continue to be out hauled to various landfills subjecting the county and cities to the competitive regional disposal capacity environment as well as volatile out of county fee and surcharge structures. *Continuation of unnecessary GHG emissions associated with outhaul is another adverse side affect.*

## **Summary**

Not going forward with divestiture eliminates the one *tangible* opportunity to:

- Re-establish an in county disposal alternative
- Add meaningful diversion programs
- Keep existing employment opportunities local
- Avoid extended costly litigation between the County and cities
- Significantly reduce GHG emissions through increased diversion and elimination of truck outhaul
- Significantly more services/obligations than County can provide at roughly the same rates
- Stabilize rates in the near and long-term
- Avoid further pressure on already over-burdened public finances
- Establish extensive reserve funds for various public programs