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June 23, 2026

The Honorable Catherine Blakespear
Chair, Senate Environmental Quality Committee
1021 O Street, Suite 3230
Sacramento, CA 95814

RE: AB 28 (Schiavo), Landfill subsurface temperature penalties – OPPOSE

Dear Senator Blakespear,

I am writing on behalf of the Kern County Board of Supervisors to express our strong opposition to AB 28 (Schiavo), which imposes sweeping new mandates, extraordinary financial liabilities, and unclear enforcement mechanisms upon counties and landfill operators at a time when counties are already confronting unprecedented fiscal and operational pressures.

Kern County remains committed to protecting public health, environmental quality, and the communities we serve. We recognize the seriousness of subsurface elevated temperature (SET) events. However, as amended, AB 28 introduces broad, punitive, and unworkable requirements that disregard existing regulatory frameworks, duplicate or conflict with state and federal responsibilities, and place uncompensated mandates on county governments.

The bill defines a “subsurface elevated temperature event” as temperatures persistently exceeding 131°F over a “substantial area,” yet leaves determination of both “persistently” and “substantial area” wholly to the Department of Resources Recycling and Recovery (CalRecycle). Without clear, objective criteria, operators and enforcement agencies face significant uncertainty. Undefined terms invite inconsistent application, legal disputes, and unpredictable compliance burdens, particularly for large and complex landfill environments.

AB 28 requires operators to notify CalRecycle of an SET event and submit extensive data to multiple state and local agencies, including the State and Regional Water Boards, State and local air districts, State and local health departments, the Department of Toxic Substances Control, and the Local Enforcement Agency (LEA). This multilayered reporting structure is unnecessarily duplicative and risks creating confusion among agencies with overlapping responsibilities. Initial notification to CalRecycle and the appropriate local agencies should be sufficient, with local agencies coordinating with their state counterparts as needed.

Compounding these concerns, the bill implies (but does not specify) that landfill waste temperatures must be monitored as part of these obligations. It provides no information regarding methodology, instrumentation, frequency, or applicability. It is unclear whether new monitoring requirements would apply to all landfills, only to certain sites, or also to closed facilities. Without this clarity, implementation costs could be enormous, particularly for counties managing large waste systems. Additionally, the bill appears not to have been evaluated alongside the California Air Resources Board's forthcoming updates to the Landfill Methane Regulation, where monitoring and reporting protocols may overlap or conflict, creating further uncertainty.

AB 28 authorizes CalRecycle to mandate corrective action plans, including full cost assessments, and empowers CalRecycle or LEAs to impose administrative civil penalties of \$100,000 per day for noncompliance. This level of penalty is extraordinary, punitive, and disproportionate, especially given the complex science required to diagnose, monitor, and respond to SET events. The bill also authorizes CalRecycle to assume enforcement authority for landfills experiencing an SET event, displacing existing LEA oversight and creating potentially conflicting command structures during emergency response.

While AB 28 creates a new Landfill Subsurface Fire Mitigation Community Fund, it offers no assurance of equitable distribution. Counties most burdened by compliance, mitigation, or community impacts have no certainty that funds generated from their region will return to support local needs. At the same time, counties and landfill operators face potentially severe penalties and extensive reimbursement obligations.

The bill further authorizes the Secretary for Environmental Protection to convene a multiagency coordination group to investigate and recommend resolutions for SET events. However, the bill provides no clarity regarding the required qualifications of group members, the scope of their investigative authority, their liability, or their access to landfill property. These elements must be specified to avoid operational, safety, and legal conflicts. The bill also allows the multiagency group, or the local air district, to grant written extensions for air monitoring and sampling plan implementation. This equivalence of authority is unclear and raises questions regarding chain of command, jurisdiction, and decision-making hierarchy. These ambiguities should be resolved.

Section 43031.2(f) further requires landfill operators to reimburse the multiagency coordination group for "reasonable and necessary expenses," yet includes no mechanism for oversight or cost control. Language is needed to ensure that cost recovery is subject to clear standards and oversight by CalRecycle, consistent with Section 43031(e)(3), so that reimbursement obligations remain fair, reasonable, and predictable.

Finally, AB 28 requires CalRecycle to adopt emergency regulations to implement its provisions. Implementing new, highly technical requirements through emergency rulemaking without sufficient public input, scientific consultation, or alignment with existing federal NSPS and NESHAP frameworks will expose counties to penalties before regulatory expectations are clear.

In this climate, when counties are already carrying extraordinary fiscal burdens and absorbing ongoing state and federal cost shifts, AB 28 represents yet another instance of the state creating complex, high-stakes obligations and leaving counties to "figure it out" without resources, clarity, or meaningful partnership. Kern County supports thoughtful, effective, and science-based measures to address SET events. However, AB 28, as drafted, imposes unfunded mandates, unclear standards, disproportionate penalties, open-ended fiscal liabilities, and operational risks on counties and landfill operators.

For these reasons, the Kern County Board of Supervisors strongly opposes this measure and respectfully urges your committee to vote **NO on AB 28**.

Sincerely,

A handwritten signature in blue ink, appearing to read "Phillip Peters", with a stylized, flowing script.

Phillip Peters, Chairman
Kern County Board of Supervisors

cc: Honorable Members, Senate Environmental Quality Committee
 Honorable Members, Kern Legislative Delegation
 California State Association of Counties
 Kern County Public Works Department
 Kern County Public Health Department
 Shaw Yoder Antwih Schmelzer & Lange