In the Matter of an Ordinance )
Repealing Parts of Ordinance )
535-A Relating to County- )
Paid Legal Fees in Certain )
Landfill-Related Lawsuits; )
Referred to the Voters on )
September 15, 1992. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board),
sat for the transaction of county business in special session on
July 29, 1992, Commissioners Debi Owens and Dennis L. Goecks being
present.

The Board finds as follows:

A. On May 19, 1992 the voters of Yamhill County adopted a new
county ordinance by their approval of Measure 36-1 entitled "Limits
Development and Operations of Sanitary Landfills." For purposes
of this Ordinance 538, the ordinance enacted on May 19, 1992 by
approval of Measure 36-1 is referred to as "the Act." The Act
imposed restrictions on the establishment and operations of
landfills located in Yamhill County. Section 8 of the Act provided
as follows:

"Section 8. The limitations and prohibitions of this Act
are specifically intended to benefit the taxpayers,
electors, tenants, and residents of the County who may
enforce the terms and sue for violation as described in
subsections (A) and (B).

"A. An action to enforce the terms or sue for
violation of this Act, including violations of
Section 7(B) may be brought by any taxpayer,
elector, tenant-or resident within the County
in his or her name as a party, and upon
prevailing, such party shall be entitled to
reimbursement from the County for expert
witness fees, costs and reasonable attorney's
fees incurred, whether or not the County is a
party to such action.

"B. If the County does not become a party to an
action in subsection (1) [sic], the prevailing
party beneficiary may enforce the claim for
reimbursement of witness fees, costs and
attorneys fees in a separate suit."
"C. Nothing in this Act shall make the County liable for the fees, costs or expenses of defending a suit for enforcement or violation."

B. The Board believed and continues to believe that Section 8 of the Act is not in the best interests of the citizens of Yamhill County. The Board believed and continues to believe that the effect of Section 8 of the Act would be to expose the county to significant financial liability. In addition to likely demands on dollars contained in the county's general fund, payment of legal fees under Section 8 of the Act could significantly reduce funds now reserved by the county for potential remediation of landfills and for operation of the county's solid waste programs. The Board also believed and continues to believe that the voters may not have been fully informed as to the effect of Section 8 of the Act.

C. Based on its belief that Section 8 of the Act was not in the best interests of the citizens of Yamhill County, the Board adopted Ordinance 535-A on June 3, 1992. Ordinance 535-A amended Section 8 of the Act to limit the total amount of attorney fees, expert witness fees and costs which could be recovered under the Act to $10,000. No other parts of the Act were changed.

D. In adopting Ordinance 535-A, the Board recognized that the voters should determine, after thorough consideration, whether to reinstate the language of Section 8 of the Act as originally approved by the voters.

E. For the foregoing reasons, the Board finds that this Ordinance 538 should be referred to the voters in the election of September 15, 1992. Now, therefore,

THE PEOPLE OF YAMHILL COUNTY, OREGON, ORDAIN AS FOLLOWS:

Section 1. Repeal of Parts of Ordinance 535-A.

Sections 1 and 3 of Ordinance 535-A, June 3, 1992, are hereby repealed. The intent of the people in the repeal of Sections 1 and 3 of Ordinance 535-A is to reinstate the original Section 8, in its entirety, of the ordinance approved by the voters on May 19, 1992 by passage of Measure 36-1 entitled "Limits Development and Operations of Sanitary Landfills."

Section 2. Retroactive Application.

Any action filed after June 18, 1992 which, but for the adoption of Ordinance 535-A, would have been eligible for payment by Yamhill County of attorney fees, expert witness fees and costs, shall be eligible for payment of
such fees and costs to the same extent previously allowed had Ordinance 535-A not been enacted.

Section 3. Conditional Validity.

This ordinance shall remain in effect only so long as the ordinance approved by the voters on May 19, 1992 by passage of Measure 36-1 remains in effect. If the ordinance approved by the voters on May 19, 1992 by passage of Measure 36-1 is declared invalid by a Court or judicial authority of competent jurisdiction, this Ordinance 538 shall likewise be of no further force or effect.

Section 4. Effective Date.

This ordinance shall become effective only if the Yamhill County Clerk certifies passage of the measure authorizing this ordinance at the September 15, 1992 election. This ordinance shall become effective upon such certification.

Section 5. Non-severability.

Sections 1 through 4 of this Ordinance 538 are not severable. If a Court or judicial authority of competent jurisdiction determines one section to be invalid, all other sections shall be deemed invalid.

REFERRED to the voters of Yamhill County for the election of September 15, 1992 by the Yamhill County Board of Commissioners on July 29, 1992.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

(Not available for signature)
Chairman TED LOPUSZYNSKI

Debi Owens
Commissioner DEBI OWENS

FORM APPROVED BY:

JOHN M. GRAY, JR.
Yamhill County Counsel

Commissioner DENNIS L. GOECKS

ORDINANCE 538 - Page 3

EXHIBIT "A" - Page 3
BOARD ORDER 92-565
NOTICE OF MEASURE ELECTION

Yamhill County
(Name of district, city, county)

On September 15, 1992 Yamhill County
(Date of election) (Name of district, city, county)

will hold an election to submit the following measure to the voters
of the (district, city, county).

(Please refer to instructions on back for ballot title requirements)

CAPTION: REQUIRES COUNTY TO PAY ATTORNEY FEES IN
LAWSUITS REGARDING LANDFILLS

QUESTION: Shall Yamhill County pay legal fees of
successful parties in landfill-related
lawsuits, even if county is not sued?

SUMMARY: Approval of this measure would require
Yamhill County to pay the legal fees of
private parties. "Legal fees" are attorney
fees, expert witness fees, and court costs.

Payment of the legal fees by Yamhill County
would be required even if the county was
not sued. The county would pay from fees
or property taxes collected by the county.

The legal fees would be paid to private
parties who are successful in lawsuits
filed under a county law regulating landfills.

The legal fees are not limited.

NOTE: This notice is also certification that the governing body of our unit of
local government has complied with all applicable requirements of law including
participation in a meeting to develop a tax coordination plan and any required
public hearings.

[Signature]
Authorized signature

Yamhill County Counsel
Title

July 29, 1992
Date

December 20, 1991

Exhibit "B"
BOARD ORDER 92-565