

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources *SMA*

BOARD AGENDA # 9:20 A.M.

Urgent Routine

AGENDA DATE June 26, 2007

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Consider Increases in the AB939 and Household Hazardous Waste Program Fees at the Stanislaus Resource Recovery Facility

STAFF RECOMMENDATIONS:

Approve the proposed increases in the AB939 and Household Hazardous Waste Program fees at the Stanislaus Resource Recovery Facility.

FISCAL IMPACT:

If the Board of Supervisors approves staff recommendation, the effective cost of disposal at the Stanislaus Resource Recovery Facility will increase from \$25 per ton to \$28 per ton on August 1, 2007.

If this adjustment is approved, the annual revenue to the AB939 Program may increase by \$370,000; and, the annual revenue to the Household Hazardous Waste Program may also increase by \$370,000.

(Fiscal Impact Continued on Page 2 ...)

BOARD ACTION AS FOLLOWS:

No. 2007-518

On motion of Supervisor Grover, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: Mayfield, Grover, Monteith, DeMartini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

FISCAL IMPACT: (Continued)

Actual program revenue realized is a function of the annual tons processed by the waste-to-energy facility; and, in the case of the AB 939 Program, funding available to the County is reduced by the amount of the reimbursements to the incorporated cities.

DISCUSSION:

Background

The California Integrated Waste Management Act of 1989, otherwise known as AB 939, went into effect on January 1, 1990. AB 939 required cities and counties to reduce disposal by 25% by 1995 and by 50% by the year 2000. Cities and counties had to develop and implement plans for how these disposal reduction mandates would be achieved. In recognition of this unfunded mandate, the law allows jurisdictions to charge fees for solid waste planning and program implementation, as well as to fund the State-required monitoring and reporting.

In 1990, as partners in the Waste-to-Energy Facility (Facility), the Stanislaus County Board of Supervisors and the Modesto City Council approved the assessment of a \$1.50 per ton AB 939 Program (AB 939) fee and a \$1.50 per ton Household Hazardous Waste (HHW) Program fee on each ton of garbage delivered to the Facility. The AB 939 fee was to provide revenue to accomplish the planning, program implementation, and monitoring and reporting to meet the requirements of the Short-Term Planning Period (1990-1995); and, the HHW fee was to provide the consistent revenue needed to establish a Permanent Household Hazardous Collection Facility. The fees were set based on the projected near-term cost of these activities and the anticipated throughput of the Facility at that time.

Today, the cities and County are well beyond the initial Short-Term Planning Period, and revenues from the fees implemented in 1990 are no longer sufficient to cover the costs of the two programs. While staff, disposal, and program costs have been increasing over the 12 years since the close of the Short-Term Planning Period, revenues to both programs have decreased because of declining throughput at the Facility. Tonnages processed by the Facility have declined significantly from the historical range of 290,000-300,000 tons during the period 1990-2000. For 2006-2007, the facility is projected to process 245,000 tons, representing a decline in annual fee revenues for each program of approximately \$82,000. The combined effect of increasing costs and shrinking revenues have had an adverse impact on both the City of Modesto and County staff's abilities to adequately fund program activities.

AB 939/Source Reduction and Recycle Program Fee

The Stanislaus County Department of Environmental Resources (DER) produced the original planning documents and performs the planning, program implementation, and monitoring and reporting functions for the unincorporated area and the eight (8) cities that contract with the County for these services. The City of Modesto performs its own planning, program implementation, monitoring and reporting functions.

In 2005-2006, of \$372,707 in AB 939 fee revenues, \$203,994 was returned to the nine cities for implementation of their individual Source Reduction and Recycling plans. The difference between these amounts is available to the County, pursuant to the Memorandum of Understanding, for administration and preparation of the required reporting and program implementation. Of the \$168,713 retained by the County in 2005-2006, the administration and reporting expense was \$146,872 and \$21,841 was available to the County for program implementation. See Attachment "A" for annualized revenues and expenses for 2006-2007, and a projection for 2007-2008 assuming the increase in AB 939 fees.

For Stanislaus County, program implementation not only consists of education and public outreach, but also includes the preservation of existing sources of diversion credit. While the "transformation credit" for refuse into the Facility seems secure for the foreseeable future, the DER remains alert to any circumstance that might reduce or eliminate this credit. The Food Processing By-Products Program, another large contributor to the Regional Agency's and the City of Modesto's diversion totals, has been under intensive review by the Central Valley Regional Water Quality Control Board (CVRWQCB) and the DER has expended considerable resources in the defense of this program. While questions have been raised by the CVRWQCB, the DER position that these by-products when properly applied do not present a threat to groundwater has been unwavering.

In the case of the City of Modesto (City), revenues received as its share of the AB 939 fees had historically been in the \$160,000 to \$170,000 range during the Short-Term and Medium-Term Planning Periods (1990-2000), based on City's proportional delivery to the facility. These funds were used not only for preparation of the City's solid waste planning documents, monitoring diversion, and preparing reports to the state; but, also for the implementation of programs such as advertising and promotional campaigns to increase diversion, business recycling promotions and business awards, composting classes and the promotion of the use of compost products, and enforcement of City and State solid waste regulations.

In Fiscal Year 2005-2006, due to the decline in tons processed, the City received \$125,668 in AB 939 fee revenue, a drop of over 25% from historical norms of \$160,000

to \$170,000 in fee revenues. The current AB 939 fee revenues do not even cover the cost of the City staff that do the planning, reporting, and program implementation for the City. Staff costs alone for AB 939 programs for Fiscal Year 2005-2006 were \$166,000, leaving no funds for public education or other components of the City's programs. In the face of increasing costs and other inflationary factors over the 17 years since the fees were originally established, these revenues are critical to the City's ability to implement the wide variety of programs it uses to ensure that the City is in compliance with State regulations.

At the current 245,000 tons delivered to the Facility, a \$1.50 per ton increase in the AB 939 fee, bringing the total fee to \$3.00 per ton, will be sufficient to cover each entity's projected expenditures for Fiscal Year 2007-2008.

Household Hazardous Waste Program

The Household Hazardous Waste (HHW) Program is operated by the DER and is available to all residents who live within the cities and the unincorporated areas of Stanislaus County. Since its inception in 1990, this program provides for the diversion of household hazardous waste from sewer systems, landfills and roadside dumping through the operation of a permanent household hazardous waste collection facility and mobile collection events. The Permanent Household Hazardous Waste Collection Facility is open throughout the year on Wednesday (for small businesses) and Friday and Saturday (for homeowners) to safely dispose of unwanted hazardous waste.

Decreased revenues, a result of a decline in the tonnage processed at the Waste-to-Energy Facility, and rising program costs are not the only obstacles facing the HHW Collection Program. At the same time, the service demands on the program are escalating due to a 21% increase in the population from 1994 to the present, that along with increased participation have contributed to a 156% increase in the weight of hazardous waste being handled.

In the past, the HHW facility has been operated with extra help staff or contract employees; but because of increased usage, the DER proposes to recruit a Hazardous Materials Specialist I/II/III to provide the proper oversight of this busy facility.

For Fiscal Year 2005-2006 the program's operation resulted in a deficit of \$74,281, for Fiscal Year 2006-2007 the deficit is estimated to be \$113,000. Unless this fee is adjusted to increase revenues for the 2007-2008 budget year, the program will likely see an estimated deficit of over \$200,000, negatively impacting service levels.

At the current level of waste processing by the Facility, a \$1.50 per ton increase in the HHW program fee will be sufficient to cover the projected expenditures for fiscal year 2007-2008. As shown in Attachment "B", if the fee is approved the estimated total

2007/2008 revenues for the HHW Program will be \$798,600 against total projected expenditures of \$781,829.

Conclusion

The Department recommends the adoption of a \$1.50 increase in both the AB 939 and the Household Hazardous Waste fees at the waste-to-energy facility. Thus, the total cost of disposal at the Stanislaus Resource Recovery Facility will increase from \$25 per ton to \$28 per ton effective August 1, 2007.

On April 26, 2007, the Solid Waste-to-Energy Executive Committee considered the proposed increase in fees and recommended the matter for consideration by the City of Modesto and the Stanislaus County Board of Supervisors.

Increasing these fees on waste disposed of at the Stanislaus Resource Recovery Facility requires concurrence by the Modesto City Council and the Stanislaus County Board of Supervisors. County staff expects a similar proposal to be considered by the Modesto City Council at their meeting on June 26, 2007.

A notice of the proposed increase in fees at the Stanislaus Resource Recovery Facility (Attachment "C") was published on June 16, 2007 and June 22, 2007 in the Modesto Bee.

Staff request that these fees be set by resolution pursuant to Public Resources Code section 41901 and Government Code section 60616.

POLICY ISSUE:

The Board of Supervisors should determine if increasing the AB 939 and Household Hazardous Waste Program fees is consistent with its priorities of a safe community and the efficient delivery of public services.

STAFFING IMPACT:

Additional Household Hazardous Waste funds will allow the Department to fill an existing unfunded vacant Hazardous Materials Specialist I/II/III position to provide oversight over the program.

AB 939 Program

	2005-2006 Actual Revene	2006-2007 Annualized Revenue	2007-2008 Projected Revenue*
Program Fees from Waste-to-Energy	\$ 372,707	\$ 367,082	\$ 735,000
Revenue Returned to Cities	\$ 203,994	\$ 198,061	\$ 396,122
Revenue Retained by County	\$ 168,713	\$ 169,021	\$ 338,878
County Admin. & Reporting Expense	\$ 146,872	\$ 169,227	\$ 169,227
Revenue Available for Programs	\$ 21,841	\$ (206)	\$ 169,651
Program Implementation Expense	\$ 157,657	\$ 134,615	\$ 155,702
Related Expenses	\$ 3,949	\$ 13,949	\$ 13,949
Surplus / (Deficit)	\$ (139,765)	\$ (148,770)	\$ -

* Assumes the increase in program fees

Household Hazardous Waste Program

	2005-2006 Actual Revenue	2006-2007 Annualized Revenue	2007-2008 Projected Revenue*
Program Fees from Waste-To-Energy	\$ 367,709	\$ 365,000	\$ 735,000
State Household Grant - Program Expansion	\$ 80,506	\$ -	\$ -
State Used Oil Grant	\$ 44,404	\$ 78,718	\$ 45,000
Other Revenue	\$ 23,795	\$ 22,000	\$ 18,600
Total Revenue	\$ 516,413	\$ 465,718	\$ 798,600
Staff Cost	\$ 352,067	\$ 332,192	\$ 426,330
Program Expenses:			
Disposal Cost	\$ 191,925	\$ 207,204	\$ 244,950
Field Supplies	\$ 15,809	\$ 13,800	\$ 16,500
Contracts-Temp. Help	\$ 26,633	\$ 22,000	\$ 23,500
Small Tools	\$ 1,872	\$ 1,400	\$ 654
Utilities	\$ 2,388	\$ 2,200	\$ 3,200
Sharp Containers Cost & Disposal			\$ 29,490
Projected Publication Cost			\$ 21,605
Projected Batteries Disposal Cost			\$ 15,600
Total Program Expense	\$ 238,627	\$ 246,604	\$ 355,499
Total Expenses	\$ 590,694	\$ 578,796	\$ 781,829
Surplus / (Deficit)	\$ (74,281)	\$ (113,078)	\$ 16,771

*Assumes increase in program fees

NOTICE IS HEREBY GIVEN that on June 26, 2007, at the hour of 9:20a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will conduct a public hearing in the basement Chambers, Lower Level, 1010 Tenth Street, Modesto, CA, to consider proposed increases to the AB939 and Household Hazardous Waste Program (HHW) Fees at the Stanislaus Resource Recovery Facility. A recommendation will be made that these increases be effective August 1, 2007, pursuant to the following:

The AB939 program fee is proposed to increase from \$1.50 per ton to \$3.00 per ton, and the HHW program fee is proposed to increase from \$1.50/ton to \$3.00/ton

As a result of these proposed program fee increases, the actual cost to dispose of a ton of waste at the Stanislaus Resource Recovery Facility (waste-to-energy plant) may increase from \$25 per ton to \$28 per ton effective August 1, 2007.

AT THE ABOVE NOTICED TIME AND PLACE, interested persons will be given an opportunity to be heard. Material submitted to the Board of Supervisors or the Department of Environmental Resources for consideration (i.e., petitions, etc.), will be retained by the County. If a challenge to the above process is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board or the Department of Environmental Resources. For further information, call (209) 525-6700.

BY ORDER OF THE BOARD OF SUPERVISORS

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of
the Board of Supervisors of the County of Stanislaus,
State of California

Date:

By: _____
Elizabeth King, Assistant Clerk of the Board

ATTACHMENT "C"