

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

DEPT: Environmental Resources *SM*

BOARD AGENDA # *B-7

Urgent Routine

AGENDA DATE June 16, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Use of Tipping Fees at the Fink Road Landfill as the Proposed Financial Assurance Mechanism for Corrective Action at Geer Road Landfill and Approval to Revise the Annual Transfer from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund

STAFF RECOMMENDATIONS:

1. Approve the use of tipping fees at the Fink Road Landfill as the proposed financial assurance mechanism for corrective action at the Geer Road Landfill.
2. Rescind Stanislaus County Board of Supervisor's Resolution No. 92-969.
3. Direct the Auditor-Controller to make annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund in the amount of \$225,000.

FISCAL IMPACT:

The Department of Environmental Resources Fink Road Landfill Enterprise Fund currently expends \$625,000 per year to maintain a dedicated funding mechanism for closure, post-closure maintenance, and corrective actions at the Fink Road Landfill. If the Board of Supervisors approves this recommendation, this annual expenditure will be lowered to \$225,000.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-405

On motion of Supervisor Chiesa, Seconded by Supervisor Grover

and approved by the following vote,

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

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:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

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FISCAL IMPACT (Continued):

There is no impact at this time to the Fink Road Landfill Enterprise Fund to proposing the use of tipping fees as a funding mechanism for corrective action at the Geer Road Landfill. A determination by the Regional Water Quality Control Board and the California Integrated Waste Management Board as to whether additional monies are required to be set aside for corrective action measures at the Geer Road Landfill is expected in late 2009.

DISCUSSION:

Geer Road Landfill

Landfill operations in the State of California are overseen by various regulatory agencies that enforce an array of statutes and regulations. Two of these agencies are the Regional Water Quality Control Board (RWQCB) and the California Integrated Waste Management Board (CIWMB). In the case of the RWQCB, oversight occurs in the form of Waste Discharge Requirements (WDRs) which serve as a type of permit for the facility.

Stanislaus County (County) and the City of Modesto (City) entered into an agreement in 1970 to purchase property and establish the Geer Road Landfill in order to provide disposal capacity for local residents. In that agreement, both parties share joint financial responsibility for the ongoing post-closure costs associated with the Landfill. After the facility closed in July 1990, the City and the County agreed to an approach for funding these costs through a combination of ash and normal refuse tipping fees that are collected at the Fink Road Landfill.

The WDRs for Geer Road Landfill were first issued in 1977 and have been revised by the RWQCB several times over the years, most recently in April 2009. A new condition of the WDRs requires the County to prepare a cost estimate, by June 30, 2009, for corrective action measures which may be required in future years based on known, present day conditions at the landfill. By this same date, the County must also propose a mechanism for funding these corrective action measures, should they become necessary. The funding mechanism that has historically been used is a pledge of revenue from the tipping fees collected at the Fink Road Landfill. Staff recommends that the County continue to use a pledge of revenue from the tipping fees collected at the Fink Road Landfill as the financial assurance mechanism.

The California Code of Regulations (CCR), Section 22220, states the following: "Operators (such as Stanislaus County) of disposal facilities [are required] to demonstrate the availability of financial resources to conduct corrective action activities. The requirements of this article apply to operators of all disposal facilities that are

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required to be permitted and have been or will be operated on or after July 1, 1991.” The Geer Road Landfill was permitted long before 1991, however, it stopped receiving waste on July 1, 1990. Given this, staff is awaiting a written clarification from CIWMB and/or RWQCB staff later this year as to whether additional financial assurances will be required for this site. Regardless of the determination, the Board must propose a mechanism at this time for meeting this requirement should it be found to apply.

The Board has the sole authority for increasing or decreasing tipping fees at the Fink Road Landfill, however, increases to the tipping fees which are collected for ash disposal are a pass through component of the tipping fee that is charged for tons delivered to the waste-to-energy facility. Because the waste-to-energy facility is a joint City-County project, discussions with City staff about this potential impact to waste-to-energy tipping fees are currently underway.

Revising the Annual Transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund

In 1992, Stanislaus County, as the operator of the Fink Road Landfill, was required to establish financial assurances for closure, post-closure maintenance, and reasonably foreseeable corrective actions for the Fink Road Landfill. The County complied with this requirement through Resolution No. 92-969.

Presently the authority that requires these same financial assurances is found in CCR, Section 22225, where a formula now establishes the rate at which funds must be accumulated when comparing the following factors: 1) the total estimated costs of closure, post-closure, and corrective actions; and 2) the balance in the fund given the remaining number of years of landfill capacity during which time additional funds can be accumulated. Annually the County attests to these factors and the CIWMB makes a determination that the financial assurance mechanism is either under funded or over funded to the extent it should be at the time, or fully funded meaning 100% or more of the total estimated costs have accumulated.

According to the CIWMB's annual determination, Stanislaus County's status has been over funded for the past several years. For 2008, the fund balance was \$15,846,722 compared to the minimum required fund balance of \$6,023,390 or \$9,823,332 above the minimum. For the County to be considered fully funded, however, approximately \$22 million, or an additional \$6,153,278 (adjusted for inflation each year) would be required.

While the County has always preferred to take a very conservative position to ensure that the necessary funds are available for their intended purpose, staff recommends curtailing the annual transfers into the enterprise fund at this time. CIWMB staff has indicated that, because of the County's over funded status, this may be done without

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their concurrence because the fund will continue to be monitored annually. Another consideration is that once funds are transferred, they cannot be withdrawn without approval from the CIWMB. At the time the County reaches the fully funded status, it can petition to discontinue transfers entirely and can even divert interest earnings if it so chooses.

At this time, staff is recommending that the annual transfer be reduced from \$625,000 to \$225,000 which, when interest earnings are added to this, still allows the balance to increase by approximately \$800,000 each year; a scenario which is estimated to reach fully funded status on or before the year 2013. The year 2013 was the County's estimated closure date of the Class 2 portion of the landfill until the Infill Project was initiated in late 2008, which is estimated to add 10 to 20 years of additional capacity. If the Infill Project is ultimately approved by the CIWMB and RWQCB, the County will be required to revise the estimated cost of closure, post-closure maintenance, and reasonably foreseeable correction action. Based on the revised estimates, the County may need to re-visit the annual transfer amounts again at a later date.

POLICY ISSUE:

The Board of Supervisors should determine if approving the use of tipping fees at the Fink Road Landfill as the proposed financial assurance mechanism for corrective action at Geer Road Landfill and revising the annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund is consistent with the Board's priorities of a safe community, a healthy community, and the efficient delivery of public services.

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Sonya K. Harrigfeld, Director. Telephone: 209-525-6770

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

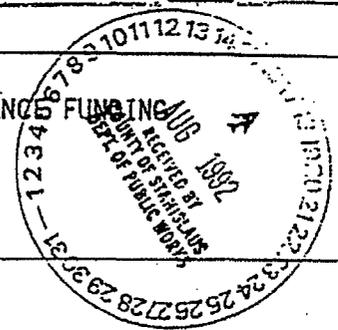
DEPT: PUBLIC WORKS *James Blom*

BOARD AGENDA # *C-4

Urgent Routine AGENDA DATE August 11, 1992

CAO Concurs with Recommendation YES NO 4/5 Vote Required YES NO
(Information Attached)

SUBJECT: FINK ROAD LANDFILL -- CLOSURE/POSTCLOSURE MAINTENANCE FUNDING



STAFF
RECOMMEN-
DATIONS:

1. DIRECT THE AUDITOR-CONTROLLER TO MAKE THE FOLLOWING TRANSFERS OF FUNDS TO THE NEWLY CREATED "FINK ROAD LANDFILL CLOSURE/POSTCLOSURE MAINTENANCE FUND", AS FOLLOWS:
 - A) INDEX NO. 800102, GENERAL LEDGER ACCOUNT NO. 504, "RESERVED CLOSURE CLASS II" -- \$195,000.00;
 - B) INDEX NO. 800102, GENERAL LEDGER ACCOUNT NO. 505, "RESERVED CLOSURE CLASS III" -- \$930,000.00.

(SEE PAGE 2)

FISCAL IMPACT: There will be no impact on the County General Fund. Funds are available in the Fink Road Landfill account for the requested transfers.

BOARD ACTION No. 92-969

On motion of Supervisor Blom, Seconded by Supervisor Caruso
and approved by the following vote.

Ayes: Supervisors: Starn, Blom, Simon, Caruso and Chair Paul

Noes: Supervisors: None

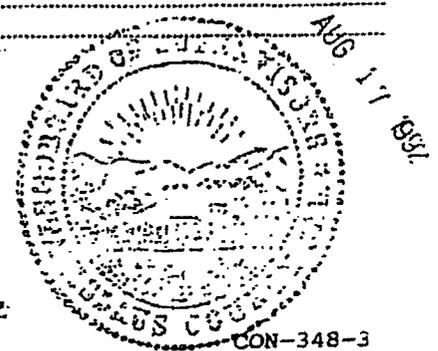
Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

CHRISTINE D. FERRARO
Clerk to the Board of Supervisors of the
County of Stanislaus, State of California
By *Christine Ferraro*



CON-348-3
File No.

ATTEST: CHRISTINE D. FERRARO, Clerk By: PATRICIA A. MINTON, Assistant Clerk

STAFF RECOM-
MENDATIONS:
(Continued)

2. RESCIND STANISLAUS COUNTY BOARD OF SUPERVISORS' RESOLUTIONS NO. 89-433 AND NO. 89-434.
3. DIRECT THE AUDITOR-CONTROLLER TO MAKE ANNUAL TRANSFERS FROM THE FINK ROAD LANDFILL ACCOUNT TO THE NEWLY ESTABLISHED, "FINK ROAD LANDFILL CLOSURE/POSTCLOSURE MAINTENANCE FUND", IN THE AMOUNT OF \$625,000.00.

DISCUSSION:

On this date, the Stanislaus County Board of Supervisors has, by resolution, authorized the establishment of the "Fink Road Landfill Closure/Postclosure Maintenance Fund". Funds have been accumulated in the Fink Road Landfill Enterprise account for closure and postclosure maintenance of the landfill.

Resolutions No. 89-433 and No. 89-434, which were adopted by the Board of Supervisors on March 28, 1989, provided for annual deposits into closure accounts.

The Director of Public Works has determined that annual deposits into the "Fink Road Landfill Closure/Postclosure Maintenance Fund" should be increased to meet the requirements of Title 14, Division 7, Chapter 5, Article 3.5, of the California Code of Regulations.

POLICY
ISSUE:

A transfer of funds requires Board of Supervisors action.

STAFFING
IMPACT:

None.

JJ:as
(F:/Landfill/FCLSPCL2.BOS)