

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

DEPT: Environmental Resources

AA

BOARD AGENDA # *B-7

Urgent

Routine

AGENDA DATE June 8, 2010

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Discontinue the Annual Transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for fiscal years 2009-2010 through 2011-2012, and Resume in Fiscal Year 2012-2013

STAFF RECOMMENDATIONS:

Direct the Auditor-Controller to discontinue the annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for fiscal years 2009-2010 through 2011-2012, and to resume in Fiscal Year 2012-2013.

FISCAL IMPACT:

The Department of Environmental Resources Fink Road Landfill Enterprise Fund currently transfers \$225,000 per year to the Fink Road Landfill Closure/Post-closure Fund to maintain a dedicated funding mechanism for maintenance and corrective action associated with the Fink Road Landfill upon its closure. If the Board of Supervisors approves this recommendation, the annual transfer will be reduced to \$0 for fiscal years 2009-2010 through 2011-2012, and the fund would grow solely based on the interest earnings of approximately \$600,000 or more per year. (Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2010-350

On motion of Supervisor DeMartini, Seconded by Supervisor Monteith

and approved by the following vote,

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

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):

Beginning with Fiscal Year 2012-2013, the annual transfers of \$225,000 would resume. The temporary elimination of annual transfers to the Closure/Post-closure Fund will not negatively impact the required financial assurances that Stanislaus County must maintain.

DISCUSSION:

The Department of Environmental Resources (Department), Landfill Division, maintains and operates the Fink Road Landfill. This facility is located at 4000 Fink Road, Crows Landing, in western Stanislaus County. The Fink Road Landfill provides landfill services for Class III municipal solid waste (MSW) for all of Stanislaus County as well as Class II disposal of the combustion ash that results from the incineration of MSW at the adjacent Waste-to-Energy facility.

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, directing the transfer of \$625,000 annually from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund.

The authority requiring these financial assurances is found in the California Code of Regulations, Section 22225, where a formula 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 Department of Resources Recycling and Recovery (CalRecycle) 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.

On June 16, 2009, the Board of Supervisors revised the annual transfer from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund, lowering it from \$625,000 to \$225,000 per year; a decision that was made possible because of the Closure/Post-closure Fund's over funded status. Specifically, according to CalRecycle's annual determination for 2009, Stanislaus County's minimum required fund balance would have been \$6,476,160. Because the County's fund balance at that time was \$17,018,217, however, the County is considered over funded by \$10,542,057 at the 2009 interval. For the County to have been considered fully funded in 2009, \$2,216,734 would need to have accumulated, or an additional \$5,198,517. When

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determining the fully funded dollar amount each year, an adjustment for inflation is included.

While the County has always preferred to take a very conservative position to ensure that the necessary funds are available for their intended purpose, Department of Environmental Resources staff recommends curtailing the annual transfers into the Enterprise Fund for both the current and the two successive fiscal years due to the economic downturn which has impacted landfill revenues along with many other sectors. Landfill expenses have been reduced over this past year, however, reduced revenues are reflective of lower tonnages being received which will also extend the life of the landfill and provide the opportunity for these closure funds to be recouped over time.

CalRecycle staff indicated that because of the County's over-funded status, reducing the annual transfers may be done without 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 CalRecycle. At the time the County reaches the fully-funded status, it can petition to discontinue transfers entirely and can even divert interest earnings back to the Enterprise Fund if it so chooses.

It is recommended that the annual transfer be reduced from \$225,000 to \$0 which still allows the balance to increase by \$600,000 or more each year due to the interest earnings alone; a scenario which is estimated to reach fully-funded status on or before Fiscal Year 2017-2018, or one year later than previously anticipated. The year 2013 was the County's previously estimated closure date of the Class 2 portion of the landfill, when the fund would have needed to reach fully funded status. With the Infill Project which was initiated in late 2008, an additional 10 to 20 years of capacity is anticipated. When the Infill Project is ultimately approved by CalRecycle and the Regional Water Quality Control Board, 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 discontinuing the annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund until Fiscal Year 2012-2013 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.

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