

County of Stanislaus  
City of Modesto  
**Solid Waste-to-Energy Executive Committee**  
September 15th, 2022 at 10:00 a.m.  
Tower Conference Room, #6825  
County/City Administration Building  
10<sup>th</sup> Street Place, Modesto  
Public Access Link: <https://msteams.link/PHOX>  
Public Call-In Line: +1 559-512-3189 ID: 240 984 738#

AGENDA

- I. Call to Order
- II. Approval of Minutes of the June 16, 2022 meeting
- III. New Business

Any and all of the following agenda items are subject to action by the County of Stanislaus/City of Modesto Solid Waste-to-Energy Executive Committee.

- A. Consideration of the Updated Fiscal Year 2022-2023 Waste-to-Energy Project Budget. (Department of Environmental Resources, Fidelis Gines, 525-6758, [fgines@envres.org](mailto:fgines@envres.org))

- IV. Updates

None of the following agenda items are subject to action by the County of Stanislaus/City of Modesto Solid Waste-to-Energy Committee. They are provided for information only.

- A. Update on Contractual Tonnage deliveries at the Stanislaus Resource Recovery Facility. (Department of Environmental Resources, Fidelis Gines, 525-6758, [fgines@envres.org](mailto:fgines@envres.org))
- B. Legislative Update on AB 1857 (Public Works Department, Rosene Salmo, 577-5453, [rsalmo@modestogov.com](mailto:rsalmo@modestogov.com))
- C. Contracting Communities' Review of *Vestiges of Environmental Racism* Report (Department of Environmental Resources, Rob Kostlivy, 525-6768, [rkostlivy@envres.org](mailto:rkostlivy@envres.org) and Public Works Department, Rosene Salmo, 577-5453 [rsalmo@modestogov.com](mailto:rsalmo@modestogov.com))

- V. Written Communications

- VI. Public Comment

Members of the public may address the Executive Committee on any item of interest to the public that is within the subject matter jurisdiction of the Agency. No action shall be taken by the Executive Committee on any item not appearing on the agenda unless the matter is too late for the Agenda as set forth in Government Code Section 54954.2 (b). Otherwise, members of the Executive Committee may only (1) briefly respond to statements made or questions raised, (2) ask questions for clarification, (3) make a brief announcement, (4) make a brief report on his or her own activities, (5) provide a reference to staff or other resources for factual information, (6) request staff to report back to the Executive Committee at a subsequent meeting concerning the matter, or, (7) take action to direct staff to place a matter or business on a future agenda.

VII. Matters Too Late For the Agenda

The Executive Committee may take action on any items of business not appearing on the posted agenda if:

- A. Upon determination by a majority vote of the legislative body that an emergency situation exists; or,
- B. Upon a determination by a two-thirds vote of the legislative body, or, if less than two-thirds of the members are present, a unanimous vote of the members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted; or,
- C. The item was posted on the agenda for a prior meeting of the Executive Committee occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

VIII. Upcoming Agenda Items

IX. Schedule of future Solid Waste Executive Committee Quarterly Meetings for 2022

- A. December 15, 2022 at 10:00 a.m.

X. Adjournment

Posted pursuant to Government Code Section 54954.2 on \_\_\_\_\_  
at \_\_\_\_\_ by \_\_\_\_\_ on the bulletin board at 10th Street  
Place, Modesto.

**County of Stanislaus/City of Modesto  
Waste-To-Energy Executive Committee Meeting Minutes**

Regular Session

Thursday

June 16, 2022

**Committee Members Present:** Mani Grewal, Stanislaus County Board of Supervisors; Channee Condit, Stanislaus County Board of Supervisors; Chris Ricci, City of Modesto Council Member, Rosa Escutia-Braaton, City of Modesto Council Member

**Committee Members Absent:** None

**Others Present:** Rob Kostlivy, Stanislaus County; Will Richards, Stanislaus County; Tina Rocha, Stanislaus County; Patrick Cavanah, Stanislaus County; Todd James, Stanislaus County; Donya Nunes, Stanislaus County; Donna Riley, Stanislaus County; Bill Sandhu, City of Modesto, Rosene Salmo, City of Modesto; Myriah Hill, City of Modesto; Joe Lopez, City of Modesto; Fidelis Gines, Stanislaus County; Bianca Lopez, Valley Improvement Project (conference call); Denise Porter, Stanislaus County.

- I. **Call to Order:** Chairperson Grewal called the meeting to order at 10:03 a.m.
- II. **Approval of Minutes:** A motion to approve the minutes of the December 16, 2021 regular meeting was made by Supervisor Condit and seconded by Councilmember Ricci. Motion carried 4-0.
- III. **New Business:**
  - A. **Consider the Annual Rotation of Officers and Secretary for the Solid Waste-to-Energy Executive Committee:** Will Richards recommended that the Committee consider the annual rotation of the Chairperson, Vice-Chairperson and Secretary for the Solid Waste-to-Energy Executive Committee. Past practice has been to rotate the Officers and Secretary between the City and the County from year to year. Following the traditional practice, County Supervisor Mani Grewal would become Chairperson, City Councilmember Chris Ricci would be the Vice-Chairperson, and County staff would become Secretary to the Committee for calendar year 2022. Motion to approve was made by Supervisor Condit, seconded by Councilmember Ricci. Motion carried 4-0.
  - B. **Consideration of the Fiscal Year 2022-2023 Waste-to-Energy Project Budget:** Will Richards stated Amendment No. 1 to the Agreement between the City of Modesto and County of Stanislaus for the administration of the Waste-to-Energy Project requires an annual budget for the project each fiscal year prior to July 1st. Historically, after consideration of the budget by the Executive Committee it was submitted to the City Council and Board of Supervisors for final approval. This was because the budget had been classified as an Enterprise Fund by the County Auditor-Controller's office. Starting with the Fiscal Year 2011-2012 Final Budget, however, it was determined that due to the nature of Waste-to-Energy operation, the budget should more appropriately be classified as an Agency Fund, a fund type held by the County as an agent for

individuals, private organizations, or other governments. Agency Funds are not reported in the County's annual spending plan. The Auditor-Controller will continue to track the Waste-to-Energy Agency Fund, but outside of the County budget process. This change eliminates the need to obtain final approval on the WTE budget from the County Board of Supervisors and Modesto City Council.

Staff is proposing the Fiscal Year 2022-2023 Budget based on the combination of tonnage provided by the Cities represented from the Regional Agency and the Contracting Communities over the past nine months, along with the project costs through the remainder of the contract year ending June 30, 2022.

The Service Agreement is based on the tonnage of Acceptable Waste processed by the facility, currently \$44.14 per ton. Under the terms of the amendment to the administration agreement, the tip fee at the WTE facility would be increased or decreased annually based on the Consumer Price Index (CPI) and be effective on July 1 of each contract year. The CPI increase for July 1, 2022, was calculated to increase by 8.8%. This will increase the \$37.14 per ton payment to Covanta by \$3.27. The increase, along with the \$6 per ton fee for the AB939 and Household Hazardous Waste programs, and \$1 per ton to cover Fink Road Landfill costs for WTE portion of scale house operations and the Contracting Communities administration costs will increase the total tipping fee to \$47.41 per ton. The proposed budget is based on the above rates and processing of 253,400 tons.

The set aside reserves of \$3.75 million for unforeseen circumstance costs contingency and \$2 million for other contingencies remain in the Fiscal Year 2022-2023 Proposed Budget. Interest on the \$3.75 million unforeseen circumstances account is retained in the account for future use. Interest on the \$2 million contingencies account, by Agreement, is divided 58% to the City and 42% to the County and paid out at the end of each contract year.

Amendment No. 2 to the Agreement between the City of Modesto and County of Stanislaus for the administration of the Waste-to-Energy Project created a Manager I/II position to be housed at the County for the administration of the agreement. The position has been unfilled since 2010, despite no decrease in workload. The workload for the administration of the agreement requires a significant amount of time and has been spread among various staff members. We are seeking to restore this position to assist County staff in effectively managing the Service Agreement and tonnage tracking as required. The current balance of the WTE Agency Fund is sufficient to support this position financially through the remainder of the contract.

Attached to this agenda item are account details of the Proposed Fiscal Year 2022-2023 Budget, as well as the current budget approved for Fiscal Year 2021-2022.

The Contracting Communities are required to bring 243,300 tons annually to Covanta. The proposed Fiscal Year 2022-2023 budget is based on the Contracting Communities delivering a combined total of 253,400 tons. The budgeted tonnage is remaining consistent with the previous two years.

Staff is recommending approval of the proposed budget with the changes above.

Bianca asked if we anticipate a change in the diversion of tonnage at the facility. Will said no, we are contractually obligated to bring in that tonnage this year.

Councilmember Escutia-Braaton asked for clarification of the budget line items, "Contributions to Other Agencies". Will explained this is the \$7 per ton fee that funds the Household Hazardous Waste facility (\$3/ton), AB 939 programs (\$3/ton); Landfill for running the scalehouse (\$.50/ton) and to the City of Modesto and Stanislaus County (Contracting Communities) for administrative services (\$.25/ton each).

Motion to approve was made by Councilmember Ricci, seconded by Councilmember Escutia-Braaton. Motion carried 4-0.

IV. **Updates:**

- A. **Update on Contractual Tonnage deliveries at the Stanislaus Resource Recovery Facility:** Will Richards provided an update of the tonnage received by month for this fiscal year. After eleven full months into the current fiscal year, there have been nine full diversions and 48 partial diversions to the Landfill. Several months throughout the fiscal year closed with shortages when compared against the Proposed Guaranteed Tonnage. The 27,173 tons delivered during Covanta's requested diversion days were credited towards the Contracting Communities' guaranteed tonnage.

The budget total for the Service Fee Charge for Fiscal Year 2021-2022 is \$9,411,276. Expenses through May were \$7,874,816, leaving a balance of approximately \$1,536,460.

Bianca asked where to find the listing of diversions and outages and the reasons for the outages. Will said we have individual documents for the outages, but did not create a listing at this point. Bianca asked what happens with the leftover funds. Will said the funds are based on what we send to the facility; we then get reimbursed from our haulers, so our revenue decreases as we send less waste to the facility.

V. **Written Communications:** None

- VI. **Public Comment:** Councilmember Ricci asked about the new State regulations and how they will affect Covanta. What kind of strategies are we considering, assuming that the state plans to shut down the facility? Will stated the new regulations won't immediately

shut the facility down, it's more about building new infrastructure and eliminating the diversion credit if the facility is permitted to remain. The Councilmember asked what the timeline would be. Will said building infrastructure will take a few years, but at this point it's hard to put a timeline on it. The Councilmember asked for an update at the next scheduled meeting.

VII. **Matters Too Late For The Agenda:** None

VIII. **Schedule of future Executive Committee Meetings for 2022:**

September 15, 2022 at 10:00 a.m.

December 15, 2022 at 10:00 a.m.

IX. **Adjournment:** With no further business, Chairperson Grewal adjourned the meeting at 10:25 a.m.

**M E M O R A N D U M**

DATE: September 15, 2022

TO: Solid Waste-to-Energy Executive Committee

FROM: Fidelis Gines, Staff Services Coordinator, Stanislaus County Department of Environmental Resources

SUBJECT: Consideration of the revised Fiscal Year 2022-2023 Waste-to-Energy Project Budget

RECOMMENDED ACTION:

Consider approval of the revised Fiscal Year 2022-2023 Waste-to-Energy Project budget.

BACKGROUND:

Amendment No. 1 to the Agreement between the City of Modesto and County of Stanislaus for the administration of the Waste-to-Energy (WTE) Project requires an annual budget for the project each fiscal year prior to July 1<sup>st</sup>. The previous 2022-2023 budget was approved at the June 16, 2022 SWEC meeting.

Staff is proposing changes to the Fiscal Year 2022-2023 Budget to correct two errors in the expenditure portion of the approved budget and to add additional expenditures to engage with a consultant to assess the future of solid waste management in Stanislaus County.

The two errors were in Account 73010 from the Regional Agency cities for Household Hazardous Waste and AB 939 program funding. The previously approved budget showed these expenditures at \$0.59 per ton for each of these programs. The actual expenditure is \$3.00 per ton for each program that is supported through \$6.41 per ton from the County's rate stabilization fund and \$0.59 from disposal fees from the Regional Agency cities. This understated the fund's projected expenditures by \$313,300.

Staff is also proposing to add \$200,000 to Account 63000 to hire a consultant to assess the Contracting Communities solid waste management practices beyond the 2027 Service Agreement termination date. The Contracting Communities have formed a subcommittee of staff members to seek out a consultant to perform the assessment. With this budget approval, the subcommittee will be able to engage with the chosen consultant immediately without need for an additional budget adjustment and further delay on the project.

The various adjustments to the budget will result in a total increase of \$513,300 in expenditures. These additional expenditures will result in a net decrease of approximately \$292,000 in the WTE fund balance. The fund balance currently has enough reserves to support these proposed changes.

The attachment to this agenda item shows account details of the proposed revisions to the Fiscal Year 2022-2023 Budget, as well as the current budget approved for Fiscal Year 2022-2023.

REASONS FOR RECOMMENDATION:

Per the agreement between the City of Modesto and Stanislaus County for the administration of the Service Agreement, the Solid Waste-to-Energy Executive Committee must approve any adjustments to the annual budget for the Waste-to-Energy Project.

STAFF RECOMMENDATION:

Staff is recommending approval of the proposed budget with the changes above.



**Stanislaus Waste to Energy Project**  
**Proposed Budget FY 2022-2023 (based on 253,400 tons)**

**Revenues**

17000 - RRA Interest Earnings		\$ 90,000
29715 - Other Gov't Agencies	65,000 tons x \$6.41/ton	\$ 416,650
34400 - Disposal Fees (City and Co)	(115,000 + 73,400) x \$47.41/ton	\$ 8,932,044
34400 - Disposal Fees (cities)	65,000 tons x \$41/ton	\$ 2,665,000
<b>Total Revenues</b>		<b>\$ 12,103,694</b>

**Expenditures**

***	<b>62450 - A87 Indirect Costs (CAP charge)</b>		\$ 277
***	<b>63000 - Professional and Special Services</b>		<b>\$ 213,000</b>
***	<b>63090 - Accounting (Auditor's CAP charge)</b>		\$ 81
***	<b>63090 - Purchasing</b>		\$ -
	63410 - Administrative Services (City)		\$ 63,350
	63410 - Administrative Services (City Attorney)		\$ 10,000
	63410 - Administrative Services (Interest OF 2M Contingency to City)		\$ 1,160
	66710 - Service Charges (Covanta Service Fee)	253,400 tons x \$40.41/ton (processing fee)	\$ 10,239,894
	70000 - Administrative Services (County LF)	253,400 tons x \$.50/ton	\$ 126,700
	70000 - Administrative Services (County DER)	253,400 tons x \$.25/ton	\$ 63,350
	70000 - Administrative Services (Interest to County)		\$ 840
	73010 - Contributions to Other Agencies - AB939 (City)	115,000 tons x \$3/ton	\$ 345,000
	73010 - Contributions to Other Agencies - HHW (City)	115,000 tons x \$3/ton	\$ 345,000
	73010 - Contributions to Other Agencies - HHW (County)	73,400 tons x \$3/ton	\$ 220,200
	73010 - Contributions to Other Agencies - AB939 (County)	73,400 tons x \$3/ton	\$ 220,200
	73010 - Contributions to Other Agencies - HHW (Cities)	65,000 tons x \$3/ton	<b>\$ 195,000</b>
	73010 - Contributions to Other Agencies - AB939 (Cities)	65,000 tons x \$3/ton	<b>\$ 195,000</b>
	74520 - Administrative Support Position Manager I/II		\$156,833
	<b>Total Expenditures</b>		<b>\$ 12,395,885</b>
			\$ (292,191)

Notes:

\*\*\* **These are preliminary numbers. Will be subject to change.**

Expenditure:

- 62450 Indirect Costs/All Values
- 63000 Professional and Special Services / County Counsel
- 63090 Auditing and Accounting / Auditor Controller
- 63090 Purchasing
- 63410 Administrative Svcs to City is \$0.25/ton @ 253,400 tons
- 63410 Administrative Svcs to City for City Atty
- 63410 Estimated Interest to City on \$2 million reserved for contingencies = \$2K
- 66710 Covanta's Processing Fee is \$40.41/ton @ 253,400 tons
- 70000 Administrative Svcs to DER LF is \$0.50/ton @ 253,400 tons
- 70000 Administrative Svcs to DER is \$0.25/ton @ 253,400 tons less other County charges
- 70000 Estimated Interest to County on \$2 million reserved for contingencies = \$2K
- 73010 Contribution is \$3/ton @ 115,000 tons (AB939 - City of Modesto)
- 73010 Contribution is \$3/ton @ 115,000 tons (HHW - City of Modesto)
- 73010 Contribution is \$3/ton @ 73,400 tons (HHW - County)
- 73010 Contribution is \$3/ton @ 73,400 tons (AB939 - County)
- 73010 Contribution is \$3/ton @ 65,000 tons (HHW - Cities)
- 73010 Contribution is \$3/ton @ 65,000 tons (AB939 - Cities)

Revenue:

- 17000 Interest
- 29715 From the Rate Stabilization Funds 65,000 tons @\$6.41/ton
- 34400 Disposal Fees from City of Modesto of 115,000 tons @ \$47.41/ton
- 34400 Disposal Fees from County of 73,400 tons at \$47.41/ton
- 34400 Disposal Fees from cities of 65,000 tons @ \$41.00/ton

**Stanislaus Waste to Energy Project**  
**Approved Budget FY 2022-2023 (based on 253,400 tons)**

**Revenues**

17000 - RRA Interest Earnings		\$ 90,000
29715 - Other Gov't Agencies	65,000 tons x \$6.41/ton	\$ 416,650
34400 - Disposal Fees (City and Co)	(115,000 + 73,400) x \$47.41/ton	\$ 8,932,044
34400 - Disposal Fees (cities)	65,000 tons x \$41/ton	\$ 2,665,000
<b>Total Revenues</b>		<b>\$ 12,103,694</b>

**Expenditures**

***	<b>62450 - A87 Indirect Costs (CAP charge)</b>		\$ 277	
***	<b>63000 - Professional and Special Services (County Counsel)</b>		<b>\$ 13,000</b>	\$ 200,000
***	<b>63090 - Accounting (Auditor's CAP charge)</b>		\$ 81	
***	<b>63090 - Purchasing</b>		\$ -	
	63410 - Administrative Services (City)		\$ 63,350	
	63410 - Administrative Services (City Attorney)		\$ 10,000	
	<b>63410 - Administrative Services (Interest OF 2M Contingency to City)</b>		\$ 1,160	
	66710 - Service Charges (Covanta Service Fee)	253,400 tons x \$40.41/ton (processing fee)	<b>\$ 10,239,894</b>	
	70000 - Administrative Services (County LF)	253,400 tons x \$.50/ton	\$ 126,700	
	70000 - Administrative Services (County DER)	253,400 tons x \$.25/ton	\$ 63,350	
	70000 - Administrative Services (Interest to County)		\$ 840	
	73010 - Contributions to Other Agencies - AB939 (City)	115,000 tons x \$3/ton	\$ 345,000	
	73010 - Contributions to Other Agencies - HHW (City)	115,000 tons x \$3/ton	\$ 345,000	
	73010 - Contributions to Other Agencies - HHW (County)	73,400 tons x \$3/ton	\$ 220,200	
	73010 - Contributions to Other Agencies - AB939 (County)	73,400 tons x \$3/ton	\$ 220,200	
	<b>73010 - Contributions to Other Agencies - HHW (Cities)</b>	<b>65,000 tons x \$.59/ton (\$41-\$40.41)</b>	<b>\$ 38,350</b>	
	<b>73010 - Contributions to Other Agencies - AB939 (Cities)</b>	<b>65,000 tons x \$.59/ton (\$41-\$40.41)</b>	<b>\$ 38,350</b>	\$ 313,300
	74520 - Administrative Support Position Manager I/II		\$ 156,833	
	<b>Total Expenditures</b>		<b>\$ 11,882,585</b>	\$ 513,300

Notes:  
\*\*\* **These are preliminary numbers. Will be subject to change. - No Changes made.**

- Expenditure:
- 62450 Indirect Costs/All Values
  - 63000 Professional and Special Services / County Counsel
  - 63090 Auditing and Accounting / Auditor Controller
  - 63090 Purchasing
  - 63410 Administrative Svcs to City is \$0.25/ton @ 253,400 tons
  - 63410 Administrative Svcs to City for City Atty
  - 63410 Estimated Interest to City on \$2 million reserved for contingencies = \$2K
  - 66710 Covanta's Processing Fee is \$37.14/ton @ 253,400 tons
  - 70000 Administrative Svcs to DER LF is \$0.50/ton @ 253,400 tons
  - 70000 Administrative Svcs to DER is \$0.25/ton @ 253,400 tons less other County charges
  - 70000 Estimated Interest to County on \$2 million reserved for contingencies = \$2K
  - 73010 Contribution is \$3/ton @ 115,000 tons (AB939 - City of Modesto)
  - 73010 Contribution is \$3/ton @ 115,000 tons (HHW - City of Modesto)
  - 73010 Contribution is \$3/ton @ 73,400 tons (HHW - County)
  - 73010 Contribution is \$3/ton @ 73,400 tons (AB939 - County)
  - 73010 Contribution is \$.59/ton @ 65,000 tons (HHW - Cities)
  - 73010 Contribution is \$.59/ton @ 65,000 tons (AB939 - Cities)

- Revenue:
- 17000 Interest
  - 29715 From the Rate Stabilization Funds 65,000 tons @\$6.41/ton
  - 34400 Disposal Fees from City of Modesto of 115,000 tons @ \$47.41/ton
  - 34400 Disposal Fees from County of 73,400 tons at \$47.41/ton
  - 34400 Disposal Fees from cities of 65,000 tons @ \$41.00/ton

**M E M O R A N D U M**

DATE: September 15, 2022

TO: Solid Waste-to-Energy Executive Committee

FROM: Fidelis Gines, Staff Services Coordinator, Stanislaus County Department of Environmental Resources

SUBJECT: Update on Contractual Tonnage deliveries at the Stanislaus Resource Recovery Facility

RECOMMENDED ACTION:

This item is presented for the Committee’s information only, no action is required.

SCHEDULE 1 APPENDIX DELIVERY SCHEDULE				
FOR CONTRACTING YEAR BEGINNING JULY 1, 2022				
Period	Proposed Guaranteed Tonnage	Actual Tonnage Deliveries	Tons Over/(Under) Guarantee	Diverted Tonnages
July	19,872	17,067	(2,805)	3,500
August	21,000	22,484	1,484	500
September	20,372			
October	20,244			
November	20,500			
December	21,250			
January	21,500			
February	20,000			
March	22,085			
April	18,300			
May	17,077			
June	21,100	-	-	-
<b>Total</b>	<b>243,300</b>	<b>39,551</b>	<b>(1,321)</b>	<b>4,000</b>

FY 22-23 Budget for Service Fee Charges	\$ 10,239,894
Expenses to date (through August 2022)	\$(1,360,470)
Remaining Budget Balance	<u>\$ 8,879,424</u>

DISCUSSION:

After two full months into the current fiscal year, there have been eight (8) partial diversions. The table above shows the month of July closed with a shortfall while the month of August closed with a surplus compared to the Proposed Guaranteed Tonnage. The 4,000 tons delivered during Covanta's requested diversion days were credited towards the Contracting Communities' guaranteed tonnage.

BUDGET UPDATE:

The budget total for the Service Fee Charge for Fiscal Year 2022-2023 is \$10,239,894. Expenses through August were \$(1,360,470), leaving a balance of approximately \$8,879,424.

**M E M O R A N D U M**

DATE: September 15, 2022

TO: Solid Waste-to-Energy Executive Committee

FROM: Rosene Salmo, Integrated Waste Program Manager, Public Works Department, City of Modesto

SUBJECT: Legislative Update on AB 1857

OVERVIEW:

AB 1857 is proposing to remove the diversion credit for municipal solid waste incinerators and redefine incineration as disposal.

This bill would create the Zero-Waste Equity Grant Program as a competitive grant program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy, among other things.

BILL STATUS:

	<b>Results</b>	<b>Date</b>	<b>Motion</b>
Enrolled		9/1/2022	
Assembly	PASS	8/30/2022	AB 1857 Cristina Garcia Concurrence in Senate Amendments
Senate	PASS	8/29/2022	Assembly 3rd Reading AB1857 Cristina Garcia By Eggman
Senate Appropriations	PASS	8/11/2022	Do pass
Senate Environmental Quality	PASS	6/22/2022	Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations]
Assembly	PASS	5/25/2022	AB 1857 Cristina Garcia Assembly Third Reading



## AGENDA ITEM – IV.C

### MEMORANDUM

DATE: September 15, 2022

TO: Solid Waste-to-Energy Executive Committee

FROM: Will Richards, Solid Waste Manager, Stanislaus County Department of Environmental Resources  
Rosene Salmo, Integrated Waste Manager, Public Works, City of Modesto

SUBJECT: Contracting Communities' review of *Vestiges of Environmental Racism* Report

#### RECOMMENDED ACTION:

This item is presented for the Committee's information only, no action is required.

#### BACKGROUND:

In late 2021, Earthjustice released a report titled "Vestiges of Environmental Racism: Closing California's Last Two Municipal Waste Incinerators". The report makes reference to the two waste incinerators located in Los Angeles and Stanislaus counties. Staff have reviewed the report and have found various discrepancies regarding the Stanislaus facility.

Covanta Stanislaus is a Waste-to-Energy facility owned and operated by Covanta; an international corporation based out of New Jersey. The land the facility is sited on is owned by Stanislaus County's Fink Road Landfill and is leased to Covanta through a 15-year agreement signed in 2012 that is set to expire on June 30, 2027. The City of Modesto and Stanislaus County (Contracting Communities) guarantee to deliver 243,300 tons of municipal solid waste to the facility each year. The incineration process produces electricity, reduces the volume of waste by 90%, and recovers metals that would otherwise be disposed of in the landfill.

Covanta Stanislaus is a Title V facility whose emissions are regulated and monitored by the San Joaquin Valley Air Pollution Control District (Air Board), California Air Resources Board, and the Environmental Protection Agency (EPA). Title V facilities are required to monitor their emissions continuously and provide annual pollutant testing. The Department of Toxic Substances Control (DTSC) and CalRecycle have regulatory oversight pertaining to Covanta's ash handling and waste management practices, respectively. The Contracting Communities do not regulate the facility in any way.

**ANALYSIS:**

The report opens with a “Quick Facts” data table on page 6 that makes inaccurate claims of the annual amounts of waste processed and ash produced. The table claims that 320,000 tons of waste is processed annually; however, from 2002-2021, the facility has averaged ~257,000 tons processed annually. We could not find data validating that the facility processed waste as the table indicates. Our records only show that the highest annual yield processed during a calendar year was 270,000 tons. The table also states the facility produces 96,000 tons of ash annually; however, from 2002-2021, the facility has produced an average of ~72,600 tons annually..

<b>Actual Processing and Production 1/1/2002-12/31/2021</b>			
<b>Total Tons Processed</b>	<b>20-Year Average</b>	<b>Total Ash Produced</b>	<b>20-Year Average</b>
5,148,790	257,440	1,451,135	72,557

The report states on page 6 that the location of the of the facility is a “product of historic residential, racial segregation and expulsive zoning laws that allowed whiter, wealthier communities to exclude industrial uses and people of color from their boundaries”. The report does not take into consideration that the Covanta Stanislaus facility’s location was chosen primarily due to its proximity to the Fink Road Landfill and its remote location. According to the EPA’s EJSCREEN, only three people reside within a one-mile radius of the facility. The location also greatly reduces the travel distance for ash disposal, which helps reduce the total amount of diesel used for material transportation.



**EJSCREEN ACS Summary Report**



Location: User-specified point center at 37.385418, -121.140286  
Ring (buffer): 1-miles radius  
Description: Covanta

<b>Summary of ACS Estimates</b>	<b>2015 - 2019</b>
Population	3
Population Density (per sq. mile)	5

The report does not mention the vast lifespan improvement of the landfill. As currently planned and approved, the Fink Road Landfill is estimated to operate through March 2058 based on current trends. Current assumptions for Fink Road Landfill planning are based on the acceptance of 242,200 tons of municipal solid waste per year. If the Covanta Stanislaus facility were to be decommissioned, the landfill would be tasked with accepting nearly 250,000 additional tons of waste per year that would have otherwise been incinerated and transformed into energy and ash.

The report states on page 7 that "Covanta Stanislaus has had a high priority violation of its air permit requirements for the last four quarters". Staff contacted the Air Board to review its permit violations and there was one formal enforcement action in the last three years. It was discovered that the violations shown in the database stemmed from a single emissions event from June 2020. The actual emissions issue was corrected the same day; however, the database shows that there was a "High Priority Violation" due to its reporting methodology. The database that the report cites includes a caveat: "For Clean Air Act stationary sources, High Priority Violations are not considered resolved until the source is in full physical compliance and any enforcement requirements are complete (penalties are paid, etc.). Therefore, a facility's compliance status may remain 'High Priority Violation' even after the violation has been addressed." Though the problem was addressed immediately, since Covanta was in the appeals process for the violation, the violation was reported as ongoing for those consecutive quarters.

The report provides a table of air emissions from the Covanta Stanislaus facility on page 7. In discussions with the environmental staff at Covanta, they were not sure where some of the numbers came from as compounds like benzene and formaldehyde have not been measured at the facility since 1991. Similarly, the total mercury emissions were greatly overstated in the cited database. The actual reported pounds of mercury released during the five-year time span used was 105.21 pounds, not 1,058.6 pounds. Covanta submitted an error correction to the EPA ECHO database regarding incorrect mercury emissions many years ago, but the database was not updated accordingly. In 2021, the Air Board's testing showed the facility was emitting less than 0.0239 pounds of mercury per day of the allowed 7.35 pounds per day. From 2018-2020, Covanta Stanislaus operated significantly below federal emissions standards, as verified through its annual Stack Test and Continuous Emission Monitoring Compliance system.



The report states on page 8 that the ash produced at Covanta is toxic and "a serious threat to human health & the environment". It also reports that "this ash is so toxic that many landfills in California do not even accept it at their facilities." The Contracting



Communities were issued a certification letter from the Toxic Substances Control Program (TSCP) from 1990 when the facility opened that determined that the ash disposal process used by Covanta was classified as nonhazardous. The TSCP later became known as the DTSC, which currently regulates the facility's disposal processes.

The report states on page 9 that the burden of an aging facility and the high dollars associated with maintenance are passed on to the local governments and residents. The Contracting Communities do not share or supplement any facility upgrades of the Covanta Stanislaus facility. The Contracting Communities pay a tip fee that was initially established in the service agreement. The tip fee is adjusted annually by price indices in the same manner that our garbage collection rates are adjusted. The facility assumes all costs of improvements and repairs, as well as any costs related to change in law and unforeseen circumstances.

The report also states on page 9 that due to financial instability, Covanta rebranded itself as a "Waste to Energy" to allow them to apply for renewable energy credits. Covanta has been identified as a source of electrical generation from the earliest planning documents. As such, the facility was branded as the "Stanislaus Waste to Energy Company" when it was first operational in 1988. The report states on page 10, that Covanta only produces about 0.2% of the total electricity consumed in Stanislaus County. In reviewing the same parameters and timeframes that were utilized by the report, it was determined that the energy produced is approximately 3.6% of the electrical consumption by Stanislaus County customers. This is enough to power about 14,000 homes.

The report states on page 9 that there has been an increase of carbon dioxide emissions of waste incinerators by 42% since 1990. This statement is confirmed by the EPA's Inventory of U.S. Greenhouse Gas Emissions; however, the bulk of this increase comes from the incineration of scrap tires across the country. The Covanta Stanislaus facility does not accept tires as fuel for their facility. Removing the increase from incinerated tires, the increase in carbon dioxide is reduced to 17%. The remaining increase is attributed to an increased use of plastics and synthetic fibers in society, not because of poor operations from the facilities. Removing the plastics from the waste stream through mandatory recycling services is anticipated to reduce emissions related to those materials.

The report states on page 10 that the Covanta Stanislaus burns materials that could be reused, recycled, or composted. While this is generally true, the recent implementation of Senate Bill 1383 will remove a portion of the recyclable and compostable materials that have been historically sent to the facility. Each of the Stanislaus County's nine cities and the unincorporated portions of the county will be required to separate out these materials to achieve targets set by the State. There is a portion of the unincorporated County that is exempted from these requirements. The report neglects the fact that the facility extracts on average over 6,500 tons of ferrous metals for recycling each year over the past twenty years.

The Contracting Communities staff would be interested in learning more about the data sources used in this report and are willing to work collaboratively to review future reports in advance should the authors be interested in that review.