



**RESOURCE MANAGEMENT
AGENCY
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POFF
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: February 24, 2009

Public Hearing Required	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>			

CONTACT PERSON: Celeste Perez PHONE: (559) 733-6291

SUBJECT: Financial Assurance for Orosi Landfill.

REQUEST(S):

That the Board of Supervisors:

1. Provide financial assurance for closure costs for the Orosi Landfill by establishing a liability account in the Solid Waste Enterprise Fund;
2. Provide financial assurance for postclosure maintenance and corrective action for the Orosi Landfill in the form of a Pledge of Revenue Agreement;
3. Approve the Pledge of Revenue Agreement establishing financial assurance for postclosure maintenance and corrective action of the Orosi Landfill; and
4. Authorize the Chairman of the Board to sign the Pledge of Revenue Agreement.

SUMMARY:

The County of Tulare owns the inactive Orosi Landfill. The Orosi landfill is located on the southeast corner of Road 128 and Avenue 428 north of the community of Orosi. The existing 40-acre waste management facility consists of one existing unlined waste management unit covering approximately 20 acres. The Orosi Landfill stopped accepting waste in 1987.

In 1984, the State Water Resources Control Board established financial assurance requirements for landfills. In 1988, the California Integrated Waste Management Board (CIWMB) established financial assurance requirements. In 1993, the Resource Conservation and Recovery Act established financial assurance regulations for solid waste landfills. Landfills ceasing operations after 1984 are

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subject to one or more agency's regulatory requirements.

The County stopped accepting general refuse at this site in 1972, but accepted inert waste (broken concrete and asphalt) until 1987. The County has disputed whether the acceptance of inert wastes after 1984 subjected this site to contemporary closure regulations after the date that the landfill ceased accepting general refuse.

Waste Discharge Requirements (WDRs), Order No. 5-01-097, for the Orosi Landfill was adopted by the California Regional Water Quality Control Board (CRWQCB) at its April 27, 2001 meeting. Construction Specification D. 2. of the WDRs requires the County to submit Final Closure Plans.

The cost estimates and financial assurance mechanism for closure, postclosure maintenance and corrective action are required by Provision G.12 of the WDRs. The dispute over the applicability of the regulations had not been resolved at the time the WDRs were issued.

Although the CIWMB determined that the Orosi Landfill is not subject to its financial assurance requirements, the CRWQCB has determined that the County must meet the financial assurance requirements. While the County has disagreed with the CRWQCB regarding the financial assurance requirement, the County has agreed to provide it based on comments by the CRWQCB in their review of our submitted closure and postclosure plans. The CIWMB is the clearinghouse for financial assurance.

Public Resources Code sections 43500 through 43610.1 and sections of Title 27, California Code of Regulations (Regulations), Division 2, Subdivision 1, Chapter 6, require operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure, postclosure maintenance and corrective action activities of a solid waste landfill.

Financial assurance is a mechanism whereby owners and operators of landfills can pledge revenues and/or deposit funds so that all anticipated costs will be covered for closure, postclosure maintenance and corrective action activities.

Public Resource Code sections 22228 and 22241 specify an Enterprise Fund as one of several acceptable mechanisms to demonstrate financial responsibility for financing the closure costs of a solid waste landfill. Public Resources Code sections 22228 and 22245 specify a pledge of revenue as an acceptable mechanism to demonstrate financial responsibility for financing postclosure maintenance and corrective action costs of a solid waste landfill.

Tulare County Resolution No. 89-0550 established reserve accounts in the Solid Waste Enterprise Fund for closure and postclosure maintenance of the Balance Rock, Earlimart, Exeter, Kennedy Meadows, Teapot Dome, Visalia and Woodville landfills. Although monies had been deposited into the Solid Waste Enterprise Fund

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for corrective action since 1995, a resolution was never formally adopted until 2005.

Tulare County Resolution No. 2005-0188 re-established the liability account in the 046 Solid Waste Enterprise Fund for closure and post-closure maintenance and established corrective action liability account in the 046 Solid Waste Enterprise Fund for the Balance Rock, Earlimart, Exeter, Kennedy Meadows, Teapot Dome, Visalia and Woodville landfills.

The CRWQCB has indicated the County must formally adopt a resolution establishing a liability account in Solid Waste Enterprise Fund for closure of the Orosi Landfill. The County must also adopt a resolution and enter into a Pledge of Revenue Agreement with the CIWMB whereby funds collected from tipping fees from the Visalia Landfill are pledged for postclosure maintenance costs and corrective action costs of the Orosi Landfill. The Solid Waste Manager is required to sign the Certification for the Establishment of a Financial Mechanism for the Closure of the Orosi Landfill letter to the CIWMB. The Auditor-Controller must submit a letter verifying the establishment of the closure fund.

The Final Closure and Postclosure Maintenance Plan has been reviewed by the CRWQCB staff and deemed to be complete.

The Resource Management Agency (RMA) is in the process of developing bid documents which include plans, specifications, and a construction quality assurance manual. Once completed, these documents will be submitted to the CRWQCB for approval, and the CIWMB and San Joaquin Valley Air Pollution Control Board for comment. Upon approval from the CRWQCB and the Board of Supervisors, the County will advertise for bids for the construction of the Orosi Landfill closure. This is anticipated to occur during the fall of 2009. Funding for the closure project will come from the monies set aside in the Enterprise fund.

FISCAL IMPACT/FINANCING:

There is no net cost to the General Fund. The County has been setting aside monies in the Closure of Inactive Sites Reserve Account, which includes the Orosi Landfill. The amount of money to be transferred from this reserve account to the newly established liability account in the 046 Solid Waste Enterprise Fund for the closure of the Orosi Landfill is estimated to be \$1,103,280. There is adequate funding in the Closure of Inactive Sites Reserve Account to cover this transfer. Funding for the financial assurance closure costs has been budgeted under line item 045-235-2000-3060. The annual costs under the Pledge of Revenue Agreement for postclosure maintenance and corrective action is estimated to be \$67,133.34 ($\$2,014,000 \div 30$ years).

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The action demonstrates the County's regulatory compliance in the management of its natural resources and solid waste disposal activities.

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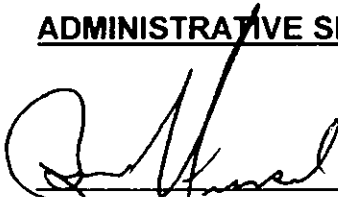
ALTERNATIVES:

1. The Board could establish a liability account in the 046 Solid Waste Enterprise Fund for the postclosure maintenance and corrective action costs rather than a Pledge of Revenue Agreement. Staff does not recommend this action, as it would tie up additional monies that are needed for current projects in these difficult financial times.
2. Do not establish a liability account in the 046 Solid Waste Enterprise Fund for closure or a Pledge of Revenue Agreement for postclosure maintenance and corrective action. This is not recommended since it would place the County in violation of Public Resources Code sections 43500 through 43610.1 and sections of Title 27, California Code of Regulations (Regulations), Division 2, Subdivision 1, Chapter 6, and it's WDR for the Orosi site.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

County Counsel has reviewed and approved all required documents as to form. CIWMB's Counsel has reviewed as to form and procedure. The Auditor-Controller will verify the establishment of funds to the CIWMB. The Solid Waste Manager will certify the establishment of the financial mechanism to the CIWMB.

ADMINISTRATIVE SIGN-OFF:

 2/15/09
Britt L. Fussel, P.E.
Assistant Director—Engineering
County Surveyor


Henry Hash, Director

cc: Auditor/Controller
County Counsel
County Administrative Office (2)

Attachment(s): Location Map
Pledge of Revenue Agreement

