

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

DEPT: Environmental Resources

BOARD AGENDA # \*B-6

Urgent  Routine

AGENDA DATE June 18, 2013

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Suspend the Annual Transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for Fiscal Years 2012-2013 and 2013-2014, and Resume in Fiscal Year 2014-2015

STAFF RECOMMENDATIONS:

Direct the Auditor-Controller to suspend the annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for Fiscal Years 2012-2013 and 2013-2014, and resume in Fiscal Year 2014-2015.

FISCAL IMPACT:

The Department of Environmental Resources Fink Road Landfill Enterprise Fund transferred \$225,000 in Fiscal Year 2008-2009 to the Fink Road Landfill Closure/Post-closure Fund (Fund), as per the Board of Supervisor's authorization on June 16, 2009. On June 8, 2010, the Board authorized suspending this transfer for Fiscal Years 2010-2012, and resuming the transfer in Fiscal Year 2012-2013.

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2013-296

On motion of Supervisor Monteith, Seconded by Supervisor Withrow  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

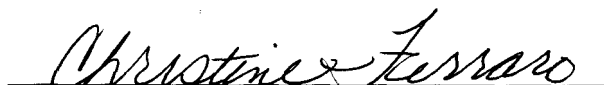
1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Suspend the Annual Transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for Fiscal Years 2012-2013 and 2013-2014, and Resume in Fiscal Year 2014-2015

**FISCAL IMPACT (Continued):**

State regulations require the County to maintain a dedicated funding mechanism for maintenance and corrective action associated with the Fink Road Landfill upon its closure. If the Board approves this recommendation, the annual transfer of \$225,000 would remain suspended for two additional Fiscal Years, or 2012-2013 and 2013-2014, and the Fund would grow solely based on the interest earnings of approximately \$64,000 per year. Beginning with Fiscal Year 2014-2015, 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. The current balance of the fund is \$17,989,400.

**DISCUSSION:**

The Department of Environmental Resources, 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.

Due to the slow economy and declining revenue, 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 (Fund), lowering it from \$625,000 to \$225,000 per year; a decision that was made possible because of the 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, the County was considered over funded by \$10,542,057 at the 2009 interval. Considering the continued slow economy, on June 8, 2010, the Board

## Approval to Suspend the Annual Transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund for Fiscal Years 2012-2013 and 2013-2014, and Resume in Fiscal Year 2014-2015

suspended the \$225,000 annual transfer for Fiscal Years 2010-2012, with the intent of resuming the transfer in Fiscal Year 2012-2013.

The most recent information available from CalRecycle indicates that the County's current status is still classified as over funded. Specifically, for the 2013 year, the minimum required fund balance is \$7,533,326. The actual balance, however, is \$17,989,400 which equates to \$10,456,074 above the minimum.

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 suspending the annual transfers into the Fund for two additional fiscal years due to the continued slow economy which impacts landfill revenues. In addition, the County faces a potential need to accumulate more corrective action funds for the Geer Road Landfill. Expenses at the Fink Road Landfill have been reduced for several years now, 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 or suspending 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. When CalRecycle determines the fully funded dollar amount each year, an adjustment for inflation is included.

If the annual transfers remain suspended, the Fund balance is still estimated to increase by \$64,000 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 2019-2020, or three years later than previously anticipated. 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 recent opening of Cell 5, approximately five years of capacity exist and a sixth Cell remains to be constructed. In addition, an expansion project involving the relocation of the onsite access road, which is referred to as the Infill Project, was initiated in late 2008 and will provide 10 to 20 years of additional capacity at the completion of that project.

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. The County may need to re-visit the annual transfer amounts at a later date depending on what the revised estimated cost is.

### **POLICY ISSUE:**

This action to suspend the annual transfers from the Fink Road Landfill Enterprise Fund to the Fink Road Landfill Closure/Post-closure Fund until Fiscal Year 2014-2015 is consistent with the Board's priorities of A Safe Community, A Healthy Community, and A Well Planned

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Infrastructure System by assisting with the post-closure activities at the Geer Road Landfill and maintaining a dedicated funding mechanism for maintenance and corrective action associated with the Fink Road Landfill upon its closure.

**STAFFING IMPACTS:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

Jami Aggers, Director of Environmental Resources

Telephone: 209-525-6770