

46-309

DEPARTMENT: Public Works

**By: Thomas J. Starling Phone: 966-5356
Solid Waste Coordinator**

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes_ No_X)

Discussion and direction on the California Integrated Waste Management Board's (CIWMB) financial assurance requirements for the closure of the Mariposa County Landfill.

State regulations require that sufficient funds be set aside in an enterprise fund or by using another suitable financial mechanism to ensure the proper closing of the Mariposa County Landfill when it has reached its waste capacity.

At the present time, the Solid Waste Enterprise fund for landfill closure shows a deficit of \$61,017. This deficit has been recalculated to a lower level than the CIWMB staff originally suggested through intensive negotiation by County staff. Because of this short-fall Public Works staff, along with Chairman Balmain and Wagerman Associates, met with CIWMB staff in order to resolve this situation. State regulations are very clear in that there are limited ways to provide financial assurance. Aside from direct deposits to the enterprise fund, public entities may also put up a letter of credit provided by a financial institution or provide a surety bond. Staff believes that none of these mechanisms are reasonable options.

Staff requested that the CIWMB allow the County to amortize this short-fall over a ten-year period. Our reasoning was that with an 80-year remaining landfill life, the State would have assurance that such was entirely feasible. This annual additional cost could be achieved with very little, if any, tip fee increase. We were informed that this is not allowed through current regulations; however, if the County determines that there is no other viable way to pay this short-fall, the CIWMB could begin compliance enforcement by issuing a Notice and Order. The result would likely be a stipulated agreement in which Mariposa County would be ordered to pay annual installments to the fund. However, the agreement would probable set a pay-back period of less than ten years. As long as those installments are paid there would be no further action on the part of the CIWMB.

Another option investigated by staff was to postpone by one year, the implementation of the off-site groundwater monitoring project. This is estimated at \$60,000 per year. Such action would likely cause a separate enforcement by the California Regional Water Quality Control Board. Staff feels that this would not be wise due to a higher risk of financial penalty.

As the Mariposa County Landfill operating permit comes up for renewal in October of this year, it is very important to be in compliance or the permit will not be renewed. An extension of this date could be granted as part of the stipulated agreement.

The above short-fall is identified as a Solid Waste Enterprise program adjustment for FY 1996/97. This adjustment would result in a \$5.00 per ton increase (for one year) in the tipping fee. Additional Solid Waste Enterprise budget program adjustments FY 1996/97 year include: \$50,000 for a one-time contribution from the general fund for Request for Proposal (RFP) preparation and vendor selection assistance from consultant for the MSW composting project, \$20,000 Solid Waste portion of the cost of the proposed Assistant Public Works Director position (no tip fee increase) and \$204,000 for design and debt service to comply with the Board's approved County Source Reduction and Recycling Element (\$15.70 per ton tip fee increase).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Mariposa County Landfill's Closure/Post Closure Plan was presented to the Board on May 23, 1995. The Board's Solid Waste Committee (Supervisors Balmain and Parker) have been kept apprised of this issue as negotiations progressed.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- 1) Direct staff to seek that a Notice and Order be issued by the CIWMB and to negotiate a stipulated agreement for the best payment terms as possible.
- 2) Do not install and monitor additional groundwater wells as required by the Regional Water Quality Control Board and use those funds to pay the closure fund short-fall.
- 3) Approve the one-time program adjustment resulting in increased tipping fees during budget hearings.
- 4) Provide a letter of credit or surety bond from a private financial institution.
- 5) Provide a one-time contribution from the County General Fund (with the possible direction for the Solid Waste Enterprise to pay it back over a period of time).
- 6) Do not act which would result in probable fines by the CIWMB and loss of the landfill's operating permit.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

CLERK'S USE ONLY

Res. No.: 96-329 Ord. No. _____

Vote - Ayes: Rally, Robinson, Stewart Noes: Baker, Taber

Absent: _____ Abstained: _____

Approved () Denied

() Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: *ML*

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: MIKE EDWARDS, Public Works Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: CIWMB FINANCIAL ASSURANCE REQUIREMENTS FOR CLOSURE OF
MARIPOSA COUNTY LANDFILL; RES. 96-329

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on August 6, 1996

ACTION AND VOTE:

D) Discussion and Direction on the California Integrated Waste Management Board's (CIWMB) Financial Assurance Requirements for the Closure of the Mariposa County Landfill

BOARD ACTION: Discussion was held with Mike Edwards, Public Works Director and Tom Starling, Solid Waste Coordinator, relative to options for meeting the financial assurance requirements for the closure of the Landfill. Further discussion was held regarding the fines and penalties that could be implemented if Mariposa opted not to comply. One Board member suggested informing our legislature of the taxation that is occurring at the State level, without representation. (M)Parker, (S)Taber, to authorize expenditure of \$30,000 of a one time payment and notify CIWMB that this is in good faith and that the remaining amount will be amortized over 10 years/Ayes: Parker, Taber; Noes: Reilly, Balmain, Stewart. Motion failed. (M)Reilly, (S)Stewart, Res. 96-329 adopted accepting alternative #1 given by Public Works, to direct staff to seek a Notice and Order be issued by the CIWMB and to negotiate a stipulated agreement for the best payment terms as possible/Ayes: Reilly, Balmain, Stewart; Noes: Parker, Taber. It was noted that Supervisor Parker's motion should be kept in mind. Mr. Edwards informed the Board that he would send a Minute Order with the letter seeking a Notice and Order. Staff was directed to outline a complete scenario to include what Mariposa's standing is.

cc: Brian Hodge, Environmental Health
File