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**To: Board of Supervisors****From: Catherine Kutsuris, Conservation  
& Development Director****Date: July 27, 2010****Contra  
Costa  
County****Subject: SURCHARGE TO BE IMPOSED AT KELLER CANYON LANDFILL FOR BAILEY ROAD  
RECONSTRUCTION & MAINTENANCE PURSUANT TO LAND USE PERMIT CONDITIONS OF  
APPROVAL****RECOMMENDATION(S):**

1. **APPROVE** the establishment of a \$0.32 per ton fee ("Bailey Road Improvement Disposal Surcharge"), pursuant to Condition of Approval 29.6 of the Keller Canyon Landfill Land Use Permit 2020-89 (Exhibit A), to be imposed for waste disposed at the Keller Canyon Landfill on or after January 1, 2011, but only until such time as a total of \$1,193,000 is collected;
2. **APPROVE** the establishment of a per ton fee ("Bailey Road Maintenance Disposal Surcharge"), pursuant to Condition of Approval 29.7 of the Keller Canyon Landfill Land Use Permit 2020-89 (Exhibit A), the fee amount of \$0.68 shall remain in effect for waste disposed at the Keller Canyon Landfill between January 1, 2011 and December 31, 2015, at which time one component of this fee would sunset resulting in a one-time fee reduction of \$0.27 on January 1, 2016; and

☒ APPROVE☐ OTHER☒ RECOMMENDATION OF CNTY ADMINISTRATOR☐ RECOMMENDATION OF BOARD COMMITTEE**Action of Board On: 07/27/2010**☒ APPROVED AS RECOMMENDED☐ OTHER**Clerks Notes:**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**ATTESTED: July 27, 2010****David J. Twa,****BY: June McHuen, Deputy****VOTE OF SUPERVISORS**

**AYE:** John Gioia, District I Supervisor  
Gayle B. Uilkema, District II Supervisor  
Mary N. Piepho, District III Supervisor  
Susan A. Bonilla, District IV Supervisor  
Federal D. Glover, District V Supervisor

**Contact: Deidra Dingman (925) 335-1224****cc:** Billilee Blanagan Telma Moriera Adelina Huerta

**RECOMMENDATION(S): (CONT'D)**

3. **AUTHORIZE** the Director of Conservation and Development, or designee, to administratively adjust the Bailey Road Maintenance Disposal Surcharge every five years, based on the percentage change in the Engineering News Record (ENR) Construction Cost Index (CCI) for the San Francisco Bay Area for the 60-month period ending with the June index of the most recent calendar year, initial adjustment on January 1, 2016 to be applied to the base fee of \$0.41 per ton.

**FISCAL IMPACT:**

No impact to the County's General Fund. 100% tonnage fees.

**BACKGROUND:**

Land Use Permit (LUP) #2020-89 was approved by the County Board of Supervisors in July 1990 allowing the development of the Keller Canyon Landfill (KCL), which opened in May 1992. KCL is operated by the Keller Canyon Landfill Company (KCLC) which is a subsidiary of Republic Services Inc.

Bailey Road serves as the designated access route for waste hauling truck traffic between Highway 4 and the entrance to Keller Canyon Landfill. The City of Pittsburg and unincorporated Contra Costa County boundaries are located along Bailey Road in various segments as shown on the attached Mitigation Fee Map (Exhibit B). Some segments of Bailey Road are entirely within and maintained by the County, while other parts are located within and maintained by the City of Pittsburg.

LUP 2020-89 includes multiple conditions of approval establishing the extent of the KCL's financial responsibility for improving and maintaining a segment of Bailey Road (Exhibit A). The Public Works Department conducted a Pavement Study in 2006 along with ongoing coordination with the City of Pittsburg and KCLC to determine the cost for the improvements and necessary maintenance of Bailey Road.

Contra Costa County initiated a multi-year discussion with the City of Pittsburg regarding the process used to determine KCL's proportionate financial responsibility and recommended disposal surcharges (fees) to cover costs for improvement and maintenance of segments of Bailey Road. Staff is recommending the Board consider establishment of both Bailey Road Disposal Surcharges at this time. Following is a summary of both the Bailey Road Disposal Surcharges the County is expected to establish and Keller Canyon Landfill Company would then impose pursuant to the Land Use Permit Conditions of Approval.

**Bailey Road Improvement Disposal Surcharge  
(\$0.32 per ton disposed until a total of \$1,193,000 has been collected)**

Condition of Approval 29.6 requires that the Landfill developer conduct a Pavement Study of the Bailey Road roadway segment from the Pittsburg city limits to the Highway 4 interchange to determine the improvements necessary to reconstruct the right hand (outside) traffic lanes. A pavement study conducted in 2006 identified the necessary improvements for the reconstruction of Bailey Road within unincorporated Contra Costa County. Based on the engineer's estimate, the expected cost of these improvements is \$1,193,000 (Exhibit C).

The City of Pittsburg is currently in the process of developing and finalizing the improvement plans, specifications, and cost estimates for the Bailey Road Reconstruction project within the limits shown in Exhibit B. KCLC is expected to submit to the County a lump sum payment of \$1,193,000 to satisfy their financial responsibility pursuant to Condition of Approval 29.6 upon the County's establishment of the per ton disposal surcharge. The imposition of this \$0.32 per ton fee shall take effect on January 1, 2011 and remain in effect until such time as a total of \$1,193,000 is collected.

The amount of tonnage disposed fluctuates both seasonally and year-to-year based upon changes in a number of socioeconomic factors (shifts in the total numbers of: occupied households per income level, persons per household, operating businesses, construction projects, jobs/employment and sales) which are difficult to predict or estimate with any degree of certainty. The average actual reported disposal tonnage between 2003 and 2009 equates to an average of about 2,600 tons per day, which is roughly equivalent to the disposal tonnage actually received in 2009. However, the average daily disposal tonnage per year during that period varied from a high of 2,756.57 tons per day in 2006 to a low of 2,482.25

tons per day in 2008. Future actual disposal tonnage may be substantially different than current or past years, considering that Keller Canyon Landfill is currently permitted to accept up to 3,500 tons per day for disposal and has applied to amend their Land Use Permit to increase their daily disposal limit to 4,900 tons per day. These disposal tonnage fluctuations basically make it impossible for staff to recommend a reliable sunset date.

Therefore, staff anticipates working closely with KCLC to ensure timely submission and monitoring of monthly reports showing the actual disposal tonnage and amount of per ton Bailey Road Improvement Disposal Surcharge funding collected. KCLC will be directed to include this information in the monthly tonnage and fee worksheets submitted to the Department of Conservation and Development. To monitor progress and maintain a record of the total collected, the reported amounts of tonnage and Disposal Surcharge funding collected per month will routinely be compiled by staff which will be useful tool in identifying anticipated sunset date, when appropriate.

A Funding Agreement will be executed, when authorized under a separate Board agenda item, to transfer the funding received from KCLC for the Bailey Road Reconstruction Project to the City of Pittsburg.

### **Bailey Road Maintenance Disposal Surcharge (\$0.68 per ton disposed for the first five years and adjusted every five years thereafter)**

Condition of Approval 29.7 requires the landfill operator to impose a surcharge, when established, for the maintenance of Bailey Road between the Highway 4 interchange and the landfill entrance. The extent of this maintenance responsibility is depicted on the attached Mitigation Fee Map (Exhibit B).

The current pavement condition varies along this segment of Bailey Road. Based on the 2006 pavement study, traffic counts, and calculations of the Equivalent Single-Axle Load (ESAL), Keller Canyon's responsibility to maintain the Bailey Road segment over the operating life of the landfill is expected to be addressed through the establishment of a Maintenance Disposal Surcharge with two separate per ton components that would be imposed simultaneously. The total Maintenance Disposal Surcharge recommended for the initial five year period ending on December 31, 2015 is \$0.68 per ton.

The primary component of the recommended Maintenance Disposal Surcharge would remain in effect while the landfill is in operation and would initially be set at \$0.41 per ton (Exhibit D) and then adjusted administratively every five years with preliminary adjustment to occur on January 1, 2016. To address the increase in maintenance costs overtime, this fee amount would be adjusted on January 1st of every five year interval based on the percentage change in the Engineering News Record (ENR) Construction Cost Index (CCI) for the San Francisco Bay Area. Staff expects to calculate the percent change to be applied to the Maintenance Surcharge using the 60-month period ending with the June index of the calendar year.

An additional supplemental component of the Maintenance Surcharge is proposed for the segments along Bailey Road that are not currently part of the City of Pittsburg's reconstruction project. This covers two segments: the segment between the Highway 4 westbound on-ramp and eastbound off-ramp and the segment between West Leland Road and the landfill entrance (Exhibit B).

The two segments described above were reconstructed by various parties (Caltrans, City of Pittsburg, and Landfill) in the early 1990s. In 2004, County road maintenance crews performed a double chip seal and slurry seal on both of these segments. As part of the Bailey Road Pavement Study in 2006, pavement deflection tests were performed by the County's Materials and Testing Lab. The Pavement Study did not indicate a structural deficit in these segments at that time, but did identify that reconstruction was needed on Bailey Road from the south on/off-ramp to West Leland Road. Thus, reconstruction of this segment is being performed by the City of Pittsburg.

The maintenance treatments proposed (slurry seal, microsurfacing, cape seal, and nova chip) as part of the road maintenance surcharge do not provide any structural integrity to the pavement section. They merely protect the pavement from water infiltration and provide a wearing surface. The landfill's Land Use Permit establishes that Bailey Road be constructed to a 20-year pavement design life. Since the majority of Bailey Road was constructed in the early 1990s, it would require reconstruction in the early 2010s. The road maintenance surcharge proposed assumes pavement reconstruction would occur at 20-year intervals and maintenance treatments at five year intervals. While the section between the south on/off-ramp to West Leland Road will be reconstructed in 2011, full monies for reconstructing the other segments would not be available until 20 years after the road maintenance surcharge would be established. If we assume

the road maintenance surcharge is established next year in 2011, full monies for reconstruction would not be available until 2031. This poses a problem for the two segments in question since they were last reconstructed in the early 1990s.

In order to extend the pavement design life of the structural section for another 20 years, a two-inch overlay is proposed to occur in five years. The two-inch depth is an industry standard for one lift of asphalt concrete and would require a geosynthetic pavement fabric to seal the pavement from moisture. In order to fund this overlay in five years, a supplemental component of this Maintenance Surcharge is recommended in the amount of \$0.27 per ton. The supplemental component of the Maintenance Surcharge would be added to the primary component, however would sunset after five years.

The per ton Maintenance Surcharge established by the Board is expected to be imposed by KCLC effective January 1, 2011 and remain in effect throughout the operating life of the landfill. Maintenance Surcharge revenue collected will be deposited into interest bearing trust funds established pursuant to Section 913-8.002 of the Contra Costa County Ordinance Code. The interest accrued on the amount collected shall continue to accumulate in the trust account and shall be expended for administration, design and construction of the improvements, or to reimburse the County for the cost of constructing the improvements, pursuant to Section 913-8.006 of the County Ordinance Code.

The terms of the agreement for the transfer of a portion of the maintenance surcharge due to the City of Pittsburg will be finalized by a separate Board action and the execution of a separate Funding Agreement.

**CONSEQUENCE OF NEGATIVE ACTION:**

Keller Canyon Landfill is required to collect the per ton disposal surcharges established by the County, so if no per ton disposal surcharges are established there is no means to satisfy the requirements of Condition 29.6 and 29.7 of the landfill's Land Use Permit. Additionally, no funding could be collected to help fund Bailey Road improvements and maintenance and therefore the County and City would have to bear the entire cost of pavement reconstruction and maintenance.