



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: March 31, 2015

Subject: Keller Canyon Landfill Surcharges and Mitigation Fees

RECOMMENDATION(S):

ACCEPT report regarding the Keller Canyon Landfill Surcharge and Mitigation Fee information requested by the Board of Supervisors.

FISCAL IMPACT:

There is no fiscal impact to the General Fund for preparing or accepting this report on the Keller Canyon Landfill (KCL) Surcharges and Mitigation Fees. If the Board were to change how KCL Franchise Surcharge revenue was to be allocated or spent in the future, those changes could impact the General Fund.

BACKGROUND:

At the March 3, 2015 Board of Supervisor's meeting (agenda item D.7), the Public Works' Stormwater Manager reported on the County's Trash Reduction Plan. As part of that report, several unincorporated County areas were presented as having higher percentages of trash pollution entering the storm drain system. Bay Point was one of these locations to be highlighted as having trash polluting problems.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **03/31/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: Candace Andersen, District II
Supervisor

Mary N. Piepho, District III
Supervisor

Karen Mitchoff, District IV
Supervisor

ABSENT: John Gioia, District I Supervisor
Federal D. Glover, District V
Supervisor

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: March 31, 2015

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: David Brockbank, (925)
674-7794

cc:

As a result of the discussion between staff and members of the Board, the question was raised whether there was a connection between the location of Keller Canyon Landfill (KCL) on Bailey Road south of Highway 4 and the heavy trash pollution in Bay Point. It is worthwhile to note that four of the five communities or areas shown in the Stormwater Manager's presentation are actually former Redevelopment Areas. Trash pollution is a symptom of blight. Although the Keller Canyon Landfill is located in the near vicinity of Bay Point and there are solid waste

BACKGROUND: (CONT'D)

>

transfer stations located within the North Richmond area, the trash pollution is a common factor across the other former Redevelopment Areas. There are litter containment and off-site litter removal requirements included in the Land Use Permit conditions of approval for the Keller Canyon Landfill as well as the transfer stations located in North Richmond and unincorporated Martinez.

Board members raised questions concerning the surcharge/fees generated by the landfill for the County. As a result of this discussion, the Board requested that Department of Conservation & Development (DCD) staff prepare a report to answer five questions about the KCL surcharge/fees. This Board Order is staff's response to those questions, which also incorporates some background on the KCL surcharge/fees.

The attached Table 1 provides a breakdown of the different surcharges/fees, a general purpose for those fees and the administering agency or County department. Surcharges/fees have been established by the Board, some apply to all solid waste facilities and others are project-specific requirements from the Land Use Permit conditions of approval or the Landfill Franchise Agreement.

- Two of these County fee requirements (AB939 Fee & LEA Fee) were established prior to the 1990 approval of the Keller Canyon Landfill and apply to multiple landfills and transfer stations in the County.
- The County's Franchise Surcharge was established by the County and agreed to by the operator pursuant to the 1994 Landfill Franchise Agreement. The most significant source of County fee revenue collected from KCL is the amount derived from the Franchise Surcharge (currently set at 25% of the base gate rate).
- The Land Use Permit Conditions of Approval require payment of the Mitigation Fee and Bailey Road Surcharges shown in Table 1. The \$3.00 per ton Mitigation Fee is listed as two separate fees, \$1.75 is used for the County's Landfill Mitigation Fund and \$1.25 is paid to the City of Pittsburg pursuant to Board action in 1996. The Mitigation Fee is required to be paid out of the County Franchise Surcharge, however the remaining fees are collected/paid separately.

Further details regarding the purpose and use of individual fees/surcharges can be found in the associated backup documentation attached as exhibits to this report (see Table 1 to determine which Exhibit applies to each fee/surcharge). The only fees/surcharges which the Board of Supervisors has the discretion to use to help fund litter/trash reduction activities are the Mitigation Fee and the Franchise Surcharge. DCD staff did not gather information related to the amounts collected to date and any reserves that may exist for any of the other fees/surcharges since they were all established and must be used for purposes other than litter/trash reduction.

1. How are the funds used?

MITIGATION FEES: The KCL Mitigation Fund process was established in August 1992, and the first allocation of funds occurred in November 1992. For the first few years of operation beginning in May 1992, the Operator was obligated to pay three separate Mitigation Fees, each of which was set at \$2.00 per ton. In November 1994, the Board of Supervisors approved Amendment 1 to the KCL land use permit (County File #LP89-2020) and also amended the Franchise Agreement for the purpose of changing requirements related to fees and rate regulation. The following condition of approval (#35.8) was added:

***35.8 Mitigation Fee.** The landfill operator shall pay the County of Contra Costa a fee, the amount of which may be set by the Board of Supervisors by a Board Order from time to time, which amount shall not be less than \$3.00 per ton and shall not be more than \$4.00 per ton, on solid waste received at the landfill. The fee shall be used as directed by the Board in its sole discretion: 1) to mitigate general impacts of the landfill-generated traffic on the County's road system, 2) to mitigate the general impacts of the landfill on open space, existing and proposed recreational facilities, and agriculture, or 3) to mitigate any general impacts of the landfill upon the surrounding community.*

The Board has not changed the Mitigation Fee amount since setting it at \$3.00 per ton in November 1994. Any increase to the Mitigation Fee would not result in a net change in revenue received by the County because the increased amount would have to be deducted from the Franchise Surcharge.

In July of 1996, the Board of Supervisors agreed to allocate \$1.25 per ton of the \$3.00 per ton Mitigation Fund to the City of Pittsburg (Exhibit D). The Board of Supervisors has sole discretion over this funding and therefore has the right to reallocate some or all of the City's share of the Mitigation Fees.

The attached Exhibit B shows the KCL Mitigation Fund Allocation Plan for fiscal year 2014-2015, which was approved by the Board on August 12, 2014. The Allocation Plan pertains to the County's share of the Mitigation Fees. Under this plan, \$35,000 was allocated for an East County Beautification Program (#62), which includes roadside cleanup of litter, trash and other waste materials.

FRANCHISE SURCHARGE: The Board of Supervisors approves the annual allocation of revenue expected to be derived from the Franchise Surcharge as a part of the County's Budget for each fiscal year. Exhibit A is a memorandum from the County Finance Director which outlines the distribution of the Landfill Surcharge Revenues for the Fiscal Year (FY) 2014-2015. Among the

allocation amounts in Exhibit A is \$75,000 for Building Inspection, which is used to help fund enhanced code enforcement services in the Bay Point area.

2. What is the intended use of the funds?

MITIGATION FEES: Amendment 1 to the KCL land use permit (1994) was also intended to provide flexibility in the use of Mitigation Fee funds, specifying that the fee shall be used by the Board in its sole discretion. Unless or until the Board of Supervisors decides otherwise, the intended use of a portion of the Mitigation Fee funds (\$1.25 per ton) is direct payment to the City of Pittsburg pursuant to the action taken by the Board of Supervisors in 1996 (Exhibit D).

For the revenue derived from the County's share of the Mitigation Fee (\$1.75 per ton), the current program/project/service categories considered for funding include: youth services, code enforcement, public safety, community beautification, and community services.

On May 24, 2011 the Board approved new policies governing the implementation and administration of the County's KCL Mitigation Fund ("KCL Mitigation Fund Policy"). The adopted policies for the Mitigation Fund have been provided as Exhibit C in this report. These policies are broken into three main categories; I) Keller Canyon Mitigation Fund Review Committee, II) the Mitigation Fund Allocation Process, and III) Disbursement of Mitigation Funds. These policies identify the parameters governing the allocation and use of the Mitigation Fund (Exhibit C) and the intended use of the Fund is provided in the Allocation Plan (Exhibit B).

FRANCHISE SURCHARGE: The Landfill Franchise Agreement allows the Board of Supervisors to have the sole discretion to decide how the County's Franchise Surcharge revenue is used (with the exception of the portion required to be treated as the Mitigation Fee). The County Administrator's Office makes recommendations to the Board of Supervisors through the annual budget process for the use of the surcharge funds. The Board of Supervisors is expected to decide the intended use of the 2015-16 Franchise Surcharge revenue in April, as a part of the County's overall budget.

3. How much funds are there?

MITIGATION FEES: Table 2 reflects the amount of actual Mitigation Fee revenue (\$1.75 per ton for the County & \$1.25 per ton for the City of Pittsburg) collected to date for FY 2014-15. The County's share of the projected Mitigation Fee revenue for FY 2014-2015 is \$1,100,000.

Keller Canyon Mitigation Fund Policy II.G states in part:

“...when estimating the amount of KCL Mitigation Funds that are to be made available for projects in future fiscal years, staff shall analyze the revenue trend lines from previous years and the KCL Mitigation Fund Review Committee shall only allocate 80 percent of the anticipated revenue for the upcoming year.”

This protocol will reduce the likelihood that expenses will be greater than actual revenue received during the year.

FRANCHISE SURCHARGE: Table 2 reflects the amount of actual Franchise Surcharge revenue (remainder after deducting the Mitigation Fee) collected to date for FY 2014-15. The County's projected Franchise Surcharge revenue for FY 2014-2015 is \$1,900,000.

4. Where are the funds?

MITIGATION FEES: The portion of the Mitigation Fee funds retained by the County are located in a separate internal County account, under Organization #1581. The portion the Mitigation Fee funds allocated to the City of Pittsburgh are paid to the City quarterly.

FRANCHISE SURCHARGE: The Landfill Franchise Surcharge is deposited into either Account #9122 (Franchise-Keller Landfill Surcharge) or Budget Unit #0005 (General County Revenues).

5. Is there a reserve currently?

MITIGATION FEES: Mitigation Fee funds retained by the County that are not fully used each fiscal year remain in the account for Organization #1581 and are included in recommended funding allocations for the following year. The allocation amounts approved by the Board for 2014-15 included \$404,656 of the FY 2013/14 total fund balance (\$450,600). In accordance with Policy II.G, less 20 percent of \$1,100,000 is \$220,000. Any Mitigation Fee revenue over expenses in one year may be added to the amount made available in the following year.

FRANCHISE SURCHARGE: Any Franchise Surcharge revenue in excess of the FY 2014-15 funding allocation amounts for the individual budget units shown in the County Administrator's Office memorandum dated August 21, 2014 (Exhibit A) are to be deposited into the General County Revenues fund. Exhibit H shows that the estimated balance at the end of FY 2013-14 was zero (any excess is held in the General Fund account).

CONSEQUENCE OF NEGATIVE ACTION:

None.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Tables 1 & 2- Keller Canyon Landfill Franchise Surcharge & Mit. Fee Revenue

Exhibit A - Distribution of FY 2014/15 KCL Surcharge Revenue

Exhibit B - FY 2014/15 KCMF Allocation Plan

Exhibit C - KCMF Policy

Exhibit D - Allocation of Keller Mitigation Fees to City of Pittsburgh

Exhibit E - Establishment of LEA Fee

Exhibit F - Establishment of AB939 Fee

Exhibit G - Bailey Road Surcharge Board Order

Exhibit H: Special Revenue Factsheet for KCL Surcharge/Mitigation Fee