

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Auditor - Controller - Treasurer - Tax Collector	(2) MEETING DATE 5/13/2014	(3) CONTACT/PHONE Jim Hamilton 781-5043	
(4) SUBJECT: Request to approve Cold Canyon Landfill expansion funding plan (All Districts).			
(5) RECOMMENDED ACTION It is our recommendation that the Board: <ol style="list-style-type: none"> 1. Approve and execute the attached Rate Setting Agreement with the Cold Canyon Landfill approving an increase to the tipping fees charged by the Cold Canyon Landfill in order to enable the Cold Canyon Landfill to fund the previously approved landfill expansion; 1. Approve and execute each attached Amendment No. 3 to Solid Waste Collection Franchise Agreements for San Luis Garbage Company, South County Sanitary Service, Inc. and Mission Country Disposal who utilize the Cold Canyon Landfill so that the tipping fees approved in the Rate Setting Agreement are excluded from the cumulative cost of living rate comparison calculation provided for in the franchise agreements, and so that Board of Supervisors may deny any portion of collection fee increases attributable to the Rate Setting Agreement that are greater than 1.5%; 2. Find that the Rate Setting Agreement is not subject to the California Environmental Quality Act (CEQA) because the activity is not a project or is exempt pursuant to: CEQA Section 21065 and State CEQA Guidelines Sections 15378(b)(5) and 15378(b)(4); and CEQA Section 21065 and State CEQA Guidelines Section 15261(a), as more specifically set forth in Section 9 of the Rate Setting Agreement; 3. Find that each Amendment No. 3 to Solid Waste Collection Franchise Agreement is exempt from CEQA pursuant to: State CEQA Guidelines Section 15301 as the continuance of an existing operation; and State CEQA Guidelines Section 15061(b)(3) in that it can be seen with certainty that said amendments will not have a significant effect on the environment. 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input type="checkbox"/> Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW			
(18) SUPERVISOR DISTRICT(S) All Districts			

County of San Luis Obispo



TO: Board of Supervisors

FROM: James Erb, CPA, Auditor - Controller - Treasurer - Tax Collector

DATE: 5/13/2014

SUBJECT: Request to approve Cold Canyon Landfill expansion funding plan (All Districts).

RECOMMENDATION

It is our recommendation that the Board:

2. Approve and execute the attached Rate Setting Agreement with the Cold Canyon Landfill approving an increase to the tipping fees charged by the Cold Canyon Landfill in order to enable the Cold Canyon Landfill to fund the previously approved landfill expansion;
3. Approve and execute each attached Amendment No. 3 to Solid Waste Collection Franchise Agreements for San Luis Garbage Company, South County Sanitary Service, Inc. and Mission Country Disposal who utilize the Cold Canyon Landfill so that the tipping fees approved in the Rate Setting Agreement are excluded from the cumulative cost of living rate comparison calculation provided for in the franchise agreements, and so that Board of Supervisors may deny any portion of collection fee increases attributable to the Rate Setting Agreement that are greater than 1.5%;
4. Find that the Rate Setting Agreement is not subject to the California Environmental Quality Act (CEQA) because the activity is not a project or is exempt pursuant to: CEQA Section 21065 and State CEQA Guidelines Sections 15378(b)(5) and 15378(b)(4); and CEQA Section 21065 and State CEQA Guidelines Section 15261(a), as more specifically set forth in Section 9 of the Rate Setting Agreement;
5. Find that each Amendment No. 3 to Solid Waste Collection Franchise Agreement is exempt from CEQA pursuant to: State CEQA Guidelines Section 15301 as the continuance of an existing operation; and State CEQA Guidelines Section 15061(b)(3) in that it can be seen with certainty that said amendments will not have a significant effect on the environment.

DISCUSSION

On August 9, 2012, the Planning Commission approved (affirmed by the Board of Supervisors on November 20, 2012) the conditional use permit application by Cold Canyon Landfill (Cold Canyon) to allow the expansion of the existing Cold Canyon Landfill (Landfill) including: an increase of the footprint by approximately 46 acres; an increase in the total facility allowable tonnage limit; expansion and relocation of the Resource Recovery Park and Materials Recovery Facility; a new scale house and entrance; increase in the operating hours and staffing levels; and other miscellaneous improvements (e.g., relocating fuel tanks, landscaping, replacing equipment maintenance building). Cold Canyon estimates the cost for the first two phases of the expansion to be \$8.3 million consisting of: \$4 million for construction of the new module (estimated completion by 2022), \$2.6 million of mitigation costs, and permit costs of \$1.7 million.

Cold Canyon desires to recover the cost of the first two phases of the expansion through increased rates charged to the franchise haulers that deliver waste to the Landfill under franchise hauler agreements, known as tipping fees. Cold Canyon seeks County approval of the increase, because the County franchise hauler agreements provide that if the County approves an adjustment in tipping fees at a solid waste disposal facility that the franchise hauler uses, collection rates for residential and commercial customers shall be adjusted accordingly by the Board of Supervisors. More simply, if the County approves the increase, then the franchise haulers can pass the increase on to their customers. In addition,

franchise agreements in some cities and districts require that haulers provide County Board of Supervisor approval for tipping fee increases before the fee can be allowed as a pass through cost in their rate setting process.

Cold Canyon is used by franchise haulers serving San Simeon Community Services District (CSD), Cambria CSD, community of Cayucos, City of Morro Bay, Los Osos CSD, the City of San Luis Obispo, Avila CSD, the City of Pismo Beach, the City of Arroyo Grande, the City of Grover Beach, Nipomo CSD, and unincorporated areas of South County and San Luis Obispo. The rate increase has been discussed with the affected cities, CSD's and the Integrated Waste Management Authority (IWMA).

The Rate Setting Agreement provides for an initial increase to the tipping fee of \$2.25 per ton of compact refuse on July 1, 2014 and for eight additional increases of \$2.25 beginning on January 1, 2015 and ending January 1, 2022, provided that said increases are consistent with Cold Canyon's assumed 15-year average rate of return. This request would increase the rate charged per ton to Franchise Haulers from the current rate of \$34.25 to \$54.50 by January 1, 2022. The approach of determining a fixed annual increase amount to fund the expansion over several years was used to provide rate predictability at the request of staff in the cities.

Our recommendation to approve the Rate Setting Agreement is based on the following, without limitation:

- Cold Canyon has agreed to provide updated internal projections annually and audited financial data every three years to the Auditor-Controller Treasurer Tax Collector (ACTTC) for review and ongoing justification of rate increases;
- The ACTTC is authorized to suspend or decrease subsequent rate increases if revised projections indicate an excessive rate of return;
- Requests for rate increases beyond the \$2.25 annual maximum must be separately approved by the Board;
- The agreement provides future rate predictability for affected cities and agencies and provides efficiencies with the approval process;
- Cold Canyon expects the landfill increases will result in increases of approximately 1% to 1.5% to the residential and commercial customers served by the haulers using Cold Canyon for each of the nine \$2.25 increases. The Board may deny any portion of hauler customer rate increases related to this agreement greater than 1.5%;
- Stakeholder cities, agencies and the IWMA have been involved and are supportive of the rate increase agreement;
- The agreement provides a consistent framework for County oversight throughout the expansion timeframe regardless of Cold Canyon staff turnover;
- A comparison of current landfill rates shows the rates charged by Cold Canyon as the lowest in the local area:

Landfill	Rate per Ton
Cold Canyon	\$34.25
Chicago Grade	\$42.00
Paso Robles Landfill	\$38.85
Santa Maria Landfill	\$58.00

The County currently has three franchisee agreements with haulers that utilize the Landfill, namely San Luis Garbage Company, South County Sanitary Service, Inc. and Mission Country Disposal. Section 8.3.2 of the agreements permits the County to terminate the agreement if the franchisee requests a rate increase that, if granted, would result in a rate increase that exceeds the cumulative cost of living increases, when compared to the rate as of the effective date of the agreement. Section 8.3.3 further provides that any increase in franchisee costs resulting from an increase in pass-through costs associated with the disposal of solid waste shall be included in comparing the resulting rate increase to the cumulative cost of living increases, with limited exception, not including tipping fees.

Amendment No. 3 excludes the tipping fees charged by Cold Canyon and incurred by the franchisee from the above-described rate change calculation provided that said fees are expressly approved in or in accordance with the Rate Setting Agreement. Our recommendation to approve Amendment No. 3 is based on the County oversight afforded by the Rate Setting Agreement and the fact that including the increases in the calculation would likely trigger the County's termination option.

In addition, Section 8.4.2.2 of the Agreements requires the Board of Supervisors to adjust the collection rates charged by the haulers to correspond with any Board approved tipping fee increase. Amendment No. 3 permits the Board to cap any one time annual corresponding collection rate increase attributable to the tipping fee increase approved in the Rate Setting Agreement at 1.5%.

Ongoing ACTTC review

The ACTTC reviewed the rate-setting methodology and rate of return projections provided by Cold Canyon and found them to be reasonable. Since many assumptions are built into the projections supporting the rate increase, the agreement requires Cold Canyon submit updated projections based on actual results annually and retain an independent accounting firm to review actual operating results every three years.

If updated projections indicate the profit margin will exceed 18% over the 15-year time period 2008-2022, subsequent annual rate increases may be suspended or decreased at the discretion of the ACTTC. If revised projections indicate an annual rate increase greater than \$2.25 is required to achieve 18%, such increase would only be granted under a separate request if approved by the Board.

Affected ratepayers

This increase applies to franchise haulers only with no impact to rates charged to the general public accessing Cold Canyon directly. Fee increases charged to franchise haulers, however, are passed on to their residential and commercial customers, according to the rate-setting and approval processes in hauler franchise agreements. This increase will impact customers served by haulers that utilize Cold Canyon: Mission Country Disposal, South County Sanitary Services, Morro Bay Garbage Service and San Luis Obispo Garbage Company.

While other factors besides tipping fees contribute to the total rate haulers charge their customers, Cold Canyon anticipates each of the \$2.25 per ton annual increases related to this agreement will translate into approximately 1% to 1.5% increase to a typical customer's monthly bill. For example, a two-can customer paying \$27.95 a month now will see a maximum increase of \$.42 with the first increase, and their total bill (related to expansion-related increases only) would increase to a maximum of \$31.96 in 2022, after the 9 annual increases. Rate increases due to inflation and/or regulatory changes could also occur but would be approved separately by the Board of Supervisors. The annual increases requested here are treated as "pass through" costs to the franchise haulers, meaning the haulers are not allowed to earn a profit on them and may not apply consumer price index adjustments to them, as are allowed with controllable costs.

OTHER AGENCY INVOLVEMENT/IMPACT

The rate increase was discussed with the County's Solid Waste Coordinator, the Department of Public Works, the Planning Department, Environmental Coordinator, County Counsel, IWMA and representatives from the affected cities and agencies.

FINANCIAL CONSIDERATIONS

Residents served by franchise haulers who transport to the Landfill will see an approximate increase of 1% to 1.5% for each annual \$2.25 rate hike. There should be no material impact to County revenues or costs.

RESULTS

The annual rate increases will provide funding for the expansion of the Landfill as approved by the Planning Commission and Board of Supervisors, while providing a fair return to the operator subject to independent audit and ongoing review by the ACTTC.

ATTACHMENTS

1. Rate Setting Agreement with Cold Canyon Landfill and Amendments to Hauler Franchise Agreements with San Luis Garbage Company, South County Sanitary Service, Inc., and Mission Country Disposal