



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: PW/P&D/T-TC
Department No.: 054/053/065
For Agenda Of: November 14, 2017
Placement: Departmental
Estimated Time: 1.5 hours
Continued Item: Yes
If Yes, date from: Continued from 10-17-17
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Scott D. McGolpin, P.E., Public Works Director
Director(s) Glen Russell, PhD, Planning & Development Director
Harry E. Hagen, CPA, CPFO, CFIP, ACPFIM, Treasurer-Tax
Collector
Contact Info: Mark A. Schleich, P.E., Deputy Director, ext. 3605
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ext. 2153

SUBJECT: Consider the Revised Tajiguas Resource Recovery Project (TRRP) and Comprehensive Plan Amendment to the Waste Disposal Facility Overlay (Case Nos. 17GPA-00000-00002 and 17GOV-00000-00004), Third Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Make the required findings for approval of the Comprehensive Plan Amendment, specified in the Board Agenda Letter, including California Environmental Quality Act findings;
- b) After considering the environmental review documents (Revised Addendum to the Subsequent EIR) together with Subsequent EIR No. 12EIR-00000-00002, SCH #2012041068 certified by the Board of Supervisors on July 12, 2016 and Subsequent EIR Revision Letter and Errata dated May 27, 2016, find that no subsequent environmental review document shall be prepared pursuant to the California Environmental Quality Act Guidelines Section 15162 related to the Revised Tajiguas Resource Recovery Project, since there are no substantial changes proposed in the project and no substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions to the EIR due to new or substantially increased significant impacts, and

there is no new information of substantial importance showing new or substantially increased significant impacts or impacts to new or previously analyzed mitigation measures or alternatives that would substantially reduce significant impacts;

- c) Receive the Planning Commission's conformity report required by Government Code Section 65402(a). The Planning Commission's staff report, dated August 14, 2017, and the Planning Commission Action letter for the hearing held on August 30, 2017 constitute the required report;
- d) Adopt a resolution amending the Comprehensive Plan (17GPA-00000-00002), including amending the Tajiguas Landfill "Waste Disposal Facility Overlay" boundary to eliminate approximately 55.55 acres not needed for the solid waste disposal operations and to include approximately 4.48 acres to accommodate construction of the Revised Tajiguas Resource Recovery Project;
- e) Approve and authorize the chair to execute the Second Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the Revised Tajiguas Resource Recovery Project (including the optional element) addressing changes to the Tajiguas Resource Recovery Project;
- f) Authorize the Treasurer-Tax Collector to sign and submit an application to the Internal Revenue Service for an allocation of New Clean Renewable Energy Bond Volume Cap for the Revised Tajiguas Resource Recovery Project and submit any additional information or supporting documentation requested; and
- g) Direct the Public Works Department and Treasurer-Tax Collector working with County Executive Office, Auditor Controller, and County Counsel to update the necessary documents to finance the construction of the project.

Summary Text:

This item is on the agenda in order to consider the revised Tajiguas Resource Recovery Project (TRRP) and Comprehensive Plan Amendment to the Waste Disposal Facility Overlay. After the Board of Supervisors certified the Subsequent Environmental Impact Report (SEIR) and approved the TRRP on July 12, 2016, County Staff discovered that part of the Anaerobic Digestion (AD) Facility, as designed to be outside the Coastal Zone, would actually be partly located within the Coastal Zone. The AD Facility has not yet been constructed. Revisions to the TRRP are proposed to ensure that the AD Facility will be located outside of the Coastal Zone. The AD Facility would be relocated approximately 2,200 feet east of the approved location within the Tajiguas Landfill's permitted operational area. A Comprehensive Plan Amendment to the Waste Disposal Facility Overlay (addition of 4.48 acres) is proposed in order to add the revised AD Facility location into the Waste Disposal Facility Overlay and remove a 55.55 acre area of dense native vegetation from the Overlay. The Public Works Department, Resource Recovery Waste Management Division prepared a California Environmental Quality Act (CEQA) Addendum to 12EIR-00000-00002 for the proposed project, dated August 11, 2017 and revised October 26, 2017 (Attachment C). The Addendum indicates that changes to the project and circumstances under which the project is taken do not require major revisions to the SEIR due to any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Further, there is no new information of substantial importance that shows a) that the Revised TRRP will have significant effects not discussed in the SEIR for the approved project, b) that significant effects will be substantially more severe than previously shown, c) that mitigation measures or alternatives have been found feasible that the County has declined to adopt, or d) that there are considerably different mitigation measures or alternatives that will substantially reduce significant

project effects and which the County has declined to adopt. The Revised TRRP was reviewed by the Planning Commission on August 30, 2017 for conformity with the Comprehensive Plan pursuant to Government Code Section 65402(a) and was found to be in conformity. The Planning Commission also adopted a resolution recommending that your Board approve the Comprehensive Plan Amendment.

Staff also requests that the Board take action with respect to the revised contract with MSB Investors and project financing.

Background:

Introduction and Project Description

On July 12, 2016, the Board of Supervisors unanimously approved the TRRP. The TRRP was approved to be located at the Tajiguas Landfill which has been in continuous operation since 1967. Landfill construction and operation pre-dates the California Coastal Act of 1976 and CEQA (passed in 1970). The TRRP was the product of over 10 years of research, public outreach, technical and financial review. The project was found to be in conformance with the County Comprehensive Plan and was subject to an extensive environmental review process that included preparation of a Draft and Final SEIR, and a Revision Letter and Errata. The Final SEIR was certified on July 12, 2016. Since the Board's July 2016 approval, the TRRP was found to be partially within the Coastal Zone, and the TRRP has been revised primarily to accommodate relocating the AD Facility and related facilities outside of the Coastal Zone. Changes to the project include decommissioning and installing replacement Landfill Gas (LFG) Control System equipment, and a Comprehensive Plan Amendment to adjust the Waste Disposal Facility Overlay boundary. Overlay boundary changes include the revised location of the AD Facility, adding 4.48 acres within the landfill's permitted operational area boundary and removing a 55.55 acre area of dense native vegetation, not needed for waste disposal operations. The revised project description is discussed below and described in greater detail in the Final SEIR Addendum. As discussed below, the Planning Commission reviewed the Revised TRRP and the proposed amendment to the Waste Disposal Facility Overlay and found them to be in conformity with the Comprehensive Plan. The Planning Commission's staff report and Action Letter are included in Attachments D and E, respectively.

Approved Project Description

A detailed description of the approved TRRP can be found in Section 3.4 of the certified Final SEIR 12EIR-00000-00002 (link provided in Attachment B). The approved TRRP included the construction of a Materials Recovery Facility (MRF), AD Facility and Composting Area. The MRF is designed to sort municipal solid waste (MSW) into three streams:

- Recyclables (i.e., glass, metal, paper, plastic, wood) – recovered and processed for sale;
- Organics – recovered and processed in the AD Facility; and
- Residue – materials left over after all recyclables and organics are recovered, and disposed at the existing landfill.

The MRF also has the ability to process comingled source separated recyclables (CSSR) to recover commodities for sale.

The AD Facility is designed to convert all organics recovered from the MSW and source separated organic waste (SSOW) into:

- Bio-gas (primarily composed of methane and carbon dioxide) – used to power two (2) 1,573 horsepower combined heat and power (CHP) engines onsite, driving electric power generators that would generate approximately 1+ net megawatts (MW) of renewable power continuously.

- Digestate – cured into compost and/or soil amendments. The curing would require an approximately 5 acre area that will include equipment to further process the compost to meet market requirements. The compost and/or soil amendments would be marketed for agricultural or landscape use or used for reclamation projects.

The TRRP facilities were approved to be located approximately 3,200 feet north of U.S. Highway 101 on the former Tajiguas Landfill operations deck, that until early 2017 housed the Landfill administrative office, two crew trailers, engineering trailer, hazardous material storage, electronic-waste storage, equipment storage and parking, employee parking, maintenance facility and three fuel storage tanks.

Revised Project Description

Section 4.0 and Table 1 of the Final SEIR Addendum (Attachment C) identify the proposed changes to the approved TRRP Project Description. The primary changes to the TRRP Project Description consist of:

- Relocation of the approved but unconstructed AD Facility from the approved location on the former operations deck to the east side of the Landfill (east of the Composting Area) to a previously disturbed and graded area within the Landfill's permitted operational area boundary. The revised location is approximately 2,200 feet east of the approved location and 180 feet inland of the Coastal Zone boundary. The revised AD Facility location has been disturbed by Landfill operations for at least 12 years pursuant to the Tajiguas Landfill Expansion Project and the Solid Waste Facilities Permit covering the area. Grading was performed as part of installation of the Phase 1A and 1B liner systems for groundwater protection in 2005 and 2007, which lowered the ridgeline elevation from 676 to 645 feet above mean sea level (msl). A perimeter road and drainage facilities were also constructed. The AD Facility would be located on a highly disturbed portion of the Baron Ranch parcel within the Pila Creek watershed in front of the ridgeline, and not within the Arroyo Quemado watershed beyond the ridgeline that substantially contains the remainder of Baron Ranch. Proposed changes to the TRRP have been designed to provide a 10-foot buffer between the Coastal Zone boundary and the MRF, to ensure no construction work occurs within the Coastal Zone.
- Decommissioning of the existing Tajiguas Landfill Energy Project (LFG Control System) engine and flare and adding a new and improved LFG Control System engine and flare as part of the TRRP, which are proposed to be located adjacent to and used by the MRF in a portion of the area previously approved for locating the AD Facility, and outside the Coastal Zone. The replacement engines and flare would be located approximately 1,800 feet northwest of their existing location, and at least 40 feet inland of the Coastal Zone boundary.
- Comprehensive Plan Amendment resulting in a net reduction of 51.07 acres to the Waste Disposal Facility Overlay. In order to accommodate moving the AD Facility outside of the Coastal Zone (2,200 feet east of the approved location within the Landfill's permitted operational area), the Waste Disposal Facility Overlay would be modified to add 4.48 acres on APN 081-150-032 (which has been previously graded and used for perimeter access and drainage). This additional area would accommodate the AD Facility construction disturbance area. The Comprehensive Plan Amendment also proposes to remove 55.55 acres from the Waste Disposal Facility Overlay on APN 081-150-026, which consists of an area of dense native vegetation, including a portion of vegetation designated as Environmentally Sensitive Habitat that is not needed for solid waste operations. As indicated in the Land Use Element, Public Facilities, No. 2, the Waste Disposal Facility Overlay designation shall be applied to a proposed site through a Comprehensive Plan Amendment, which includes amending the Land Use Element map prior to development pertaining to the project. This will be accomplished by revising the Waste Disposal Facility Overlay designation and Land Use

Element map, as indicated in the Board of Supervisors Resolution for a Comprehensive Plan Amendment (Attachment F). With the proposed Waste Disposal Facility Overlay boundary change, all of the TRRP facilities would be located on parcels within the Overlay that are used, at least in part, for landfill activities.

Overall, the project's geographic scope remains generally the same because the project involves rearranging certain facilities to different locations within the same permitted Landfill operational area in order to be outside the Coastal Zone. The County has completed construction activities to close the portion of the landfill in the Coastal Zone. No part of the construction or staging for construction of the Revised TRRP will occur in the Coastal Zone. Although the previously approved disturbance area was 23.9 acres and the proposed disturbance area is 27.6 acres for the Revised TRRP, the difference is relatively small in comparison to the approximately 497-acre Tajiguas Landfill property within which the project is located.

Comprehensive Plan Amendment

The project has been analyzed for consistency with the Comprehensive Plan, including the Gaviota Coast Plan. As discussed in the County Planning Commission staff report dated August 14, 2017 (Attachment D) in conjunction with the Comprehensive Plan consistency analysis attached to this Board Letter (Attachment G), the proposed Comprehensive Plan Amendment and the Revised TRRP would be consistent with all applicable policies of the Comprehensive Plan, including the Gaviota Coast Plan. In processing the Comprehensive Plan Amendment, Planning and Development complied with Senate Bill 18 requirements regarding consultation with California Native American tribes, and no consultation request was received. On August 30, 2017, the County Planning Commission recommended, by a vote of 4-0, that the Board of Supervisors make the required findings for approval of the Comprehensive Plan Amendment, including CEQA findings, and recommended that the Board of Supervisors determine that no further environmental analysis is required for the revised project under CEQA. In addition, the Planning Commission adopted a resolution that recommends that the Board of Supervisors adopt a resolution (Attachment F) to amend the Comprehensive Plan. Prior to the November 14, 2017 Board of Supervisors hearing, Planning and Development referred the Comprehensive Plan Amendment to Native American tribes and the Local Agency Formation Commission pursuant to Government Code Section 65352.

Comprehensive Plan Conformity Review, Government Code Section 65402(a)

The Planning Commission made a Government Code Section 65402(a) determination of conformity on January 6, 2016 for the previously approved TRRP. The Planning Commission subsequently considered the Revised TRRP on August 30, 2017 and made a determination of conformity, having considered the Comprehensive Plan, including the Gaviota Coast Plan. The County Planning Commission staff report, dated August 14, 2017, and the letter reflecting the County Planning Commission's actions constitutes the conformity report required by Government Code Section 65402(a), which has been transmitted to your Board as Attachments D and E of this Board Letter, respectively.

CEQA Review

On July 12, 2016, the Board of Supervisors certified a Final SEIR (12EIR-00000-00002, SCH #2012041068 and EIR Revision Letter and Errata dated May 27, 2016) for the TRRP.

An Addendum to the certified Final SEIR (dated August 11, 2017 and revised October 26, 2017) has been prepared for the Revised TRRP (Attachment C). In support of the Addendum, field surveys and technical reports were updated. Based on these updates (and as is described more fully in the Final SEIR

Addendum) no new environmental documentation is required for the recommended actions, as provided in CEQA Guideline 15162.

The Final SEIR Addendum was revised, using strikethrough and underline format, to provide clarifications following the Planning Commission hearing. The Revised Addendum to the SEIR provides evidence that no subsequent environmental review document shall be prepared pursuant to the California Environmental Quality Act Guidelines Section 15162 related to the Revised TRRP, since there are no substantial changes proposed in the project and no substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions to the EIR due to new or substantially increased significant impacts, and there is no new information of substantial importance showing new or substantially increased significant impacts or impacts to new or previously analyzed mitigation measures or alternatives that would substantially reduce significant impacts.

MSB Investors, LLC Contract Amendment

On July 12, 2016, the Board of Supervisors approved the Contract between the County and MSB Investors, LLC for the Development and Operation of the TRRP (Contract). The Contract was further amended and approved by the Board on December 13, 2016 and February 14, 2017 to accommodate changes recommended by the County’s financial advisors, enhanced insurance and performance bonds, and other minor revisions.

In March 2017, after determining the need to relocate the AD Facility, County staff requested that MSB prepare and submit a modified project design (relocating the AD Facility) and the associated changes to the project’s costs. MSB submitted a revised project design and related costs to County staff in May 2017. County staff, and project consultants, reviewed the modified design and costs and held several meetings with MSB and their subcontractors to discuss the revised project. Simultaneously, County staff identified the need to upgrade its engines that manage the LFG generated at the Tajiguas Landfill. Because MSB’s Contract already included procuring, installing, and operating two other similar engines on the landfill site, County staff determined it was more cost-effective to include the LFG engine procurement and operation in the MSB Contract. A Second Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC has been prepared to reflect the project changes (Attachment H) and are highlighted below:

- Addition of LFG engine procurement and operation;
- Sale by County and MSB payment for LFG collected at the Tajiguas Landfill site;
- Increased pre-construction, construction, and operational costs; and
- Inclusion of updated exhibits.

The table below shows the proposed change in pre-construction, development and construction capital costs for the project (subject to CPI adjustment for changes in the development schedule caused by the public participants).

| Capital Costs | Previous Capital Cost | Proposed Capital Cost | Change in Cost |
|--|-----------------------|-----------------------|----------------|
| Pre-Construction, Development & Construction Costs | \$110,820,000 | \$121,242,000 | \$10,422,000 |
| Construction – LFG engines | 0 | \$9,271,000 | \$9,271,000 |
| Total | \$110,820,000 | \$130,513,000 | \$19,693,000 |

There were few operational changes to the project as a result of relocating the AD Facility. The per ton operational cost that the County will be required to pay for the processing services increased from \$15.15 to \$16.23 largely due to CPI increases related to the delay in the project.

The overall tip fee for the project will be discussed more thoroughly in a future Board Letter, including updated debt service costs, Resource Recovery & Waste Management Division costs, and the per ton tipping fee. Using estimates for these cost components, working with the County's financial advisor, the proposed modifications to the TRRP would increase the overall effective tipping fee to the ratepayer by less than 5% or 2% on a resident's bill for solid waste collection.

Financing

In June 2016, the County's Debt Advisory Committee received an update on a proposed public financing model for the TRRP and recommended that the Board of Supervisors approve pursuing financing of the TRRP through the issuance of Solid Waste Revenue Certificates of Participation (COPs). In July 2016, the Board of Supervisors directed County staff to pursue public financing to construct the TRRP in an effort to reduce costs for services to regional residents and businesses using the proposed TRRP. In August 2016, the Board authorized the Treasurer-Tax Collector to submit an application to the Internal Revenue Service for an allocation of New Clean Renewable Energy Bond (CREB) Volume Cap for the TRRP, which the Treasurer-Tax Collector's Office ultimately did submit and was awarded. Due to the delay in the project, this allocation had to be forfeited back to the Internal Revenue Service by the County. In December 2016, the Board adopted a resolution authorizing the execution of numerous documents necessary to consummate the sale, execution and delivery of the COPs. With the identification of a permitting issue related to the project site, the financing activities were stopped.

If your Board approves the recommendations contained in this Board Letter, the Treasurer-Tax Collector and Public Works will present an updated financing plan to the Debt Advisory Committee, update the necessary financing documents, and subsequently return to the Board to approve the documents necessary for financing. In the meantime, the Treasurer-Tax Collector is seeking authority to sign and submit an application to the Internal Revenue Service for an allocation of CREB Volume Cap for the TRRP. CREBs are taxable bonds that entitle the issuer to receive a direct subsidy payment from the US Treasury that is projected to reduce the net interest cost to an amount below that of tax-exempt interest.

Performance Measure:

Performance guarantees are included in the Waste Service Agreements previously approved by the Board of Supervisors in December 2016.

Fiscal and Facilities Impacts:

The Material Delivery and Service Agreements approved by the Board of Supervisors in December 2016 provide the revenue necessary for the Resource Recovery & Waste Management Division Enterprise Fund to meet the debt obligations associated with publicly financing the construction and operation of this facility. Based on projected facility tipping fees, staff expects to remain in compliance with these previously approved agreements with the partner jurisdictions. More specific facility tipping fee information will be provided at a future Board of Supervisors hearing. It is important to note that

there are several conditions precedent embedded in the County's contract with MSB Investors that must be met or waived prior to the contract going into effect. One of these conditions precedent is County financing of the project on terms acceptable to the County which will be discussed at said future Board of Supervisors hearing.

The cost to process the Comprehensive Plan Amendment and Government Code Section 65402 Conformity Determination with the Planning and Development Department is approximately \$36,838.00. This fiscal analysis is based on the amount of P&D staff time spent processing the Comprehensive Plan Amendment and Government Code Section 65402 Conformity Determination at the time this Board Letter was docketed.

Special Instructions:

Please send a copy of the signed amended contract (Attachment H) to the Resource Recovery & Waste Management Division of the Public Works Department, Attn: Leslie Wells.

Attachments:

- Attachment A: Findings
- Attachment B: Link for the SEIR 12EIR-00000-00002 and the Final SEIR Revision Letter and Errata
- Attachment C: Addendum to the Final Subsequent Environmental Impact Report for the Tajiguas Resource Recovery Project
- Attachment D: Planning Commission Staff Report
- Attachment E: Planning Commission Action Letter
- Attachment F: Board of Supervisors Resolution
- Attachment G: Comprehensive Plan Policy Consistency Analysis
- Attachment H: Second Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC

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