

To: San Francisco Refuse Collection and Disposal Rate Board
RE: Objections to allocation from 1987 Reserve Fund as
Proposed for August 17 Hearing

Dear Members of the San Francisco Refuse Rate Board

I have the following objections to the proposed allocation of funds from The 1987 Reserve Fund as proposed for the August 17, 2016 hearing.

1. There is no indication of the authority from the Department of the Environment to make the recommendation for use of \$13 million of the 1987 reserve funds. A record of a Department of Environment July meeting with Recology at the Hay Road site shows no discussion of this matter or approval of the fund allocation proposal.
2. There is no description of the uses of the fund for which the allocation to the new reserve fund is proposed, or documentation of the agreement under which the funds are to be used or allocated. Such documentation of the new agreements under which the funds are to be used should be provided as part of the public hearing before any allocation.
3. There is no showing of the need for the funds. The prior report indicated that Recology would submit quarterly reports on tons disposed at Hay Road, so there should be 1Q and 2Q reports available by August 17, to determine the actual tonnage, multiplied by the estimated costs of disposal, which may themselves be high. No additional allocation of funds should be made until reports showing actual tonnage and costs for 2016 have been submitted.
4. There is no indication that the Board of Supervisors has approved the expenditure of more than \$10 million.

Discussion

There was a July 11, 2016 meeting held by the Department of Environment at the Hay Road Disposal site, with Recology, but there is no record in the draft minutes of the July 11 meeting that there was any discussion or approval of the recommendation or report regarding use of the reserve funds. One would have expected that if you are meeting with Recology, at the disposal site under consideration, the Department of Environment would have at least discussed and been informed about the proposed allocation of reserve funds, the expenses of operation, and the actual costs v projected of the new operations. See the attached draft minutes of the Department of Environment for July 11, 2016 which include no discussion of the reserve fund proposal, or expenses at Hay Road.

http://sfenvironment.org/sites/default/files/events/071116_policy_committee_special_meeting_minutes_draft_0.pdf

The October 30, 2015 report by the Department of the Environment indicated That under the 1987 Agreement, the reserve fund under that agreement was to be Used for the following purposes:

“Fund to be used for payment of “justifiable extraordinary increases in costs, fees, Charges and expenses,” resulting from Recology’s obligations under the Waste Disposal Agreement, as well as certain costs of hazardous and designated waste disposal, and any other recoverable costs which were not fully covered by the currently effective rates. But expected to be recoverable through future rates.”

The Rate Board allocated \$12 million for interim costs for use of Hay Road For disposal, based on estimates of the increased costs, and estimates of the tonnage To be transported. Quarterly reports were to be provided. According to the October 30, report of the Department of Environment:

“Recology would submit reimbursement requests quarterly with the actual tons disposed in the previous quarter multiplied by the \$21.18 per cost increase described above for the period through June 2016, which is the remainder of RY2016.”

October 30, Report, p.4

So there should at least be records of Recology’s reimbursement requests Available for the first half of 2016 to compare with the projected estimates upon Which the \$12 million allocation was based. Presumably Recology sought reasonably timely recovery of these requests, so there should be no delay. The Department of Environment was to review the reimbursement requests and recommend their disposition to the City Administrator. Note that even the costs are based upon A 2.5% CPI projection over the last five years. Currently, the CPI is at 0.8% over The last year. See the Aug 16 release from the Bureau of Labor Statistics below:

“Transmission of material in this release is embargoed until 8:30 a.m. (EDT) August 16, 2016 USDL-16-1684 Technical information: (202) 691-7000 Reed.Steve@bls.gov www.bls.gov/cpi Media Contact: (202) 691-5902 PressOffice@bls.gov CONSUMER PRICE INDEX – JULY 2016 The Consumer Price Index for All Urban Consumers (CPI-U) was unchanged in July on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics reported today. Over the last 12 months, the all items index rose 0.8 percent before seasonal adjustment.” (Bureau of Labor Statistics Release, Aug 16, 2016)

Thus, the 2.5% CPI upon which the estimated costs per ton to reach the projected \$12 million reserve fund expense based on allocated to Recology Although there is a separate Bay Area CPI which may be higher, that includes other costs such as housing which may not be applicable to Recology’s costs to transfer refuse to Hay Road. Costs of transport to Hay Road may be more reflected in lower gasoline costs compared to prior periods. See the following recent report from Marketwatch:

Myra P. Saefong

Markets/commodities reporter

U.S. drivers have saved more than \$38 billion on their gasoline bills so far this year, and prices at the pump are likely to fall each month for the rest of 2016, according to GasBuddy.com. At about \$2.131 a gallon midday Tuesday, prices for regular unleaded stand 55 cents below last year's average of \$2.681 a gallon, according to the retail fuel pricing information provider. "Thank the continued imbalance in supply and demand for resulting in lower crude-oil prices, as well as refiners that have continued to amply supply the market with gasoline this summer," Patrick DeHaan, senior petroleum analyst at GasBuddy, told MarketWatch.

According to the October 30, 2015 report:

"The sole purpose of the New Reserve Fund is to reimburse Recology for costs related to the obligations under the new agreement which are expected to be recoverable through rates but have not yet been recovered." This requires three conditions for use of the reserve funds: The costs must have been incurred, or reasonably expected to occur; the costs must be expected to be recoverable through rates; and the costs have not yet been recovered. If any of these three conditions fail, for example, if costs have already been recovered, via lower than projected costs, or costs not actually incurred, the use of the reserve funds is not allowable. There is insufficient evidence in the Department of Environment report to conclude that the costs have been incurred, have not been recovered, and are recoverable through rates.

Before any further allocation, of even \$1 million to the prior or new fund uses, there should be submission of

1. The actual tonnage for the 4 quarters of 2016, and Recology's associated reimbursement requests.
2. Recalculation of the projected need for funds based on the actual Tonnage, as well as a more realistic CPI of at most 1% rather than 2.5% or a comparison of actual costs with projected.
3. Allocation of excess reserve funds to reduce rates for San Francisco Refuse service, and avoid any additional surcharge by providing The minimum \$10 million funding without further charges in rates, And use of a realistic cost escalation less than 2.5%.

Notably, in the last overall rate hearings, I recommended use of \$9 million of the \$29 million reserve fund, to reduce rates by \$3 million per year. See

<http://sfpublicworks.org/sites/default/files/3461-Objections%20to%20Directors%20Report%20and%20Recommended%20Order.pdf>

This recommendation was not adopted, and now we find that the City of San Francisco continues to retain an excess of \$8-9 million in the various reserve funds, even after the

use of \$12 million to pay Recology, and transfers into the new Reserve Fund. San Francisco citizens could have had, as I recommended, a \$3 million annual reduction for the current 3 year rate cycle through the recovery of unused reserve funds, even under the proposals now before the Rate Board, but instead the various agencies along with Recology propose to continue to retain these excess reserve funds. This is not action in the best interests of San Francisco Consumers. I recommend that the following alternative actions be adopted by the Refuse Rate Board, following the preamble Discussion of prior history:

The San Francisco Refuse Collection and Disposal Rate Board Finds:

1. There is an existing allocation of \$12 million from the 1987 Agreement to compensate Recology for the projected expenses for 2016 and 2017, which Are unrecovered but expected to be recoverable in rates. These funds Have not yet been fully utilized nor have the expected expenses been Fully incurred or documented at this time. Recology will submit its Requests for reimbursement through the end of 2016 and the review by the Department of Environment before allocation of any additional reserve funds In an additional Rate Board hearing to be held in early 2017.
2. Any public hearing considering the allocation of additional reserve funds to Recology shall consider utilizing any excess reserve funds above \$10 million to benefit San Francisco consumers by reducing rates in equal amounts over a three year period including funding of the New Reserve Fund at the \$10 million level to avoid burdening San Francisco customers with any additional surcharges for reserves associated with the new agreement.

Do your job to benefit San Francisco consumers.

Respectfully submitted,

Kermit R. Kubitz

Attachment:

See Department of Environment Meeting Report for Hay Road Meeting.



SF Environment
Our home. Our city. Our planet.
A Department of the City and County of San Francisco

Edwin M. Lee
Mayor

Deborah O. Raphael
Director

**CITY AND COUNTY OF SAN FRANCISCO
COMMISSION ON THE ENVIRONMENT
*POLICY COMMITTEE SPECIAL MEETING**

**DRAFT MINUTES
MONDAY, JULY 11, 2016**

10:00 A.M. MEETING IN SAN FRANCISCO CITY HALL TO TAKE PUBLIC COMMENT

Location: City Hall, Room 421, One Dr. Carlton B. Goodlett Jr. Place, San Francisco, CA 94102

11:00 A.M. TOUR OF RECOLOGY HAY ROAD

Location: Recology Hay Road, 6426 Hay Road, Vacaville, CA 95687

COMMITTEE MEMBERS: Commissioners Johanna Wald (Chair), Elmy Bermejo, Lisa Hoyos.

ORDER OF BUSINESS

Public comment will be taken before the Committee takes action on any item.

- 1. Call to Order and Roll Call.** The Commission on the Environment Policy Committee meeting was convened at 10:04 a.m. (Present: Commissioners Omotalade, Bermejo and Hoyos) Commissioner Bermejo chaired the meeting in Commissioner Wald's absence.
- 2. Approval of minutes of the April 11, 2016 Commission on the Environment Policy Committee meeting.** Upon motion by Commissioner Omotalade and second by Commissioner Hoyos, the minutes of the April 11, 2016 Commission on the Environment Policy Committee Meeting were approved without objection (AYE: Commissioners Omotalade, Bermejo and Hoyos).

There was no public comment.

- 3. Public Comment.** Members of the public may address the Committee on matters that are within the Committee's jurisdiction and are not on today's agenda.

There was no public comment.

- 4. Discussion and tour of Recology Hay Road Facilities.** (Discussion)

Director Raphael introduced the agenda item.

There was no public comment.

Upon motion by Commissioner Omotalade and second by Commissioner Hoyos, the meeting was recessed without objection (AYE: Commissioners Omotalade, Bermejo and Hoyos).

The meeting reconvened at the main offices of Recology Hay Road, 6426 Hay Road, Vacaville, CA 95687 at 12:01 p.m.

Greg Pryor, General Manager, Recology started by asking everyone in the room to introduce themselves. Present were:

Jack Macy, Commercial Zero Waste Coordinator, San Francisco Department of the Environment

Debbie Raphael, Director, San Francisco Department of the Environment

Elmy Bermejo, Vice-President, San Francisco Commission on the Environment

Anya Deepak, Assistant to Director, San Francisco Department of the Environment

Jackie Omotalade, President, San Francisco Commission on the Environment

Lisa Hoyos, Member, San Francisco Commission on the Environment

Peter Gallotta, Public Relations and Information Coordinator, San Francisco Department of the Environment.

Mark Arsenault, Group Manager, Recology

Eric Potashner, Vice President and Senior Director of Strategic Affairs, Recology

Paul Giusti, Community Affairs Manager, Recology

Greg Pryor discussed the type of waste that is accepted by the facilities, emission criteria, the collection of San Francisco bio solids, habitat restoration, capacity of the facilities, the layout of the facilities and future development, the various classes of waste, the various compost requirements and technologies over time, the collection and distribution of methane, a planned stand-alone anaerobic digestive facility, the distribution of composted materials, regulations of compost runoff, the amount of organics and waste that is disposed per day, the diversion of soil and the City's zero waste goals.

The meeting continued outside in the composting facilities.

Greg Pryor discussed the final product of the compost facilities after 60 days, the various blends of compost, carbon sequestration, the pipes used to encourage the composting process, the balance between yard and food waste, levels of moisture, bio filters, the temperatures necessary for the process to work, the liquid runoff process, materials that are discarded from composting process.

Commissioner Omotalade asked how much water is used during the 30 day process.

Commissioner Hoyos asked about the plastic that lands in the compost process.

Director Raphael discussed the problem of glass in compost.

Commissioner Hoyos asked about how many people are employed by the facilities. Greg Pryor discussed plastic that is biodegradable but not compostable, farm waste, the processing line, the shredder, materials that are screened out, the time that the composting process begins in the morning.

The meeting continued past the borrow pit/original disposal site and on to the garbage pit. Greg Pryor discussed underground water, the recycling of construction debris, the daily waste pit, the GPS process for determining the areas that garbage is formed into a cell or pad, the City of Vacaville's garbage facility, the importance of education and outreach, compliance, labor.

The meeting was adjourned at 2:07 p.m.

5. Adjournment.

The next meeting of the Commission on the Environment Policy Committee is scheduled for Monday, August 8, 2016 at 5:00 p.m. in City Hall, Room 421.

*If a quorum of the Commission on the Environment is present, it will constitute a Special Meeting of the Commission on the Environment. The Commission Affairs Manager shall make a note of it in the minutes, and discussion shall be limited to items noticed on this agenda.

** Copies of explanatory documents are available at (1) the Commission's office, 1455 Market Street, Suite 1200, San Francisco, California, 94103 between the hours of 9 a.m. and 5 p.m., Photo identification is required for entry to the building. (2) on the Commission's website <http://www.sfenvironment.org/commission>; (3) upon request to the Commission Affairs Manager, at telephone number 415-355-3709, or via e-mail at Anthony.E.Valdez@sfgov.org. If any materials related to an item on this agenda have been distributed to the Committee after distribution of the agenda packet, those materials are available for public inspection at the Department of the Environment, 1455 Market Street, Suite 1200, San Francisco, CA 94103 during normal office hours or will be made available on the Commission's website <http://www.sfenvironment.org/commission> as attachments to the agenda or meeting minutes.

Anthony Valdez, Commission Affairs Manager
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Posted: July 25, 2016