



# County of Santa Cruz

## DEPARTMENT OF PUBLIC WORKS

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THOMAS L. BOLICH  
DIRECTOR OF PUBLIC WORKS

### AGENDA: DECEMBER 4, 2003

November 21, 2001

#### SANTA CRUZ COUNTY BOARD OF SUPERVISORS

701 Ocean Street  
Santa Cruz, California 95060

SUBJECT: BUENA VISTA LANDFILL GAS POWER PROJECT

Members of the Board:

On October 16, 2001, your Board directed Public Works to return with a status report on the Buena Vista Landfill Gas Power Project with additional directive to identify the cause for the project delay and the associated County costs.

In our last correspondence to your Board, we informed you that our project development partner, Brown, Vence and Associates LFG, Inc. (BVALFG) had experienced problems with the private equity investment firm, Endeco, that they proposed for the outside financing component of this project. Endeco had over ten years of experience in private financing for energy projects. BVALFG and the County reviewed Endeco's experience and found them to be a credible and experienced company in the field of energy financing. After your Board approved the project documents on June 19, 2001, Public Works and BVALFG immediately started working on a variety of related components for this project including securing a power sales agreement, finalizing equipment procurement documents, designing the facility and planning with Pacific Gas and Electric Company for interconnection.

During this preconstruction period, BVALFG worked with Endeco to finalize its funding plan so that Public Works could begin ordering equipment in August 2001 and meet the proposed construction time lines. Until mid-July 2001, Endeco proceeded with its financial paper work as planned and were assuring BVALFG that its funds would be available by August 2001. As our scheduled funding deadline approached, BVALFG began to notice changes in Endeco's activities related to our project. Phone calls were taking longer to be returned, responses to inquiries were not forthcoming, and financing documents were not being submitted as requested. BVALFG approached Endeco with their concerns and Endeco indicated that their partners were having some internal disagreements over the direction the company was taking. However, Endeco assured BVALFG that the internal issues would be resolved shortly and that funding would be forthcoming. Discussions between BVALFG and Endeco continued for several weeks before

BVALFG realized that Endeco's ability to follow through with the funding was in jeopardy and informed Public Works of the problem. BVALFG then decided to terminate any further work with Endeco and to seek alternative financing. Public Works agreed with BVALFG's decision to terminate work with Endeco and informed the County Administrative Office and the Auditor-Controller of the financing difficulties. Endeco's partners dissolved their business soon thereafter.

BVALFG could not have reasonably foreseen Endeco's situation and notified Public Works in a timely manner. BVALFG, Public Works, the Auditor-Controller and the County Administrative Office have been discussing alternative financing structures for the project over the last several weeks. At the time of this letter, BVALFG is continuing to discuss financing our project with other interested firms. However, it appears that due to the current uncertainty in the energy industry in California and the recent national events, private financing of a small energy project such as ours is not warranting a high level of interest.

In light of the state's current and projected financial situation, there are also some concerns being expressed by potential financiers regarding the County's electrical power sales agreement with the California Department of Water Resources (DWR). The County executed a power sales agreement with DWR in July at a rate that is well above the current market rates. The five-year term and pricing structure for power sales under the DWR contract is a significant component of this project. Without this advantageous power sales agreement, the County would not likely be in a position to proceed with this project if we were to be held to current market rates for our electricity production. Staff at DWR have assured the County that the agreement will be honored even though the contract pricing structure is now significantly higher than market rates that have dropped substantially over the last four months. There is also state-wide concern by many power producers who executed agreements with DWR, as the state struggles with projected revenue shortfalls next fiscal year. Cost saving options have been suggested that include renegotiating these higher priced power purchasing agreements down to rates closer to current market levels. There is still no definitive word from the state as to how these higher priced power sales agreements may be impacted by budgetary problems at the state level.

After further review of the past and current events associated with project development, it is Public Works' opinion that three alternatives exist for this project.

1. Continue working with BVALFG through the end of December 2001 on outside private project financing consistent with our existing contract language.
2. Secure conventional public financing for the entire project and renegotiate the revenue sharing and project ownership structure with BVALFG or another developer to reflect the County's assumption of full financial burden for the project.
3. Place the project on hold for 8 to 12 months to allow the energy market and state budgetary issues to be resolved, and allow for proposed new energy tax credit legislation and renewable resource grant programs to be implemented at the state and federal levels.

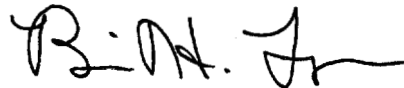
Under alternative 1 or 2, if funding for this project cannot be secured by the end of December 2001, the project will likely lose California Energy Commission (CEC) grant funds and the DWR power sales agreement will expire. Both funding sources require the project to be on-line no later than June 30, 2002, and this project requires a minimum of six months to construct from the funding date. The CEC funds are valued at \$150,000 per year for five years and the DWR power sales agreement is valued at \$1.4 million per year for five years. Under alternative 3, we would also lose the CEC grant funds and the DWR power sales agreement. However, current proposed legislation, if enacted, will provide for new grant and tax credit subsidies for alternative energy projects at levels adequate to make up for these lost revenue sources.

The County's project related costs since development of this project began in 1995 have been the project manager's staff time, consulting/engineering service expenses and permitting fees, for a total estimated expense of \$120,000. The project is fully developed, permitted and ready for construction with appropriate funding. The project development work completed to date will remain useful for any future efforts to recommence this project under better conditions, if we are unsuccessful in securing alternative funding by the end of 2001.

It is Public Works' recommendation that due to the limited time remaining to meet some of the funding agreement time lines, our best option is to continue to work with BVALFG on alternative private financing until the end of December 2001 (alternative 1). After this point, it is our opinion that there would be insufficient time left to bring this project on-line prior to the funding deadlines for the CEC and DWR. We also believe the timing limitations would not allow us enough time to consider conventional financing and renegotiate an agreement with BVALFG or seek out other interested project developers/operators. If we are unsuccessful in securing financing with BVALFG by year's end, it is our recommendation that we defer further action on the project until financial and legislative conditions are more favorable (alternative 3). We believe new power sales agreements and renewable energy grant funding will still be available in the future based on current proposed legislation.

It is therefore recommended that the Board of Supervisors accept and file this status report on the Buena Vista Landfill Gas Power Project and direct Public Works to return on or before January 15, 2002, with a project status report.

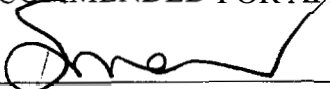
Yours truly,



For THOMAS L. BOLICH  
Director of Public Works

RPM:bbs

RECOMMENDED FOR APPROVAL:



County Administrative Officer

copy to: Brown, Vence and Associates LFG, Inc.  
Auditor-Controller  
Public Works

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