EL DORADO COUNTY
ENVIRONMENTAL MANAGEMENT DEPARTMENT

Gerri Silva
M.S., REHS
Director

Environmental Health

Air Quality Management District

Solid Waste & Hazardous Materials

Water Quality & Protection

Tahoe Office/ Vector Control

PLACERVILLE OFFICE
2850 Fairlane Ct.
Building 'C'
Placerville, CA 95667

Ph. 530.621.5300
Fax. 530.642.1531
Fax. 530.626.7130

SOUTH LAKE TAHOE OFFICE
3368 Lake Tahoe Blvd.
Ste. 303
South Lake Tahoe, CA 96150

Ph. 530.573.3450
Fax. 530.542.3364

December 11, 2008

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

SUBJECT: Hearing to consider adoption of Resolution adjusting the solid waste collection rate for South Tahoe Refuse, Inc. by 8.00%, effective January 1, 2009.

Honorable Board Members:

❒ **Background:**

In accordance with the Franchise Collection Agreement between El Dorado County and South Tahoe Refuse, Inc. Section 19 - Compensation, the Board of Supervisors shall set the rates to be charged by the Grantee. The Agreement provides that the Board shall set the Contractor's rates at least every two years to compensate the Grantee for its allowed costs of providing services and a profit determined in accordance with Section 19 of the Agreement.

On August 20, 2008, the Environmental Management Department received the South Tahoe Refuse Co., Inc. (STR) Annual Summary 2008 and letter requesting a rate adjustment. The Annual Summary calculations for 2009 project a revenue shortfall for El Dorado County of $137,065 therefore supporting the request for a general rate adjustment of 8% to become effective January 1, 2009.

At the December 9, 2008 public hearing the Board requested that the item be continued to December 16, 2008.

❒ **Reasons for Recommendation:**

The current Franchise Agreement between South Tahoe Refuse Company, Inc. and El Dorado County was entered into on January 24, 1995. The Franchise Agreement provided for an initial term of ten (10) years up to December 31, 2004. The Franchise Agreement also provided for two (2) five (5) year renewal options in favor of STR. The first option was exercised in 2004 thereby extending the Franchise Agreement to December 31, 2009.

Section 19B of the Franchise Agreement provides in pertinent part:
"The Board of Supervisors shall set the rates to be charged by Grantee at such times as the Board deems appropriate, but no less often than every two years, unless a longer period is agreed on by the Grantor and Grantee."

Section 19B then goes on to discuss the manner in which the rates are to be set. Under this provision, the Grantee is to submit "proposed collection rates and revenues and Operating Cost and Pass-Through Cost projections for the upcoming two year period, which projections shall have a reasonable factual basis."

In setting the rates, Section 19B requires that "[r]ates shall be set with the intent to reimburse Grantee for its allowed Operating and Pass through Costs and Allowed Profit."

Sections 19C and 19E set forth those costs excluded from Operating Costs and those which are Pass-Through Costs, respectively.

Section 19F determines the manner in which the Grantee's allowed profit is to be determined. It states in pertinent part, "[t]he Grantee shall be entitled to a profit on its Operating Costs, to be determined by use of an Operating Ratio." The use of the term "shall" requires that the Operating Ratio formula be used for determining the amount of profit to which the Grantee is entitled.

Under Section 19F the greater the amount of material recycled and diverted from landfilling (diversion rate), the greater the percentage of profit for the Grantee. As the diversion rate increases, the Operating Ratio number decreases. Section 19F goes on to explain the manner in which the allowed profit is to be calculated from the Operating Ratio. The rates are then set in order to provide for the allowed profit.

The rate setting provisions of the Franchise Agreement also provide a method by which the Franchisee can, within the Two year period identified in Section 19B, come forward with a rate increase based upon increased disposal costs. Section 19B provides that "Grantee shall also be entitled to a rate increase whenever Grantee's landfill disposal costs increase due to a rate increase at the landfill used by Grantee, but only for the purpose of passing through said disposal cost increase in Grantee's collection rates."

Reading the provisions of the Franchise Agreement as a whole, when rates are being set pursuant to the regular rate setting provisions of the Franchise Agreement, the Franchisee is to provide revenue, operating cost and pass-through cost projections for the upcoming two year period. Disposal rate costs are presented as part of the operating costs. The collection rate is then determined by the Board pursuant to the Operating Ratio method described in Section 19F. However, if during the two year period after the rates are set, the disposal costs increase, the Franchisee is entitled to a collection rate increase to cover the cost of the increase in the disposal costs.

<u>General Rate Increase:</u>

On March 15, 2005, the Board of Supervisors approved three yearly 9% rate increases for South Tahoe Refuse (STR), to become effective on April 2005, January 2006 and January 2007. The first 9% increase effective in April 2005 was to compensate STR for their operating costs. The requested 2006 and 2007 conditional 9% rate increases have two components - 3% for projected annual increases in STR's operating costs and 6% to pay for financing and construction of Phase I of the Resource Recovery Facility. Based upon this Board action STR agreed to a 3% rate increase to compensate STR for their operating expenses in 2007.

As outlined in the 2008 Annual_Summary, STR forecasted a company-wide shortfall for fiscal year 2008 of $657,000 resulting in a required rate adjustment of 5.55%. The Annual Summary was audited by the consulting firm R3 whom recommended a rate adjustment of 5.33%; however no action was taken by the JPA on the recommended rate adjustment.

In August 2008, the Board passed a 2.23% adjustment for 2008 pass-through landfill expenses and associated franchise fees. The requested fuel surcharge of 1.4% was deferred to the Joint Powers Authority (JPA) with input from the City of South Lake Tahoe and the decision by the JPA was to be brought back to the Board. Since that time, STR has withdrawn the request for an additional fuel surcharge increase.

On August 20, 2008, the Environmental Management Department received the South Tahoe Refuse Co., Inc. Annual Summary 2008. STR is requesting to increase their solid waste service rates by 8% effective January 1, 2009. The 2009 Annual Summary provide by STR calculates a revenue shortfall for the El Dorado County franchise area in the amount of $137,065 if the 8% increase in co0lelction rates is not implemented. The Department has reviewed the figures submitted by STR and those figures support the 8% increase request.

Per the STR Franchise agreement the EMD staff reviewed the rate request in conjunction with the required components for compensation included but not limited to; operating costs, pass – through costs, and the operating ratio and allowed profit. The breakdown of expenses related to the requested rate increase is; Cost of Recycling Sales (6%), Labor (32%), Equipment and Facility Costs (6%), Variable Operating Expenses (33%), and Administration Expense (23%). Landfill disposal expense is a component of the Variable Operating Expense.

Per the STR Franchise agreement Section 19F – Operating Ratio and Allowed Profit. "The Grantee shall be entitled to a profit on its Operating Costs, to be determined by use of an Operating Ratio. The Operating Ratio number will be determined using a sliding scale, under which the Operating Ratio number will decrease (and, thus, the Grantee's profit margin will increase) the more Recyclable Materials collected by Grantee are diverted by Grantee from land filling."

The Operating Ratio number shall vary with Grantee's Recovery Percentage in accordance with the following sliding scale:

Operating Ratio Number	Recovery Percentage
94.34 0	15%
93.90	16
93.46	17
93.02	18
92.59	19
92.17	20
91.74	21
91.32	22
90.90	23
90.50	24
89 25	28
88 29	32
87	33-100

An operating ratio of 87.00 was used based upon an estimated diversion rate of approximately 40% for the fiscal year ended June 30, 2008

The company has continued to reduce their operating costs including labor expenses, pension expense, repairs, maintenance and fuel expense. The Environmental Management Department has reviewed the Annual Summary 2008 and verified that the rate adjustment is appropriate.

The following rates are being proposed for approval:

Residential

Current Rate	Proposed Rate
Unlimited $24.32	$26.27

STR rate is for weekly, mandatory and unlimited service.

The Environmental Management Department recommends that the Board approve the rate adjustment per Section 19 of the Franchise Agreement.

❒ **<u>Fiscal Impact:</u>**

None.

❒ **<u>Net County Cost:</u>**

None.

❒ **<u>Action to be Taken Following Approval:</u>**

Forward executed resolution to Environmental Management Department for implementation.

Respectfully,

Gerri Silva

Gerri Silva, M.S., REHS
Environmental Management Director