

MEASURE B

TEXT OF PROPOSED MEASURE

COLUSA COUNTY LANDFILL REGULATORY & SITING ACT

The People of Colusa County Do Hereby Ordain as follows:

Section 1. Findings and Purpose

The people in Colusa County find that the construction of a modern regional landfill on the property referred to as the CERRS site will provide substantial benefits to the people of Colusa County. Total benefits to taxpayers are projected to be more than \$5000 per household and include:

- Savings from lower cost of waste disposal estimated at \$100 per household per year.
- Millions of dollars of revenue from the CERRS landfill to the County to pay for public services.
- Securing funding from CERRS to pay for the closure of the County's Evans Road landfill.

Unless a landfill is developed within the County, the people will be required to pay the high cost for the transport of waste out of the County for disposal. The County will also have to pay for the closure of the Evans Road facility, in order to protect ground and surface water, at a cost estimated at \$1.5 million. If the cost of closure for Evans Road landfill is passed onto the residents of Colusa County, the cost would be approximately \$300 per household.

The people believe that it is in the best interest of the community to encourage rather than to discourage the siting of an environmentally sensitive, properly constructed and safe landfill for municipal and non-hazardous waste materials, on the CERRS property. The people recognize that access to and use of a modern landfill is necessary for the well being of the people and businesses of Colusa County.

The people believe that modern municipal landfills built and operated in accordance with stringent federal and state regulations do not pose a significant threat to the environment. The people recognize that the United States Government through the Federal Environmental Protection Agency (EPA) and the State of California through the California Environmental Protection Agency have established evaluation criteria and engineering standards to assure that new landfills will not pose a significant threat to people or the environment.

The people acknowledge that before approving the CERRS landfill, the County Board of Supervisors conducted numerous public hearings and carefully reviewed the voluminous technical studies and documents concerning issues of ground and surface water protection and other environmental issues and information. An environmental impact report was independently reviewed

by experts retained by the County and was certified by the County in March of 1997.

The people acknowledge that the environmental impact report concluded that all potential impacts would be appropriately addressed and mitigated and that there would not be any significant adverse impacts as a result of the CERRS landfill. The decision to approve the CERRS landfill was based on information showing that modern landfills are safe and environmentally sensitive and rejected the unfounded fears and unsupported speculation and assertions that there would be problems.

In addition to taxes and fees that are paid by other businesses in Colusa County, the CERRS landfill will pay an annual fee to the County ranging between 8 to 10 percent of the gross revenues from the facility, resulting in millions of dollars to the County over the life of the facility. These are funds that can be used to pay for law enforcement, roads, flood control improvements and other additional services.

The people are aware that in spite of the many benefits that the landfill would bring to Colusa County residents and businesses, a few people in the immediate vicinity of the CERRS landfill have funded a propaganda and legal campaign to defeat the CERRS landfill project.

The people of Colusa County state that in enacting this measure it is their desire to approve the siting and development of the CERRS landfill and, to the extent legally possible, put an end to the legal and political delays that prevent the citizens from reaping the benefits that the landfill will bring to the community.

The people want the economic benefits, including the stimulation to the local economy, that will come from the construction and operation of the CERRS landfill, the new jobs that will be created and the goods and services that will be purchased from local businesses.

Section 2. Intent

It is the intent of the voters in enacting this measure to approve the siting of a landfill to accept municipal (Class III) refuse and other nonhazardous (Class II) materials on the property commonly referred to as the CERRS site. Approval of the CERRS facility will allow the residents and businesses in Colusa County to dispose of their refuse in a manner that provides economic benefits to the local community and which is environmentally sound.

This measure will implement the voters intent by:

1. Amending the Colusa County General Plan to create a Solid Waste Facility ("SWF") designation and by designating the CERRS property as Solid Waste Facility ("SWF") in order to allow the use of the CERRS property for a landfill.
2. Establishing a Solid Waste Facility zoning district in the Colusa County Zoning Ordinance for landfills and by

designating the CERRS facility as within that zoning district.

3. Establishing regulations pertaining to the development of landfills in the unincorporated area of Colusa County, including limiting the use of landfills in the Solid Waste Facility ("SWF") zoning district to receipt, processing, recycling and disposal of municipal refuse (Class III waste) and certain nonhazardous wastes (Class II) while prohibiting the disposal of toxic and/or hazardous waste within the SWF zone.

4. Approving the siting of the CERRS facility as a means to secure funding from CERRS for the proper closure of the County's Evans Road landfill which is required to protect the groundwater.

5. Approving the siting of the CERRS facility as a means to secure host fees to the County to be used to provide essential services to the community.

6. Protecting agriculture and other resources in the County by requiring full compliance with all applicable environmental laws and regulations including those established for the protection of ground and surface water.

7. Approving the CERRS property as an appropriate, environmentally safe and economically beneficial site for a landfill to serve the community.

8. Establishing policies to require the cost savings associated with the use of the CERRS facility or any other local landfill to be passed onto the residents and businesses within the County.

Section 3. Amendment of the Land Use Element of the Colusa County General Plan

A. Upon the effective date of this measure, the land use element of the Colusa County General Plan shall be and is hereby amended to add the following policies:

Policy LU 20 - a

A Solid Waste Facility ("SWF") Designation is hereby created for the purpose of identifying property within the County that can, subject to compliance with all applicable regulations, be used for landfills for municipal and non-hazardous waste.

Policy LU 20 - b

Solid Waste Facilities, including but not limited to landfills, should not be allowed immediately adjacent to urban areas in the County. Solid waste facilities may be developed in areas designated on the General Plan as Solid Waste Facility. Solid Waste Facilities shall specifically be deemed to be a compatible land use with agricultural uses in the County and with other low density land uses. Development of solid waste facilities shall require that potentially significant environmental impacts

are appropriately addressed in accordance with the California Environmental Quality Act (CEQA).

Policy LU 20 - c

The establishment of any new solid waste facility, expansion of and/or changes to any existing facility shall require that the facility provide appropriate and reasonable protection for the environment and any adjacent agricultural operations. For the purpose of this policy and any implementing ordinances, compliance with applicable federal and state regulations pertaining to the construction and operation of landfills shall be deemed to constitute "appropriate and reasonable protection for the environment and adjacent agricultural operations" unless clearly proven to be inadequate based on appropriate studies and analysis. It is the intent of this provision to require more than mere speculation, unsupported and undocumented opinion (whether lay or expert) as the basis for the denial of permits to construct and operate a landfill.

B. Upon the effective date of this measure, the land use element of the Colusa County General Plan shall be and is hereby amended to designate the property commonly referred to as the CERRS property, consisting of approximately 160 acres located approximately 2 miles north of Arbuckle, as more specifically shown on Exhibit "A" hereto (which Exhibit is incorporated in the general plan by this reference), as Solid Waste Facility ("SWF").

Adoption of this measure (by initiative ordinance) shall be deemed to constitute voter approval of the siting of the CERRS property, for use as a solid waste facility for Class III and/or Class II materials, for all purposes of this general plan and any implementing ordinances.

Section 4. Addition of Policies to the Community Services Element of the Colusa County General Plan.

Upon the effective date of this measure, the community service element of the Colusa County General Plan shall be and is hereby amended to add the following policies:

Policy SW- 5

The County of Colusa shall encourage and assist in the development of one or more solid waste facilities for the disposal of municipal refuse generated by residents and businesses as the most practical and economical long term solution to the County's solid waste disposal needs.

Policy SW- 6

The establishment of any new solid waste facility or the expansion of any existing solid waste facility shall require compliance with all federal, and state regulations, including but not limited to those pertaining to the protection of ground and surface water.

Policy SW- 7

It shall be the policy in Colusa County that the charges and/or rates paid for solid waste disposal by residents and businesses in Colusa County shall be kept at the

lowest amount possible through the development and use of appropriate landfills and/or other solid waste facilities located within the County. It is the intent in encouraging development of local solid waste facilities to avoid the additional expense incurred by residents and businesses in Colusa County when solid waste is transported out of the County for disposal. This policy recognizes that the cost of waste disposal outside of Colusa County represents an undue burden on the residents and businesses within the County which is not justified given the availability of adequate land that can and should be developed within the County to provide such services.

Policy SW- 8

The County of Colusa shall, in approving the siting and/or development of solid waste facilities, consider additional benefits that might be derived by County residents and businesses from importing refuse, including but not limited to reduced costs for local users, host or import fees or other payments made to the County.

Policy SW- 9

The County shall pass on to residents and businesses the savings achieved by providing local cost effective solid waste disposal and shall require licensed/franchised waste haulers to pass on appropriate rate reductions to their customers when setting fees and/or in approving rates in conjunction with existing agreements and/or regulations or ordinances, to the extent permissible under applicable laws and existing contracts.

Policy SW - 10

Landfill operators shall be required as a condition of the issuance of any solid waste facility permit to provide a closure and post-closure plan complying with applicable federal and state regulations and to provide financial guarantees to insure performance of closure and post-closure plans and monitoring requirements.

Section 5. Amendment of the Colusa County General Plan Community Services Element Service Profiles re: Solid Waste Facilities

Upon the effective date of this measure, the community service element of the Colusa County General Plan relating to Service Profile for Solid Waste - "Privately" Operated Designated Solid Waste Facilities, (beginning with the third paragraph on page 17 of the community services element), shall be and is hereby amended to read:

A 160 acre parcel of property located on a site approximately three miles northwest of the community of Arbuckle has previously been designated as and developed with a privately-operated solid waste facility. The past use of the site was principally for the receipt, processing, transformation and disposal of certain Class II wastes, including but not limited to drilling muds, food processing plant brines, sewer sludge and other materials. The site is commonly referred to as the CERRS property (standing for Charter Evaporation

Resources Recovery Systems) and heretofore has been shown and designated in Figure COMMITTEE-1, as a PWSF (privately operated designated solid waste facility). With the adoption of this initiative ordinance and amendment to the general plan, the property is hereby redesignated as SWF (Solid Waste Facility).

With the closure of the County's Evans Road Facility, the municipal refuse (solid waste) generated within Colusa County is being collected and shipped out of the County for disposal. The CERRS site is the only identified solid waste facility within the County that can, in the immediate future, be developed to meet the demands and needs of Colusa County residents and businesses. If operated as a regional facility, the CERRS site should significantly reduce the cost to residents and businesses for their waste disposal.

Based on extensive environmental review of the CERRS site, the County Board of Supervisors has determined that the CERRS site can be operated as a municipal solid waste facility without impacting the environment. Significant study was made of potential impacts to ground water, surface water, air quality, traffic circulation and agriculture, among other issues. Mitigation measures have been developed to reduce any potential impacts to a less than significant level. The CERRS site should meet the County's solid waste disposal needs for well into the future and also meet the requirements in state law for communities to plan for solid waste disposal.

This language is intended and should be construed as constituting full voter approval of the siting and use of the CERRS property as a facility for the processing and/or disposal of municipal refuse (Class III) and other nonhazardous (Class II) wastes, to the extent that such approval is required by the general plan.

This language should also be construed to recognize that the use of the CERRS facility for solid waste disposal (including but not limited to disposal of municipal refuse) was previously recognized and allowed under the County General Plan's land use and community services elements, and to that end and to the extent that it is legally relevant, this language should be deemed to be declarative of the past intent of the General Plan and of existing law.

Section 6. Creation of a Solid Waste Facility Zoning District

Upon the effective date of this initiative ordinance, the Colusa County Zoning Ordinance shall be and is hereby amended to create a new zoning district (classification) for Solid Waste facility ("SWF"). The SWF zone shall not allow for the disposal of Class I toxic and/or hazardous wastes. The SWF zone shall expressly allow the development of solid waste facilities, including but not limited to landfills for the receipt, processing, recycling and/or disposal of municipal solid wastes (Class III) and other non-hazardous and/or non-toxic wastes (Class II) and related auxiliary facilities, upon compliance with the following:

1. The preparation of an environmental impact analysis for the facility, which shall be prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) and shall be certified by the Colusa County Board of Supervisors.
2. Issuance of a solid waste facilities permit in accordance with state law by the Local Enforcement Agency and/or the California Integrated Waste Management Board (or their successor agency or agencies), incorporating the reasonable mitigation measures set out in the environmental analysis.
3. Issuance of a waste discharge and/or such other applicable permits by the Regional Water Quality Control Board (or its successor agency).
4. Issuance of applicable permits from the Local Air Resources Control Board (or its successor agency) and other state and/or federal agencies as may be required by state and/or federal law.
5. Issuance of building and grading permits which shall be conditioned upon compliance with applicable state regulations pertaining to these activities.
6. Execution of a host fee agreement between the County and the SWF property owner and/or operator providing for the collection and payment of host fees to the County for acceptance of waste from outside of the County as authorized under Public Resources Code Section 41903; provided however, that in the event that the County has not established a reasonable host fee as authorized under Public Resources Code Section 41903, within 180 days from the date of the application for the issuance of a solid waste facilities permit involving the importation of waste from out of the County, or has not otherwise executed an agreement with the SWF property owner and/or operator for consensual payment of host fees, then this condition shall not apply to any such solid waste facility. (The intent of this provision is to require the County to exercise good faith and reasonable diligence in either establishing a reasonable host fee or in executing a consensual agreement for payment of host fees in a timely manner and without indefinitely delaying the construction and operation of a solid waste facility which imports refuse.) Execution of a host fee agreement and any modifications thereof shall be deemed to be an administrative act by the County Board of Supervisors.

Section 7. Designation of the CERRS Property as zoned SWF.

Upon the effective date of this initiative ordinance, the property referred to in "Exhibit A" attached hereto, and referred to as the CERRS property, shall be and is hereby designated and zoned as SWF, "Solid Waste Facility".

Section 8. Severability

If any section, subsection, sentence, clause, phrase,

part or portion of this measure is held to be invalid, or in conflict with a provision of another ballot measure that received more votes, or unconstitutional and/or unenforceable by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The voters hereby expressly declare that this measure, and each section, subsection, sentence, clause, phrase, part or portion thereof would have been adopted and/or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions are declared invalid, unconstitutional or unenforceable.

Section 9. Codification

Upon adoption of this initiative ordinance, the Board of Supervisors shall cause the newly enacted zoning ordinance provisions to be appropriately numbered and codified within the Colusa County Code. Such action is intended and shall be construed as a ministerial duty of the Board and shall not require or permit the exercise of any legislative discretion on the part of the Board of Supervisors. The newly enacted provisions to the County general plan shall be appended to the general plan as it presently exists and may from time to time be amended by the Board of Supervisors.

Section 10. Liberal Interpretation

It is the intent of the voters that this measure be liberally construed so as to effectuate the purpose of approving the siting of the CERRS landfill as an environmentally sensitive and economically beneficial solid waste facility in Colusa County.

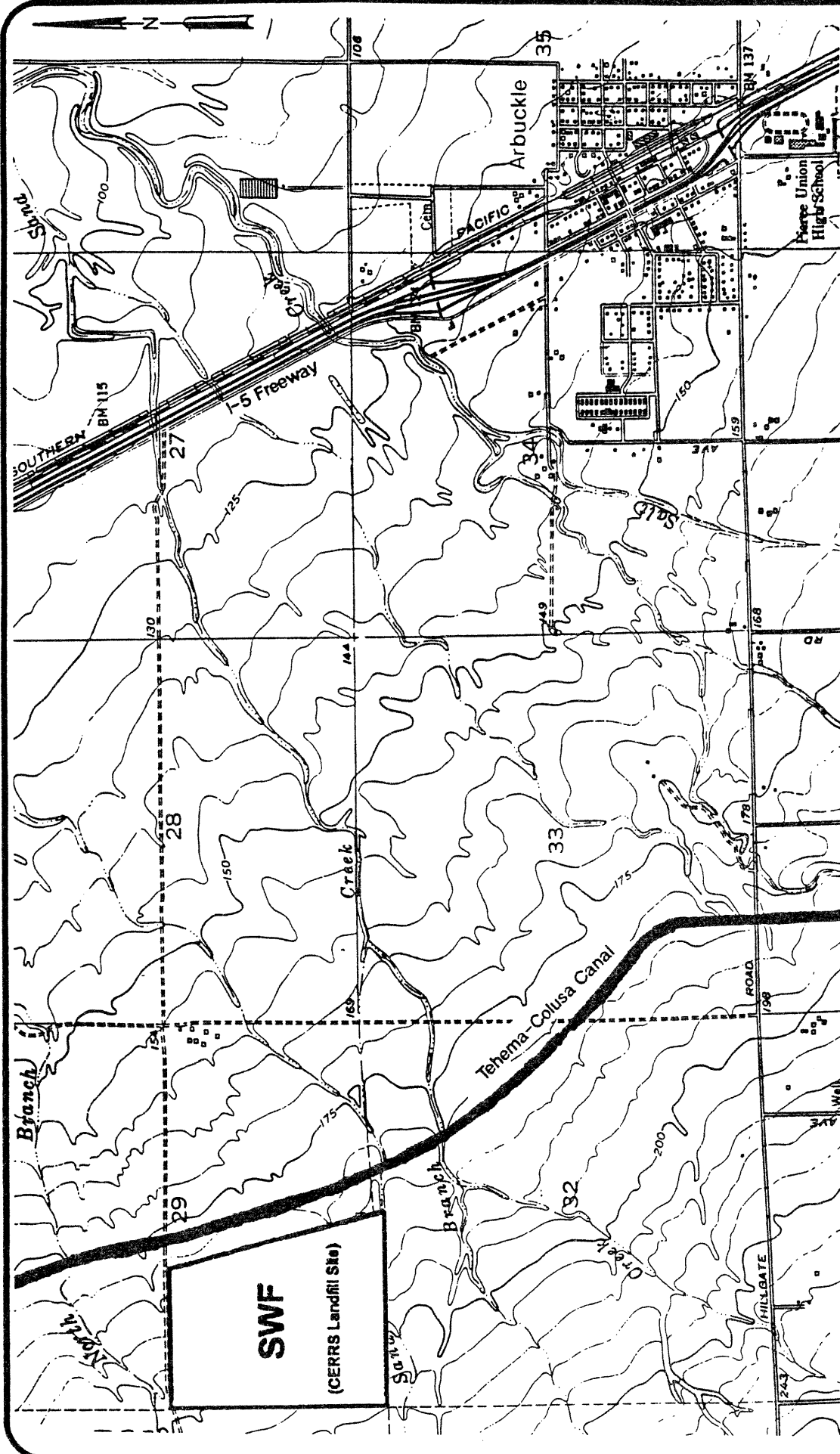


EXHIBIT A
SOLID WASTE FACILITY
DESIGNATION
 (CERRS Landfill Site)

