

LOCAL NEWS

Madera County Waste Disposal Costs Increased \$2.9 Million: Audit Says Lack of County Oversight Leads to Massive Over-Billing & Significant Risk for Fraud by Red Rock (/index.php/news/local-news/1350-madera-county-waste-disposal-costs-increased-2-9-million-audit-says-lack-of-county-oversight-leads-to-massive-over-billing-significant-risk-for-fraud-by-red-rock)

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MADERA – Following a six month investigation and audit by the Madera County Auditor-Controller's office, a recently released report claims that the provider of waste disposal services for the county of Madera, Caglia Environmental LLC, maybe guilty of massive overbilling of county customers. It also asserts that the company has not lived up to the financial terms of their county contract. County auditor Todd Miller believes that his office has found that this contract presents a significant risk for fraud against the county. The internal audit also sites a consistent lack of county oversight over the existing contract.

In June of 2012, the County gave notice to their previous waste disposal contractor, Waste Connections, and due to contract issues began the process of requesting proposals to replace them. This includes operation of the Fairmead Landfill, the North Fork Transfer Station and the Collection Franchise services in the valley area below 1,000' elevation. Once bids were evaluated, Caglia Environmental, LLC. dba Red Rock Environmental Group, was selected by the Madera County Board of Supervisors as the new contractor.

The original terms for the three separate contracts were 10 years, from November 1, 2012 through November 1, 2022, with an option to extend the term of the contract for two additional five-year periods. On December 15, 2015 the Madera County Board of Supervisors approved Amendments to extend each of the contracts for five years to November 1, 2027. This extension allowed Caglia Environmental to negotiate favorable financing terms with their financing sources in order to procure equipment and a new collection vehicle.

The extensions were presented to the Madera County Board of Supervisors as consent items on the Dec 15th, 2015 meeting agenda, described only as a "contract extension". The projected financial impacts of these new terms were not included with the original agenda item, and were not discussed in open session. However, when the auditors reviewed of each amendment, they identified a change in the financial terms of these agreements that increases cost to the county by \$2.9 million.



Any changes to the financial terms of the contract should have required a public hearing or at the very least public discussion on the impact to the county. Placing an item that would end up costing the county over \$2 million more than the original agreement on the consent calendar is not a normal practice. The intent of the consent calendar is for the general house-keeping items such as agenda and minute approval as well as other scheduled maintenance items. There is little discussion on consent calendar items and they are all approved with a single vote.

When asked about who participated in the production of the agenda for that meeting and why the financial impact was left off the agenda, Madera County CAO Eric Fleming refused to answer. "A final report will be issued and available to the public after Red Rock's response [after the June 5th election]. For these reasons, the County has no further comment at this time."



According to the Chief Clerk of the Madera County Board of Supervisors Rhonda Cargill, the agenda is assembled and reviewed by a committee of no fewer than eight employees with the chairman of the board. During 2018 that includes the CAO, county counsel, board clerk, directors of human resources, public works and community economic development; as well as the chief of staff's for the chairman and chairman pro-tem. In 2015, the chairman of the Madera County Board of Supervisors was David Rogers who was also on the Solid Waste Management Committee.

The Red Rock audit also found several instances where Caglia Environmental was in non-compliance with regards to their existing contracts with the county. For example, according to Miller, Caglia failed to provide the required audited 'financial statement reports'. These were intended to ensure that the details of the contract were being followed. While these audits were suppose to be filed yearly, reports were not filed with the Madera County Auditor's Office until the county began its inquiry into this audit.

Then the reports Caglia did file with the county were of the wrong type. Instead they provided 'reviewed financial statements-RFSs'. While the two reports are similar in appearance, the RFS do not meet the standard required for an audit and are, according to Mr. Miller the likely cause for not having detected the discrepancies and over-charging detailed in the Madera county audit.

Significant overbilling was found in all three contracts. Caglia Environmental applied unallowed increases to its trash collection customers as high as 43% and eliminated contracted discounts without board approval. The audit results estimate Caglia Environmental overbilled its commercial roll-off customers a total of \$756,725.91 in tipping fee charges alone.

"We performed random sample testing on Franchise Collection revenues, including "non-franchise revenues" grouped into eight (8) periods. Only seven (7) periods are presented here, period eight (8) was used to validate the overbilling of Roll-Off Tipping fees discussed earlier, which is represented (and included) in the figures below. Based on these results residential and commercial customers were overbilled a total of \$1,780,785.75 from November 1, 2012 to June 30th, 2017. ", Miller stated in the audit.

At the North Fork Transfer Station the audit found tonnage records as provided with reconciliation documentation prepared by Caglia Environmental could not be consistently matched to amounts billed. For the purposes of conducting the audit, the county was provided billing documentation which were based on the inbound tonnage records of the Cedar Avenue Recycling & Transfer Station (CARTS) and the Fairmead Landfill. These were different facilities and could not be logically matched to the inbound or outbound tonnage records of the North Fork Transfer Station.

"We recalculated substantially all North Fork Transfer Station contract reimbursement invoices submitted to and paid by the County. Under this contract agreement Caglia Environmental receives a per ton service fee to operate the Transfer Station. We found that Caglia Environmental failed to apply the appropriate rate reductions; the effect of this activity was that Caglia Environmental over billed the County by an additional \$14,746.52." Miller stated in the audit.

Similar to the auditors' observation for the North Fork Transfer Station they found that the tonnage records for the Fairmead Landfill as provided with reconciliation documentation prepared by Caglia Environmental could not consistently be matched to amounts billed.

For operating the Fairmead Landfill, Caglia Environmental is eligible to receive performance bonuses for achieving a desired landfill density. A denser, more compact landfill extends the useful life of the landfill operation, saving the County money. If the desired density is not met, Caglia Environmental may also be subject to a penalty. Penalties & bonuses range from (\$1.00) per ton penalty, to a \$.75 per ton bonus.

"We identified a total of \$132,502.39 in outstanding unpaid compaction bonuses & penalties owed to the County. Four (4) of these amounts, totaling \$105,103.21 were reported to us and alleged to have been "waived" and approved by three (3) separate County staff. If so, these staff may be acting outside of their authority. Section 8.2(d) of this agreement states that the Contract Administrator as designated by the County "cannot bind the County with respect to any Service Contract amendment, or any waiver of the obligations of the Company". Only the Board of Supervisors, by official action may authorize these amounts owed to be cancelled. These amounts may be considered a gift of public funds." Miller stated in the audit.

Caglia Environmental received \$526,957.67 in handling charges passed through from the County for which no written agreement or contract exists. Handling Fees include charges identified as Hard to Handle, Appliances with Freon, Tires, and Batteries. These fees represent the additional cost for handling waste with special disposal requirements. A pass through occurs when fees collected by one party are forwarded to another, or retained as the case may be.

Neither the contractor nor the County were able to provide auditors with a written agreement for the pass through of these fees. The Fairmead Landfill and North Fork Transfer Station agreements discuss only "per ton fees" as the basis for reimbursement. Agreements which are not in writing create a significant risk for abuse or fraud; as terms, conditions, or amounts are not formalized, and may offer little opportunity for monitoring or control. The rapid increase in handling charges from 2013 to 2015 may be an indication of these risks.

The audit also found that Caglia Environmental incorrectly reported 21.31% (\$368,546.12) of its “non-franchise” revenue, and as a result did not pay the required six percent (6%) franchise fee to the County. The majority of customers reported under this system were County departments, County agencies, & school districts.

According to Miller the audit produced the following results, reflecting the original value of this contract, the additional cost of the 2015 amendment, evidence of overcharged rates, and additional costs including: unpaid franchise fees, failure to apply appropriate reimbursement rates, waived penalty amounts, and payments without a written agreement (handling fees).

It is not within the scope of the audit nor the responsibility of Mr. Miller’s office to determine the intent of the contractor, which may be a distinguishing factor between negligence and fraud.

Miller says, “We have identified the costs of each of these agreements, their related amendments, and have made conservative projections of the potential future costs of these agreements. In considering the perspective of a prudent person, these additional costs not only offend the public sensibility; they appear to largely benefit Caglia Environmental which in our opinion is not in the best interest of Madera County and those residential and commercial customers covered by these agreement(s).”



After absorbing all this information, readers might be asking themselves which Madera county officials/departments should have been over-seeing this contract more closely. The disturbing answer at this point is that there really was no one checking the financial details as the contract was running. Mr. Miller admits that this may end up falling on the Auditor’s office due to the fact that it is the only county office employing CPAs qualified for oversight on county contracts and audits this complex. However at no time has the Madera County Board of Supervisors directed or empowered Miller’s office to run the numbers. I wonder what is going to happen when the Austin Quarry comes online. Will it be Déjà vu all over again?

Despite numerous calls to Caglia Environmental and Red Rock, they have not returned our phone calls for comment.

****CLICK HERE FOR FULL AUDIT**** (<http://www.bigvalleynews.com/images/pdf/Waste%20Disposal%20Services%20Audit%20-%20Caglia%20Environmental%20-%20Final.pdf>)

****CLICK HERE FOR 2010-11 GRAND JURY REPORT ON SOLID WASTE****
(<http://www.bigvalleynews.com/images/pdf/20102011FinalReportSolidWa.pdf>)