

Trash firm wins hefty tax break

New appraisal for landfills to save \$900,000 annually

By Karen Kucher, STAFF WRITER

It was a million-dollar dispute between county government and a trash company, and it wasn't about garbage. It was about taxes.

The trash company won.

Allied Waste Industries prevailed in its fight with the county assessor over the taxable value of two landfills it bought from county government in 1997 — and, as a result, the company will save nearly \$900,000 annually in taxes.

The county Assessment Appeals Board determined that the Otay and Sycamore landfills have a taxable value of \$36 million, far less than the \$125.28 million value claimed by the assessor.

The decision means Allied will pay \$360,000 in annual property taxes on the two landfills instead of \$1.25 million.

"We lost. We lost big time," said County Assessor Gregory Smith. "I am shocked by this. I thought we had presented a good case. We didn't get anything. They basically went with the applicant's opinion of value."

An Allied attorney called the ruling an "honest decision."

"I think they did exactly what the law required them to do, and ethics and good procedures dictated," said Barry E. Fink of Los Angeles. "I think it was a victory for procedural justice and ethics."

In a written ruling issued Jan. 12, the three-member board criticized the county-hired appraiser, William P. Larson, for using flawed methodology and for relying on unreliable data, including hypothetical numbers.

Smith said the county had hired Larson as a consultant because county appraisers had no experience appraising landfills.

"Apparently he didn't come across as a very credible witness," Smith said.

In contrast, the board praised the "professional and credible appraisal and other expert evidence" submitted by Allied during hearings held over several days in July, August and October.

Allied purchased the waste system in October 1997 for nearly \$180 million, beating out two competitors. The sale triggered the tax assessment. Because the landfills and other trash assets were owned by a government agency, they had been nontaxable.

The county initially set the assessed value of the entire trash system at \$151.7 million — and sent out tax bills based on that amount.

Allied appealed, arguing the system's value was closer to \$27.6 million. It later revised that estimate to \$42.4 million.

Allied said the price for the landfill system included non-taxable intangible assets, such as permits, licenses and goodwill.

Before the appeal hearing, the county assessor and Allied had settled on the taxable value of the Ram-

ona and Borrego landfills and the San Marcos landfill and a nearby recycling facility at \$11.5 million.

That left only the two largest assets — Sycamore on the edge of Santee and Otay in South County — in dispute.

Allied has saved itself more than \$1 million annually on its tax bill because of its appeal and agreement with the county on the other landfills.

The two sides used different methods to determine the values. The county looked at the sales price and income generated by the property, while Allied's experts looked at market rent and royalties the property could generate on the open market.

Smith said the market rent/royalty method used by Allied "is like a textbook theory that we don't use in the real world."

But Fink said some of the best landfill appraisers in the country testified that they use the rent or royalties method nationwide.

"The problem with what the county did is they taxed the value of the expensive permits and licenses along with the real estate, and that is not permissible under California law," Fink said. "The board of assessment appeals understood that and corrected it."

Allied will either be given a refund or tax credit for excess property taxes paid since 1997, Smith said.

County attorneys are reviewing the decision and are weighing whether to appeal to the Superior Court. The county has six months to decide.