

Item #7
2-28-17

28 February 2017

Fresno County Board of Supervisors
Hall of Records
2281 Tulare Street
Fresno, CA 93721-2198

Re: Proposed Increased and Extended Assessment in Assessment District No 284

From:

Jim Torosian
3233 E. Via Monte Verdi Ave.
Clovis, CA 93619-8388
(559) 325-3773

Topic To Be Discussed:

Timeline Provided by the County of Fresno Indicating Completion Of Construction:
February 19, 2013.

This project has gone from a \$1,000,000.00 retrofit, to a \$2,5000,000.00 remodel (Summer 2013 Assessment District) to a \$5,000,000.00 same remodel in 2016-2017.

Voter influence by County Staff:

At a community meeting held at the Woodward Park Library on January 26, 2017, County Staff was asked if the Annual Payment or even a one time payment of a property owners entire assessment (\$45,000.00) was tax deductible. County Staff answered yes.

Enclosed is a disclaimer to this tax advice that was mailed out from Special Districts on February 6, 2017, which was over two weeks since those remarks were made.

Voter influence by the Fresno Monte Verdi Homeowners Association:

On January 25, 2017, all 125 property owners received the enclosed letter from the Fresno Monte Verdi Homeowners Association asking the members of the Association to vote yes on this Assessment, giving the reason that the Plant could "fail at any moment and we do not have the funds for repairs".

The statement that the Plant could "fail at any moment" is completely fictitious with absolutely no substantive data to support that claim.

The Fresno Monte Verdi Homeowners Association is not responsible financially for repairs or maintenance to the plant, therefore it would not matter if the Association had funds for repair or didn't have funds for repair.

Engineer's Report:

Edward Wilson, a third party Engineer in private practice reviewed and approved the Engineer's Report for Assessment District 284 dated May 28, 2013.

Dale Siemer, a Professional Engineer, employed by the County of Fresno, reviewed and approved the Proposed Increased and Extended Assessment in Assessment District No. 284.

Dale Siemer has been involved with this project since day one and has had involvement in preperation of the Engineer's Report.

Could a conflict exist when a County employee approves an Engineer's Report that he or others in his department helped create.

Engineer's Report Supplement Page 1 B. Background

See underlined: "However, the facility has never been capable of producing a treated wastewater effluent that satisfied the Waste Discharge Requirements set by the Regional Water Quality Control Board (RWQCB).

The statement that "the facility has never been capable of producing a treated wastewater effluent" that met State of California standards is false.

Enclosed is a letter from Fresno County Public Works & Planning dated August 12, 2005, where Resources Manager, Marion Miller states on page 2, "Additionally, our efforts have been successful. Your Facility is now operating in compliance with the standards imposed by the State."

Also enclosed, is a copy of an e mail from Gary Kalar, President of EcoSystems, the company the operated the plant for at least the first year before the County took control, states that his company and their operators did not experience the problems that the County operators were currently experiencing.

County does not put in the necessary time in manpower to operate this facility correctly. Operators are limited to 21 hours a week (7 days) maximum. Most days they spend substantially less time than 3 hours per day

Page D-4

Requirements under Proposition 218, California Constitution

D.5.2.2 Identify any parcels within AD284 that are owned or used by any agency, the State of California or the United States and classify them as either benefited and, therefore, assessed parcels, or present convincing evidence as to why any of those parcels receive no special benefit.

Engineer's response: "There are no parcels in AD284 that are owned or used by the State of California or the United States."

What WAS NOT included in this answer was "ANY AGENCY". Any Agency would be the County of Fresno.

Property Description: There are 125 residential lots. There are 26 Outlots, not 18 that have been stated in the Engineers report.

Outlots are identified A-Z or 26. See Description of Property Subject To Declaration (enclosed)

Four of those Outlots were deeded to the County of Fresno. (Deed enclosed). Specifically, Outlots A,C,Y, and Z.

From the CC&R's of the Association f) Outlots. Outlots A, C, Y and Z shall be subject to easements in favor of the County of Fresno, and/or the County Service Area, for operation, repair, maintenance, replacement and improvement of water and sewer facilities and related appurtenances located on

Page 3

replacement and improvement of water and sewer facilities and related appurtenances located on Outlots A, C, Y and Z.

**THESE 4 PARCELS ARE EITHER OWNED OR USED BY THE COUNTY OF FRESNO.
THEY ARE NOT IDENTIFIED IN THE ENGINEER'S REPORT**

**IF THESE 4 OUTLOTS WERE INCLUDED, THEY COULD BE SUBJECT TO THE
ASSESSMENT.**

General Benefit vs. Special Benefit:

Page D-5:

D.5.2.3.1

“As stated in the preceding subsection D.2.1, “it is the finding of the Assessment Engineering Consultant that no General Benefits will be provided by the Project and, accordingly, there is no General Benefit cost for the Project.”

The plant itself is a General Benefit and is not a Special Benefit.

Storage Or Lack Thereof:

These are all statistics provided by Fresno County Special Districts:

Plant produces 250 gallons of wastewater per day per lot:

Daily Production: 31,250 gallons per day

That equates to 11,406,250 gallons per year.

There is only one 40,000 gallon storage tank.

County estimates only 10% of the total production would be used for irrigation: 1,140,625 gallons

The remaining 90 % or 10,265,625 gallons go down the drain.

There are at least 5 acres out front along Willow that are landscaped and watered with fresh water. This acreage is not connected to the reclaim system. Fresh water is used exclusively with County controlled pumps and well.

ID	Task Name	Calendar Days	Work Days	Start	Finish	October	November	December	January	February	March	April
1	Project Funding/Construction	833 days	595 days	Wed 11/10/10	Tue 2/19/13							
2	SRF Program	455 days	325 days	Wed 11/10/10	Tue 2/7/12							
3	Prelim SRF App	35 days	25 days	Wed 11/10/10	Tue 12/14/10							
4	SWRCB Prelim Review	91 days	65 days	Wed 12/15/10	Tue 3/15/11							
5	Supl App Mat	63 days	45 days	Wed 3/16/11	Tue 5/17/11							
6	SWRCB Review	91 days	65 days	Wed 5/18/11	Tue 8/16/11							
7	Prel Fund Agree	56 days	40 days	Wed 7/13/11	Tue 9/6/11							
8	Finalize Fund Agree	28 days	20 days	Wed 1/11/12	Tue 2/7/12							
9	CAC Agree	58 days	42 days	Mon 5/23/11	Tue 7/19/11							
10	Prep Agree Amend	5 days	5 days	Mon 5/23/11	Fri 5/27/11							
11	Counsel Review Period	12 days	10 days	Mon 5/30/11	Fri 6/10/11							
12	CAC Sign	0 days	0 days	Fri 6/10/11	Fri 6/10/11							
13	County Review	37 days	27 days	Mon 6/13/11	Tue 7/19/11							
14	BoS Apprv Agree/Rec Dep	0 days	0 days	Tue 7/19/11	Tue 7/19/11							
15	Prop 218	163 days	117 days	Mon 8/1/11	Tue 1/10/12							
16	Assess Eng	47 days	35 days	Mon 8/1/11	Fri 9/16/11							
17	Rprt/ROI Rev Period	37 days	27 days	Mon 9/19/11	Tue 10/25/11							
18	ROI/Adopt Eng Report	0 days	0 days	Tue 10/25/11	Tue 10/25/11							
19	Balloting Period	77 days	55 days	Wed 10/26/11	Tue 1/10/12							
20	Public Meeting	0 days	0 days	Wed 12/21/11	Wed 12/21/11							
21	Protest Hearing	0 days	0 days	Tue 1/10/12	Tue 1/10/12							
22	Project Construction	378 days	270 days	Wed 2/8/12	Tue 2/19/13							
23	Dept Review	35 days	25 days	Wed 2/8/12	Tue 3/13/12							
24	Advertise for Bids	44 days	32 days	Wed 3/14/12	Thu 4/26/12							
25	Awd Project	33 days	23 days	Fri 4/27/12	Tue 5/29/12							
26	Issue NTP	14 days	10 days	Wed 5/30/12	Tue 6/12/12							
27	Construction	252 days	180 days	Wed 6/13/12	Tue 2/19/13							

June 28, 2012

Fresno Monte Verdi Homeowners Association

Re: Wastewater Treatment Plant, CSA 44-D & Time Line Provided By County

On February 27, 2012, the Fresno Monte Verdi CAC (Citizens Advisory Committee) Board of Directors, e-mailed County Staff and asked the following:

"Just checking with you to see if County staff is ready to present the Proposition 218 Assessment District formation information to our members at the March 15, 2012 meeting."

"Let us know so we can include this in our agenda and newsletter to the members. Our next meeting will not be until late June."

On February 28, 2012, we received the following reply via e-mail:

"A completed and accepted engineer's report is the keystone to establishing assessments in which to conduct the Proposition 218 process. Our design division will be soliciting proposals from their list of on-call engineering consultants to determine which one will prepare the engineer's report. So, I can tell you definitely that we will not be ready on March 15. We are going to ask Design to provide a revised time-line to indicate when the engineers report can be provided. They have been seeking clarification from the State on particular SRF (State Revolving Fund) terms that will affect the engineers report."

On May 17, 2012, the Fresno Monte Verdi CAC e-mailed County staff and asked the following:

"Regarding the Prop 218, as a reminder, we are having our annual meeting on June 28, 2012. Will County staff be able to present the specifics to the homeowners at that time?"

On May 17, 2012, we received the following answer by e-mail to that question:

"On the Proposition 218 for SRF assessment, there have been questions raised on the appropriate structure of providing repayment of SRF loans, and therefore we have requested County Counsel provide interpretation of law. Their interpretation may affect the scope of work of the engineer that will prepare the assessment report and its cost. So, when Counsel's interpretation is provided, the project manager will then have the information needed to instruct the assessment engineer on how to proceed. Bottom line, we won't have specifics on June 28."

Rec'd Feb 8, 2017



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

February 3, 2017

Dear County Service Area 44, Zone D Property Owner:

This is an important notice relating to a proposed increased and extended assessment on your property in Assessment District No. 284.

At a public meeting held on January 26, 2017, regarding the proposed increased and extended assessment a question was asked if any payment of the proposed assessment would tax deductible. Staff's response to this question was that they believed the payments would be tax deductible. This letter is being sent to **retract the statement by staff**. The County does not give tax advice. Any tax related questions that property owners have regarding the proposed assessment should be discussed with his/her tax advisor.

PROPERTY OWNER ACTIONS:

- A.) **If you have already submitted your ballot and you voted based on the statement made by County staff at the public meeting and you now want to change your vote,** you must complete the "Request for Withdrawal / Request for Substitute Assessment Ballot" form included with this notice and send the completed form to the Clerk to the Board of Supervisors at the address below immediately. The Clerk will then send you a "Substitute Ballot" for you to complete and submit prior to the conclusion of public testimony at the public protest hearing on February 28, 2017, at 9:00 a.m.
- B.) **If you have not already submitted your vote,** you just need to determine your voting preference and mail your ballot to the Clerk to the Board so that it arrives prior to the conclusion of public testimony at the public protest hearing on February 28, 2017 at 9:00 a.m.

The contact information for the Clerk to the Board of Supervisors is as follows:

Clerk to the Board of Supervisors
2281 Tulare Street, Room 301
Fresno, California 93721-2198
Phone: (559) 600-3529

If you have any questions, please contact me at (559) 600-4259 or via email at cbump@co.fresno.ca.us

Sincerely,

Chris Bump
Special Districts Administration

R:\SPECIAL DISTRICTS\CSA\CSA 44\ADMIN\CORS\Notice - Tax Deductible Assessment Correction - 02-03-2017.doc

RESOURCES DIVISION
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4259 / FAX 600-4552
The County of Fresno is an Equal Employment Opportunity Employer

Request for Withdrawal / Request for Substitute Assessment Ballot

Re: **Proposed Increased and Extended Assessment To Secure Repayment of a Loan from the Clean Water State Revolving Fund to Finance Upgrades to the Wastewater Treatment Facility Serving Zone D of County Service Area No. 44 (Monte Verdi)**

Public Protest Hearing: **February 28, 2017, 9:00 a.m.**

1. I am the current legal owner (or his or her authorized representative) of the property identified by Assessor's Parcel Number (APN) _____ (Parcel).
2. My mailing address is (please print):

3. The Parcel is subject to the proposed assessment in the proceeding identified above. In connection with that proceeding, I hereby request (mark all that apply):
☐ to **withdraw** my previously submitted assessment ballot
☐ a **substitute assessment ballot** to replace a ballot that I have withdrawn, never received or lost, or which is not useable for other reasons
4. I understand and agree that withdrawing a previously submitted assessment ballot means that ballot will not be counted for purposes of determining a majority protest to the proposed assessment.
5. I understand and agree that any substitute ballot that I properly complete and timely submit to the Clerk to the Board as provided in the assessment ballot instructions for the proceeding identified above will automatically revoke, replace, and supersede any assessment ballot that I or anyone acting on my behalf may have previously submitted.

I declare under penalty of perjury that the information stated above in this request is true and correct.

Date: _____

Signature

Print Name

Return only to:

**Clerk to the Board of Supervisors
County of Fresno Hall of Records
2281 Tulare Street, Third Floor
Fresno, California 92721**

Recd JAN 26, 2017

FRESNO MONTE VERDI HOMEOWNERS ASSOCIATION

2750 N. Clovis Avenue, Suite 127 Fresno, CA 93727 (559) 347-6604 adarling@realtyproperty.net

January 24, 2017

Dear Member,

You recently received a Public Notice and ballot from the county. This is for the proposed loan *(at 1% interest rate and a \$700,000 grant from State Water Resources Dept.)* to repair the sewer treatment facility. The Board of Directors is recommending that you vote "YES" and return the ballot as instructed.

We must start the construction as soon as possible so as to comply with the State of California's rules on using reclaimed water for the green belt. Should we not get a majority voting yes, the state could start the process to levy a fine against us. This project has been in the works for many years and we now have the funding available for the 30 year bond.

In addition, the facility has not been working correctly for many years. It could fail at any moment and we do not have the funds for repairs.

Board of Directors

ENGINEER'S REPORT

**ASSESSMENT DISTRICT 284
COUNTY OF FRESNO, STATE OF CALIFORNIA
(Wastewater Treatment Facility Improvements and Repayment
Of Clean Water State Revolving Fund Loan, Community of Monte Verdi)**

**AS FILED FOR APPROVAL IN ACCORDANCE WITH THE
MUNICIPAL IMPROVEMENT ACT OF 1913**

**PREPARED FOR:
BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO
AND
DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR**

By:

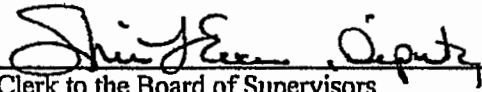
**Edward J. Wilson, C 23269
Assessment Engineering Consultant**

**Assessment Engineer:
Wilson & Associates
7600 N. Ingram Ave., Suite 202
Fresno, CA 93711
(559) 436-6644**

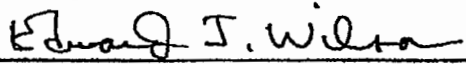
May 28, 2013

**CERTIFICATE OF FILING ENGINEER'S REPORT
AND CONFIRMATION OF ASSESSMENT
ASSESSMENT DISTRICT 284**

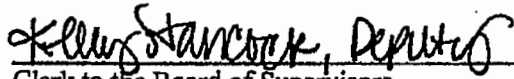
I, Bernice E. Siedel, Clerk to the Board of Supervisors, do hereby certify that the following "ENGINEER'S REPORT ASSESSMENT DISTRICT 284 (Wastewater Treatment Facility Improvements and Repayment Of Clean Water State Revolving Fund Loan, Community of Monte Verdi)" ("Engineer's Report"), including the Assessment and the Assessment Roll in the amounts set forth therein as the "ESTIMATED TOTAL COST AND ASSESSMENT," with the Assessment Diagram attached thereto, was filed with me on the 14th day of June, 2013.


Clerk to the Board of Supervisors
County of Fresno, California

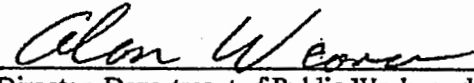
I have prepared this Engineer's Report and do hereby certify that the amount set forth herein as the "ESTIMATED TOTAL COST AND ASSESSMENT" and the individual assessments as shown under the column entitled "ESTIMATED TOTAL COST AND ASSESSMENT" on Exhibit A, attached hereto, have been computed by me in accordance with the order of the Board of Supervisors of the County of Fresno contained in a Resolution of Intention adopted as Resolution No. 13-201 on the 4th day of JUNE, 2013.


Edward J. Wilson, C. 23269 (Expires 12/31/13)
Assessment Engineering Consultant
Assessment District 284

I, Bernice E. Seidel, Clerk to the Board of Supervisors, do hereby certify that the following Engineer's Report and the Assessment contained therein was approved by the Board of Supervisors of the County of Fresno on the 19th day of August, 2013, by the Board's adoption of Resolution No. 13-248.


Clerk to the Board of Supervisors
County of Fresno, California

I, Alan Weaver, Superintendent of Streets, and Director, Department of Public Works & Planning of the County of Fresno, do hereby certify that a certified copy of the following Engineer's Report, together with the Assessment Diagram attached thereto, was recorded in the office of the Director, Department of Public Works and Planning on the 19 day of AUGUST, 2013.


Director, Department of Public Works and Planning
County of Fresno, California

On the 14th day of August, 2013, the Assessment Diagram, Assessment District 284 was filed in Book 43 of Maps of Assessment and Community Facilities Districts at Pages 99 through 101, and a Notice of Assessment was recorded as Document No. 2013-0120910, of Official Records in the Office of the County Recorder of the County of Fresno, California.


Paul Dietos, Assessor - Recorder
County of Fresno, California

ENGINEER'S REPORT SUPPLEMENT

**ASSESSMENT DISTRICT 284
COUNTY OF FRESNO, STATE OF CALIFORNIA
(Wastewater Treatment Facility Improvements and Repayment
of Clean Water State Revolving Fund Loan, Community of Monte Verdi)**

**AS FILED FOR APPROVAL IN ACCORDANCE WITH THE MUNICIPAL IMPROVEMENT ACT
OF 1913**

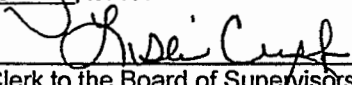
**PREPARED FOR:
BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO
AND
DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR**

By:

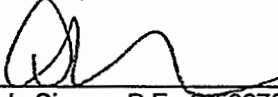
**Dale Siemer, P.E. C59670
Assessment Engineer**

**CERTIFICATE OF FILING ENGINEER'S REPORT SUPPLEMENT
AND CONFIRMATION OF ASSESSMENT
ASSESSMENT DISTRICT 284**

I, Bernice E. Siedel, Clerk to the Board of Supervisors, do hereby certify that the following "ENGINEER'S REPORT SUPPLEMENT, ASSESSMENT DISTRICT 284 (Wastewater Treatment Facility Improvements and Repayment of Clean Water State Revolving Fund Loan, Community of Monte Verdi)" ("Engineer's Report Supplement"), including the Assessment and the Assessment Roll in the amounts set forth therein as the "ESTIMATED TOTAL COST AND ASSESSMENT," with the Assessment Diagram attached thereto, was filed with me on the 10th day of January, 2017.


Clerk to the Board of Supervisors
County of Fresno, California

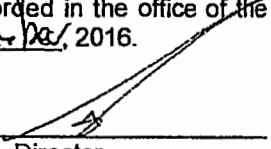
I have prepared this Engineer's Report Supplement and do hereby certify that the amounts set forth herein as the "ESTIMATED TOTAL COST AND ASSESSMENT" and the individual assessments as shown under the column entitled "ESTIMATED TOTAL COST AND ASSESSMENT" on Exhibit A, attached hereto, have been computed by me in accordance with the requirements of the Municipal Improvement Act of 1913 and California Constitution, Article XIII D, Section 4.


Dale Siemer, P.E., C 59670 (Expires 12/31/17)
Assessment Engineer for Supplement
Assessment District 284

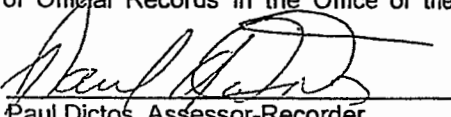
I, Bernice E. Seidel, Clerk to the Board of Supervisors, do hereby certify that the following Engineer's Report Supplement and the Assessment contained herein was approved by the Board of Supervisors of the County of Fresno on the ____ day of _____, 2017, by the Board's adoption of Resolution No. _____.

Clerk to the Board of Supervisors
County of Fresno, California

I, Steven E. White, Superintendent of Streets, and Director of the Department of Public Works and Planning of the County of Fresno, do hereby certify that a copy of the following Engineer's Report Supplement, together with the Assessment Diagram attached thereto, was recorded in the office of the Director, Department of Public Works and Planning, on the 19 day of December, 2016.


Steven E. White, Director
Department of Public Works and Planning
County of Fresno, California

On the 14th day of August, 2013, the Assessment Diagram, Assessment District 284 was filed in Book 43 of Maps of Assessment and Community Facilities Districts at Pages 99 through 101, and a Notice of Assessment was recorded as Document No. 2013-0120910, of Official Records in the Office of the County Recorder of the County of Fresno, California.


Paul Dictos, Assessor-Recorder
County of Fresno, California



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
Severo Esquivel, Interim Director

RECEIVED

AUG 16 2005

August 12, 2005

I & I

Mr. Marshall Scott
Fresno Monte Verdi HOA
5100 N. 6th Street, Suite 164
Fresno, CA 93710

SUBJECT: Fresno Monte Verdi Wastewater Treatment Facility

Dear Mr. Scott:

This letter is a follow-up to Mr. Ray Ramirez's letter to you, dated July 14, 2005, which itself was a reply to your June 1st letter regarding the above-referenced wastewater treatment facility (the "Facility"). We apologize for the delay in responding. It took longer than expected to get some of the information we needed. Even now, we do not have precise financial projections regarding the future maintenance of the Facility.

First, however, we must note that your letter contained several inaccuracies. We begin, therefore, with a brief history of this matter.

1. The design of your Facility was reviewed and approved by the California Regional Water Quality Control Board. County relied upon the Board's approval in allowing the project to go forward. We are not required to conduct, nor is it our practice to conduct, an independent, pre-construction engineering assessment of the design of such a facility.
2. When the Facility was completed, it was deeded to your Homeowners Association, which accepted it. County's "acceptance," such as it was, was in compliance with the Subdivision Agreement which required acceptance before any permit of occupancy could be granted. We trust you understand that without occupancy of the homes there would be no flow of sewage into the Facility and, thus, no way of evaluating its performance.
3. The Facility experienced problems when it went into full operation. Such problems are to be expected with such a complex plant and County's response was consistent with our usual procedures: we addressed the problems as they arose; we contacted the builder and the developer as well as one of the component-manufacturers and secured their active participation in working to solve the problems; we brought in

RESOURCES DIVISION

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consultants when necessary; and, we made alterations to the plant when reliably advised to do so.

4. Throughout all this we kept you informed and, when problems continued to occur, we asked on more than one occasion whether the property owners wanted to consider legal action. In each instance we were told they did not wish to do so. It was, and continues to be, our understanding that the property owners did not want to pay the legal fees such action would entail.

5. County has worked reasonably to solve the problems at the Facility and to improve its performance. Our efforts have been in conformity with both established County practices and our statutory obligations. Additionally, our efforts have been successful. Your Facility is now operating in compliance with the standards imposed by the State.

That brings us to the current situation. We regret to inform you that the Facility requires greater regular maintenance than was originally projected. Our estimate—which, we emphasize, is only an estimate—is that approximately twice as much labor will be required to maintain the Facility as was first projected. Additionally, while some of the costs associated with work on the Facility since it went online have been paid for by the developer, much of the work has been paid for out of the reserve account.

We recognize this is not welcome news to Zone D property owners since the inevitable result will be an increase in assessments, both to cover the higher maintenance expenses and to rebuild reserves. However, from your letter we gather that some thought has been given to the matter of increased costs, at least with regard to whether those costs can be recovered from a source outside Zone D. You mention the possibility of filing a creditor's claim against Mauldin-Dorfmeir, the company that did the engineering and construction work on the Facility and which is now undergoing bankruptcy liquidation. You also mention filing a claim against the personal estate of the late Spalding Wathen.

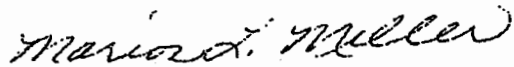
In reliance on earlier representations that the property owners did not want to pursue legal action, County has not filed either such claim. If the position of the owners regarding legal action has changed, then please inform us of that fact in writing. We will then undertake an analysis of what can be done and what it will cost. We will also seek the appropriate approval by the Board of Supervisors, if such approval is necessary.

There is a final matter that must be addressed. Regarding your characterization of County's relationship with the owners, please be aware that County operates facilities for CSAs, and for zones within CSAs, pursuant to its statutory authority as a governmental entity and a political subdivision of the State of California. We are not aware that the law in such instances creates a fiduciary relationship such as you assert.

Mr. Marshall Scott, Fresno Monte Verdi HOA
August 12, 2005
Page 3

In closing, County will continue to do all that we are required to do with regard to the operation and maintenance of your Facility. Additionally, as soon as possible we will provide you with a revised budget. And finally, if the property owners wish to consider legal action and are willing to pay the cost associated therewith, please inform us in writing at your earliest opportunity.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marion Miller".

Marion Miller
Resources Manager

c: Frank Fowler, Interim Assistant Director, Department of Public Works and Planning

Harry Imfeld

From: Kalar654@aol.com
Sent: Thursday, November 11, 2004 3:50 PM
To: himfeld@iipm.com; Jay Stevens
Subject: Re: Monte Verdi

I am sorry that you are having the problems with the finished water from the County run plant at Monte Verdi. As I told you on the phone, with you telling me what was in the water at the tank, and in your sprinklers, I can tell you the plant is not run properly. The plant is designed, built and was operated for a year and did not have these problems. The only way for the materials you described to be in the finished water is that someone either opened the valves manually during mix cycle, bypassed flows, did not pump off sludge from the SBR basins or flat changed the computer settings. Any and all of these are operator caused and the result is final effluent which will not meet discharge requirements set by the State.

If we can be of help to you and or the county, please contact us. We have many other plants just like this one running properly and providing final effluent meeting all tertiary Title 22 requirements. It does take operating the plants properly.

Yours truly,

Gary Kalar
President
EcoSystems
9486 E. Lincoln Ave.
Del Rey, CA 93616
559.834.4684
559.834.4784 fax
559.287.2554 cell

11/16/2004

D.5.1 Listing of Article XIII.D.4 (a) Requirements

- ☐ Identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed;
- ☐ Identify any parcels within AD 284 that are owned or used by any agency, the State of California, or the United States and classify them as either benefited and, therefore, assessed parcels or present convincing evidence as to why any of those parcels receive no special benefit;
- ☐ Identify the general and special benefits that will be provided by the Project and allocate the Project cost to the general and special benefit categories in proportion to the benefits each category will receive from the Project capital improvements;
- ☐ Based on an analysis of the Project, the Assessment Engineer will recommend an Assessment Spread Method that provides a procedure for estimating the level of special benefit each AD 284 parcel will receive from the Project in relationship to all other benefited parcels, and will define the base units of Project special benefits; and,
- ☐ The Assessment Spread Method will describe: i) the nexus between the Project cost and the base units of special benefit; and, ii) how the Project costs associated with those base units of special benefit are spread to the AD 284 Benefited Parcels to calculate the total amount of assessment proposed to be levied on each parcel.

D.5.2 Application of the Article XIII.D.4 (a) Requirements to AD 284

D.5.2.1 Identify all parcels receiving special benefits from the Project.

As stated in the preceding subsection D.2.2, the 125 SRF lots in AD 284 referred to as the AD 284 Benefited Parcels are the only properties eligible to receive wastewater treatment processing service from the upgraded WWTF. The AD 284 Benefited Parcels are the specific parcels that will receive Special Benefits from the WWTF Capital Improvements to be constructed pursuant to the Project. Each one of the AD 284 Benefited Parcels will be assessed only that portion of the Beneficial Cost of the Project that is proportional to the estimated level of Special Benefit each parcel will receive from those WWTF Capital Improvements.

D.5.2.2 Identify any parcels within AD 284 that are owned or used by any agency, the State of California or the United States and classify them as either benefited and, therefore, assessed parcels, or present convincing evidence as to why any of those parcels receive no special benefit.

There are no parcels in AD 284 that are owned or used by the State of California or the United States. As stated in the preceding section D.4, the 18 TR 4351 Out Lots classified as the AD 284 Not Benefited-Not Assessment Parcels and owned by the Community of Monte Verdi Homeowner's Association provide community services of various types to all of the AD 284 Benefited Parcels.

EXHIBIT "A"

DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

All that certain real Property situated in the County of Fresno, State of California, described as follows:

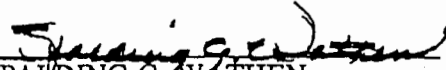
Lots 1 through 125, inclusive, and Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y and Z, as shown on the Map entitled "Map of Tract No. 4351, Monte Verdi Estates", filed for record April 23, 1999, in Volume 62 of Plats, Pages 70 through 78, Fresno County Records.

IN WITNESS WHEREOF, Declarant has executed this Declaration.

DATED: 7-13, 1999.

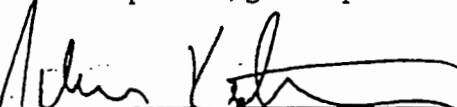
WATHEN-KESTERSON, a general partnership

By: SPALDING G. WATHEN, INC.,
a California corporation, general partner

By: 
SPALDING G. WATHEN

Title: President

BY: KESTERSON DEVELOPMENT CORPORATION,
a California corporation, general partner

By: 
JOHN KESTERSON

Title: President

the recordation of this Declaration or the sale of the last lot in the Project by the Declarant, whichever occurs later.

f) Outlots. Outlots A, C, Y and Z shall be subject to easements in favor of the County of Fresno, and/or the County Service Area, for operation, repair, maintenance, replacement and improvement of water and sewer facilities and related appurtenance located on Outlots A, C, Y and Z.

3.05. Provisions Restricting Delegation of Use. Any Owner may delegate their rights of use and enjoyment of the Project, including any recreational facilities, to the Members of their family, their guests, tenants, employees, and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject however, to this Declaration. However, if an Owner has sold his/her Lot to a contract purchaser or has leased or rented it, the Owner, Members of the Owner's family, guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights in the Project, including the recreational facilities, while the Owner's Lot is sold to a contract purchaser or rented to tenants. Instead, the contract purchaser, or tenants, while occupying such Lot, shall be entitled to use and enjoy such rights, including the recreational facilities, and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenants were an Owner during the period of their occupancy. Each Owner shall notify the Secretary of the Association of the names of any contract purchasers of such Owner's Lot or tenants of such Owner's Lot. Each Owner, contract purchaser, or tenant also shall notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Lot shall require compliance by the tenant or contract purchaser with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right to action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

a) Owners' Easements. Every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Area, including ingress and egress to and from his/her Lot.

i) Section 9 of this Declaration authorizes the Board to impose monetary penalties, temporary suspensions of an Owner's rights as a Member of the Association or other appropriate discipline for failure to comply with the governing instruments provided that the established procedures are followed for notice and hearing which satisfy the minimum requirements of Corporations Code Section 7341 with respect to the accused Member before a decision to impose discipline is reached. These procedures are set out in Section 12 of the Bylaws.

ii) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of the Members agreeing to such dedication or transfer has been recorded, provided, however, that no such dedication shall impair the ingress and egress to any individual Lot.

b) Easements for Utilities and Maintenance. Easements over and under the Project for the installation, repair and maintenance of electric, telephone, water, gas and sanitary sewer lines and facilities, heating facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping as shown on the recorded map of the Property, and as may be hereafter required or needed to service the Project, or any annexable Property thereto, are hereby reserved by Declarant and its successors and assigns, including the Association and appurtenant utility companies, together with the right to grant and transfer the same.

c) Encroachment Easements. Each Lot within the Project is hereby declared to have an easement over any adjoining Common Area for the purpose of accommodating any encroachment due to minor engineering errors, minor errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of all Lots in the Project agree that minor encroachments over the Common Area adjoining the Lot due to minor engineering errors, minor errors in construction, or settlement or shifting of the building, shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

d) Entry for Repairs. The Board may authorize its agents and employees to enter upon any Lot when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible, to effect emergency repairs or to effect necessary repairs which the Lot Owner has failed to perform as required by this Declaration. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in case of an emergency, 24 hour advance notice shall be given to the Owner or occupant.

e) Declarant's Reservation of Easements. Declarant hereby reserves easements over the Common Area for common driveway purposes, for drainage and encroachment purposes, and for ingress and egress from the Common Areas for the purpose of completing improvements thereon or for the performance of necessary repair work. Said easements shall automatically terminate four years after



Agenda Item

Maxie - #54
CSA 44C
44-

DATE: January 9, 2001

TO: Board of Supervisors

FROM: *Carolina Jimenez Hogg*
Carolina Jimenez-Hogg, Director
Planning & Resource Management Department

SUBJECT: Monte Verdi Estates, County Service Area No. 44, Zone D

RECOMMENDED ACTION:

Accept, on behalf of Wathen-Kesterson, the Grant Deed conveying Easements for Operations and Repair of Water and Sewer Facilities across Outlots A, C, Y, and Z of Tract No. 4351, County Service Area No. 44, Zone "D" (CSA No. 44-D).

These easements contain water and sewer lines for operations and maintenance and are needed by the sewer/water operators to gain access to the lines.

FISCAL IMPACT:

Acceptance of these deeds for CSA No. 44-D will result in no net County costs. Funds for services will be accumulated through water and sewer fees collected from the residents.

DISCUSSION:

The Monte Verdi Estates Subdivision was approved through Tentative Tract No. 4351, consisting of a total of 125 residential lots to be located east of Willow Avenue and south of Friant Road.

Title to the easements in Tract No. 4351 needs to be conveyed to the County so that the CSA can maintain the water and sewer system facilities. The parties having record title interest in the outlot have provided a Grant Deed to the County with no monetary consideration.

CJH:RTR:ef
G:\RESOURCE\brd2000\MONTEVERDIESTATES44D.doc
12/15/00

ADMINISTRATIVE OFFICE REVIEW

BOARD ACTION: DATE *John W. Weiser*
JAN 09 2001

APPROVED AS RECOMMENDED *XX*

Page *1* of *1*
OTHER _____



UNANIMOUS *XX* ANDERSON _____ ARAMBULA _____ CASE _____ KOLIGIAN _____ WATERSTON _____

RECORDING REQUESTED
CHICAGO TITLE COMPANY
AND WHEN RECORDED MAIL TO

PLANNING & RESOURCE
MANAGEMENT DEPARTMENT
RESOURCES DIVISION
STOP # 54
ATTENTION: RAY RAMIREZ

Fresno County Recorder
William C. Greenwood
DOC- 2001-0004725

Friday, JAN 12, 2001 10:24:47

FRE \$0.00
Ttl Pd \$0.00

Nbr-0000470872
djg/R6/1-2

RECEIVED
JAN 30 2001

FRESNO COUNTY
PLANNING & RESOURCE
MANAGEMENT DEPT.

Escrow No.
Order No.

EASEMENT
GRANT DEED

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Assessor's Parcel No:

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX IS \$-

☒ unincorporated area ☐ City of

☒ computed on the full value of the interest or property conveyed, or is

☐ computed on the full value less the value of liens or encumbrances remaining at time of sale, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

WATHEN-KESTERSON, a General Partnership

hereby GRANT(S) to

COUNTY OF FRESNO

the following described real property in the
County of Fresno

, State of California:

An easement for operation, repair, maintenance, replacement and improvement of water and sewer facilities and related appurtenances over and across Outlots A, C, Y and Z of TRACT NO. 4351, MONTE VERDI ESTATES, according to the map thereof recorded in Volume 62, Pages 70 through 78, of Plats, Fresno County Records.

Dated July 30, 1999

STATE OF CALIFORNIA

COUNTY OF Fresno

On July 30, 1999

before me,

Lu Galusha

a Notary Public in and for said County and State, personally appeared
Spalding G. Wathen and

John Kesterson

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Lu Galusha
Signature of Notary

8-1-2002
Date My Commission Expires

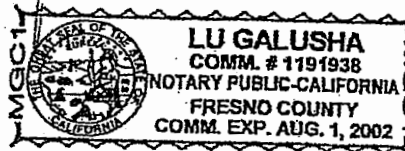
WATHEN-KESTERSON, a General Partnership

BY: SPALDING G. WATHEN, INC.,
a California corporation

By: *Spalding G. Wathen*
Spalding G. Wathen, President

BY: KESTERSON DEVELOPMENT CORP., INC.,
a California corporation

By: *John Kesterson*
John Kesterson, President



MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE:
IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE

FOR NOTARY SEAL OR STAMP

GD1 -11/10/98- lrc

Name

Street Address

City, State & Zip

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this deed to the County of Fresno, a Governmental Agency, is hereby accepted by action of the Board of Supervisors of said County of Fresno on January 9, 2001 and the Grantee consents to the recordation thereof.

SHARI GREENWOOD

Clerk to the Board of Supervisors

By Patty Schack
Deputy Clerk

Outlots A, C, Y and Z.

THESE 4 PARCELS ARE EITHER OWNED OR USED BY THE COUNTY OF FRESNO.

THEY ARE NOT IDENTIFIED IN THE ENGINEER'S REPORT

IF THESE 4 OUTLOTS WERE INCLUDED, THEY COULD BE SUBJECT TO THE ASSESSMENT.

General Benefit vs. Special Benefit:

Page D-5:

D.5.2.3.1

“As stated in the preceding subsection D.2.1, “it is the finding of the Assessment Engineering Consultant that no General Benefits will be provided by the Project and, accordingly, there is no General Benefit cost for the Project.”

The plant itself is a General Benefit and is not a Special Benefit.

Storage Or Lack Thereof:

These are all statistics provided by Fresno County Special Districts:

Plant produces 250 gallons of wastewater per day per lot:

Daily Production: 31,250 gallons per day

That equates to 11,406,250 gallons per year.

There is only one 40,000 gallon storage tank.

County estimates only 10% of the total production would be used for irrigation: 1,140,625 gallons

The remaining 90 % or 10,265,625 gallons go down the drain.

There are at least 5 acres out front along Willow that are landscaped and watered with fresh water. This acreage is not connected to the reclaim system. Fresh water is used exclusively with County controlled pumps and well.