

**NOTICE IS HEREBY GIVEN THAT A REGULAR MEETING OF THE
MCKINLEYVILLE COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS
WILL BE HELD AT:**

**Azalea Hall
1620 Pickett Road
McKinleyville, California**

**Wednesday, April 21, 2010
7:00 P.M.**

AGENDA

A. CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

ADDITIONS TO AGENDA

Items may be added to the Agenda in accordance with Section 54954.2(b)(2) of the Government Code (Brown Act), upon a determination by two-thirds vote of the members of the legislative body present at the time of the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the McKinleyville Community Services District after the Agenda was posted.

B. APPROVAL OF THE AGENDA

C. PUBLIC HEARINGS

These are items of a Quasi-Judicial or Legislative nature. Public comments relevant to these proceedings are invited.

NO PUBLIC HEARING SCHEDULED

D. CONSENT CALENDAR

Consent Calendar items are expected to be routine and non-controversial, to be acted upon by the Board of Directors at one time without discussion. If any Board member, staff member, or interested person requests that an item be removed from the Consent Calendar, it shall be removed so that it may be acted upon separately.

D.1 Consider approval of minutes of the Board of Directors' Regular Meeting of March 17, 2010 **P. 6**

D.2 Consider approval of March 2010 Treasurer's Report **P. 12**

- D.3 Consider approval of service disconnections for Double Check Valve (DCV) Violations. **P. 26**

E. CONTINUED AND NEW BUSINESS

- E.1 Consider award of bid for construction of Ramey Pump Station Upgrade to low bidder Wahlund Construction Co. in the amount of \$864,468, and consider bid protest submitted by Northern California Electrical Construction Industry (NCECI) asserting that the bid should be rejected and Wahlund Construction Company and Colburn Electric, Inc. (the electrical subcontractor) should be deemed “non-responsible” bidders. Consider approving up to \$26,000 for construction inspection professional services. Approving a Digital Control and SCADA system up to \$20,000 and approving a 15 % project contingency amount up to \$136,570. For a total project cost of \$1,047,038. **P. 27**
- E.2 Consider approval of a water rate increase in the amount of 3% as a result of Humboldt Bay Municipal Water District (HBMWD) projected rate increase to MCSD. On April 15, 2009 the Board approved a previous rate increase that included a 3% reserve adjustment factor that could be accessed in the future if needed. Therefore a new Proposition 218 process is not required. **P. 87**
- E.3 Consider award of Measure B renewal proposal submitted by The Lew Edwards Group for assistance related to the Measure B renewal process in an amount not to exceed \$45,000 for the current FY 2010/11. **P. 109**
- E.4 Staff informational presentation and brief video, highlighting the 6th Annual Humboldt Hoops Youth 3 on 3 Basketball Tournament. **P. 129**
- E.5 Continued business item: Status report regarding negotiations for acquisition of Real Property Parcel located at 1414 Fischer Road, McKinleyville, California, and following related items: **P. 131**
- (a) Summary report on MCSD efforts to pursue purchase of subject real property parcel following Board action to seek purchase on February 17, 2010;
 - (b) Persons appointed to serve as the McKinleyville Community Services District’s negotiator(s) following Board action on February 17, 2010: Norman Shopay, General Manager; Steve Edmiston, Finance Director; Greg Orsini, Operations Director; Jason Sehon, Parks and Recreation Director, Russell Gans and/or Paul Brisso, District legal counsel;

- (c) Persons with whom MCSD's appointed negotiator(s) may negotiate pursuant to Board action on February 17, 2010: Fernando Lourenco and Jorge Lourenco; and
- (d) MCSD negotiators request for further instruction regarding price and payment terms in closed session pursuant to Agenda Item H.1., below.

E.6 Continued business item: Status report regarding negotiations for acquisition of Real Property Parcel located at/near Gwin Road, McKinleyville (APN 510-401-025), and following related issues: P. 132

- (a) Summary report on MCSD efforts to pursue purchase of subject real property parcel following Board action to seek purchase on February 17, 2010;
- (b) Persons appointed to serve as the McKinleyville Community Services District's negotiator(s) following Board action on February 17, 2010: Norman Shopay, General Manager; Steve Edmiston, Finance Director; Greg Orsini, Operations Director; Jason Sehon, Parks and Recreation Director, Russell Gans and/or Paul Brisso, District legal counsel;
- (c) Persons with whom MCSD's appointed negotiator(s) may negotiate pursuant to Board action on February 17, 2010: Jim Furtado, JL Furtado Inc. or his designated representative; and
- (d) MCSD negotiators request for further instruction regarding price and payment terms in closed session pursuant to Agenda Item H.2., below.

E.7 Consider participation in Humboldt Waste Management Authority household hazardous waste collection event to be held at Pierson Park scheduled for Saturday, July 17, 2010 by approving a 30% cost share not to exceed \$10,000. P. 133

F. REPORTS

No specific action is required on these items, but the Board may discuss any particular item as required.

F.1. ACTIVE COMMITTEE REPORTS

- a. Recreation Advisory Committee (Couch/Mayo (alternate))
- b. Area Fund (John Kulstad)
- c. Redwood Region Economic Development Commission ((Edwards, Wennerholm (alternate))
- d. McKinleyville Senior Center (Wennerholm)
- e. Audit (Corbett, Edwards)
- f. Negotiations (Wennerholm, Edwards)
- g. Water Task Force ((Mayo, Corbett (alternate))

- h. AdHoc No Drugs & Toxics Down the Drain (Mayo)

F.2. STAFF REPORTS

- a. Support Services Department (Steve Edmiston) P. 134
- b. Operations Department (Greg Orsini) P. 135
- c. Parks and Recreation Department (Jason Sehon) P. 138
- d. General Manager (Norman Shopay) P. 140

F.3. CHAIRMAN'S REPORT

F.4. BOARD MEMBERS' COMMENTS, ANNOUNCEMENTS, REPORTS

G. PUBLIC COMMENT AND WRITTEN COMMUNICATIONS

*Any person may address the Board at this time upon any subject not identified on this Agenda but within the jurisdiction of the McKinleyville Community Services District; however, any matter that requires action will be referred to staff for a report of action at a subsequent Committee or Board meeting. As to decision matters on the Agenda, an opportunity will be given to address the Board when the decision matter is considered. **Comments are limited to 3 minutes.** Letters should be used for complex issues.*

H. CLOSED SESSION DISCUSSION

At any time during the regular session, the Board may adjourn to closed session to consider existing or anticipated litigation, liability claims, real property negotiations, license and permit determinations, threats to security, public employee appointments, personnel matters, evaluations and discipline, labor negotiations, or to discuss with legal counsel matters within the attorney-client privilege.

H1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Property: Real property parcel located at 1414 Fischer Road McKinleyville, CA MCSD negotiators: Norman Shopay, General Manager; Steve Edmiston, Finance Director; Greg Orsini, Operations Director; Jason Sehon, Parks and Recreation Director, Russell Gans and/or Paul Brisso, District legal counsel. Parties with whom MCSD may negotiate: Fernando Lourenco, Jorge Lourenco. Under Negotiation: Instructions to MCSD negotiators to include both price and terms of payment. Pursuant to Government Code § 54954.5.

H2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Property: Real property parcel located at/near Gwin Road, APN 510-401-025. MCSD negotiators: Norman Shopay, General Manager; Steve Edmiston, Finance Director; Greg Orsini, Operations Director; Jason Sehon, Parks and Recreation Director, Russell Gans and/or Paul Brisso, District legal counsel. Parties with whom MCSD may negotiate: Jim Furtado, dba JL Furtado, Inc.. Under Negotiation: Instructions to MCSD negotiators to include both price and terms of payment. Pursuant to Government Code § 54954.5.

H3 CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Helen Edwards, Bill Wennerholm and Norman Shopay, Employee organization: MCSD Employees, Unrepresentative employee: General Manager. Pursuant to Government Code § 54954.5

I. ADJOURNMENT

Posted 5:00 pm on April 16, 2010

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **ACTION**

ITEM: D.1 Minutes of the March 17, 2010 Board Meeting

PRESENTED BY: Sharon Denison, Secretary

TYPE OF ACTION: Voice Vote

Recommendation:

Staff Requests the Board approve the attached draft minutes of the March 17, 2010 Board meeting.

Discussion:

None

Alternatives:

Staff's analysis includes the following potential alternative:

- Note any corrections and approved with noted corrections.

Fiscal Analysis:

Not applicable

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Exhibit D.1-Minutes of March 17, 2010 Board Meeting.

EXHIBIT D.1

**MINUTES OF THE REGULAR MEETING OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
HELD ON WEDNESDAY, MARCH 17, 2010 AT 7:00PM AT AZALEA HALL
1620 PICKETT ROAD, MCKINLEYVILLE**

The regular meeting of the Board of Directors of McKinleyville Community Services District convened at 7:00pm with the following Directors and staff in attendance:

Helen Edwards, Board President
Dennis Mayo, Vice President
John Corbett, Director
David Couch, Director
Bill Wennerholm, Director

Norman Shopay, General Manager
Gregory Orsini, Operations Director
Jason Sehon, Park & Recreation Director
Steve Edmiston, Finance Director
Sharon Denison, Board Secretary

AGENDA ITEM A-CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, ADDITIONS TO THE AGENDA:

At 7:00pm President Edwards called the meeting to order with all the Directors present and led the pledge of allegiance. There were no additions to the agenda. General Manager Shopay requested Agenda Item E-4 be pulled from the agenda as staff needed more time to evaluate tasks that could be done in-house resulting in additional cost savings and would bring this back to the Board next month.

AGENDA ITEM B-APPROVAL OF THE AGENDA:

MOTION: It was moved to approve the agenda. Motion by Corbett; second by Wennerholm.

MOTION VOTE: Ayes: Corbett, Couch, Dunk, Wennerholm, Edwards

MOTION SUMMARY: Motion passed-5 AYES; 0 NAYS

AGENDA ITEM C-PUBLIC HEARINGS: NONE

AGENDA ITEM D-CONSENT CALENDAR

1. **Approval of Minutes of the Regular Meeting of February 17, 2010**
2. **Approval of February 2010 Treasurer's Report**
3. **No DCV Violations this month**
4. **Approve Nomination of General Manager Shopay to the CSDA Board of Directors**
5. **Consider declaring the generator at Ramey Pump station surplus**

The Directors had no comments or requests to pull any consent items. David Elsebusch requested Agenda Items D1 & D4 be pulled for further discussion.

MOTION: It was moved to approve consent items 2, 3, & 5. Motion by Corbett; second by Wennerholm.

MOTION VOTE: AYES: Corbett, Couch, Dunk, Wennerholm, Edwards

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

(In accordance w/Robert's Rules of Order, 10th edition, pg. 451, Section 48: "Unless the minutes are to be published, they should contain mainly a record of what was done at the meeting, not what was said by the members".)

CONSENT CALENDAR ITEM D.1- As the Directors had no comments President Edwards opened public input and both David and Penny Elsebusch expressed concern with the minutes reflecting threat of a lawsuit and David asked for more consistency in reporting public comments. President Edwards closed public input and there was an informal discussion with consensus to approve the minutes as written.

CONSENT CALENDAR ITEM D.4-As the Directors had no comments President Edwards opened public input and David and Penny Elsebusch addressed the Board and were not in support of the nomination. Tera Prucha supported the nomination. President Edwards closed public comment. Director Mayo spoke in support of General Manager Shopay as he was an asset to the District both with his connections and his work ethics. Director Couch supported the nomination even if there were some costs involved.

MOTION: It was moved to approve item D.4 to nominate General Manager Shopay to the CSDA Board of Directors. Motion by Mayo; second by Wennerholm. Director Corbett offered a friendly amendment to the motion to also include formal approval of D.1-the Minutes from the February 17, 2010 Board Meeting. Both Director Mayo and Director Wennerholm agreed to the amendment. The motion was amended to approve both Consent Calendar Items D.1, the minutes of the February 17, 2009 Board meeting as written and D.4 in support of nomination of General Manager Shopay to the CSDA Board.

MOTION VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm, Edwards

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

AGENDA ITEM E.1-PRESENTATION BY PLANWEST PARTNERS INC. REGARDING THE HUMBOLDT COUNTY ASSOCIATION OF GOVERNMENT'S BLUEPRINT PLANNING PROJECT: Tiffany Wilson from Planwest Partners addressed the Board to give a brief presentation on the Humboldt County Association of Government's Blueprint Planning project as mandated by a State initiative. She briefly reviewed the process and asked the District to consider a future appointment of either a person from staff or a Director to be a member of their advisory committee. She reiterated that Community Services District's will be an essential component in the process. Director Corbett felt that this was the evolving future role of HCOAG and that key players such as MCSD needed to be included in the formal process. President Edwards thanked her for the information and presentation.

AGENDA ITEM E2-FISCAL YEAR 2010/2011 PRELIMINARY CAPITAL IMPROVEMENT PROJECT BUDGET DISCUSSION: Finance Director Edmiston briefly reviewed the preliminary capital improvement budget and promised to bring a line item budget and analysis of projected reserves to the Board next month. There was a brief discussion by the Directors, with staff answering questions and concerns. Director Corbett complimented both Finance Director Edmiston for projecting out ten years and staff for their ongoing preventative maintenance policy.

AGENDA ITEM E3-CALL FOR NOMINATIONS TO SERVE AS A SPECIAL DISTRICT REPRESENTATIVE/AND OR ALTERNATE ON HUMBOLDT LOCAL AGENCY FORMATION COMMISSION: General Manager Shopay briefly reviewed the request from LAFCo asking our Board to consider nominating a Director to serve as a voting representative and/or alternate on LAFCo. After a brief discussion President Edwards opened public input and David Elsebusch and Ron Coffman expressed concern with Dennis Mayo being

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nominated due to potential conflict of interest. Tera Prucha clarified the process for selection. President Edwards closed public input.

1st MOTION: It was moved to nominate Dennis Mayo as the Special District Representative. Motion by Corbett; second by Wennerholm.

MOTION VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm, Edwards

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

2nd MOTION: It was moved to nominate David Couch as the alternate Special District Representative. Motion by Mayo; second by Corbett.

MOTION VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm, Edwards

MOTION SUMMARY: Motion passed-5 AYES; 0 NAYS

AGENDA ITEM E4-CONSIDER AWARD OF MEASURE B RENEWAL PROPOSAL SUBMITTED BY THE LEW EDWARDS GROUP: This item was pulled from the agenda per request from the General Manager.

AGENDA ITEM E5-CONSIDER REQUEST BY THE COMMUNITY GARDEN COMMITTEE: Park and Recreation Director Sehon reviewed the request and staff recommendations to designate a site for the community garden at Pierson Park. He then reviewed the seven provisions staff was asking the Board to approve along with the use of the site. Following an extensive Board discussion President Edwards opened public input and seven people addressed the Board: six in support and one against the concept.

MOTION: It was moved to approve the request by the Community Garden Committee to designate 3,000 square feet southwest of the bocce ball courts at Pierson Park and the provisions suggested by staff with the following changes:

1. Addition to #4-The CGC will not construct a fence around the perimeter of the garden *except with permission of staff.*
2. Addition to #6-The term of use expires Dec. 31, 2010, with the option to bring back to the MCSD Board for renewal *and/or revisions.*
3. *Addition of #7-MCSD will have the ability to cancel the contract, if in the opinion of staff a nuisance occurs.*
4. *Addition to the contract of language that would prohibit growing any unauthorized substances.*
5. Clarification in the contract that the District will charge \$20.00 per plot/*per year.*

Motion by Corbett; Second by Mayo.

MOTION VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm, Edwards

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

AGENDA ITEM E6-APPROVAL OF RESOLUTION 2010-05 DESIGNATING THE GENERAL MANAGER OR FINANCE DIRECTOR AS AGENTS FOR THE DISTRICT FOR THE PURPOSE OF OBTAINING DISASTER AID:

MOTION: It was moved to approve Resolution 2010-05 designating the General Manager or Finance Director as agents for the District for the purpose of obtaining Disaster Aid. Motion by Mayo; second by Couch.

MOTION VOTE: ROLL CALL VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm, Edwards

MOTION SUMMARY: Motion passed-5 AYES; 0 NAYS

(In accordance w/Robert's Rules of Order, 10th edition, pg. 451, Section 48: "Unless the minutes are to be published, they should contain mainly a record of what was done at the meeting, not what was said by the members".)

AGENDA ITEM F-REPORTS

F1a-RAC: Director Couch had nothing to report.

F1b-McK Area Fund: President Edwards reported for the Area Fund to say that they would be presenting several awards next month and she would report back to the Board on that.

F1c-RREDC: Director Wennerholm promised to include a report in next month's packet and agreed to attend the next meeting in President Edward's absence.

F1d-McK Senior Center: Director Wennerholm had nothing to report.

F1e-Audit Committee: Director Corbett reported that the audit committee planned to meet in May for a mid course review and to begin preparation for the next audit.

F1f-Negotiations: There was nothing to report.

F1g-Water Task Force: There was nothing to report.

F1h-AdHoc No Drugs & Toxics down the Drain: Director Mayo had nothing to report at this time.

F2a-Support Services: Finance Director Edmiston had nothing to add to his written report.

F2b-Operations Department: Operations Director Orsini had nothing to add.

F2c-Parks & Recreation Department: Park Director Sehon had nothing to add.

F2d-General Manager Report: General Manager Shopay reported that staff had renewed the ad for No Drugs down the Drain through Lima Pharmacy, that there was an example of the ad in the packet and that the program had been very successful.

AGENDA ITEM F.3-CHAIRMAN'S REPORT: President Edwards reported that she and Manager Shopay had met with Supervisor Geist to discuss concerns brought to the MCSD Board in regards to an interface with the planning department. She added that they both had also met with the local Sheriff and Fire Department to interface and keep up with what is going on in the County.

AGENDA ITEM F.4-BOARD MEMBERS' COMMENTS, ANNOUNCEMENTS, REPORTS: Director Corbett gave encouragement to Chairman and General Manager on the County interface as he felt this was the direction of the future. He also complimented Manager for the report showing water quality compliance.

AGENDA ITEM G-PUBLIC COMMENT AND WRITTEN COMMUNICATIONS: President Edwards opened public comments and the following people addressed the Board:

1. David Elsebusch expressed concern with the park budget, computer and software budget, public information tracking costs, HCOAG and MCSD involvement in land planning.
2. Jeff Dunk spoke in support of Manager Shopay, expressed concern with the MAC approval process timeline and the proposed water bond issue.
3. Ron Coffman expressed concern with adequate public comment time and encouraged the Board to proceed with Planwest.
4. Jeff Dunk supported the Blueprint process, a seat on HCOAG, commented on the CIP funding of Murray Road Tank and asked the Board to allow public comments on info items.
5. Penny Elsebusch did not support HCOAG involvement.
6. Tera Prucha felt Board should accept public comment at every opportunity.

President Edwards closed public comment.

ADJOURNMENT OF REGULAR MEETING: The Regular Meeting adjourned at 8:45pm.

(In accordance w/Robert's Rules of Order, 10th edition, pg. 451, Section 48: "Unless the minutes are to be published, they should contain mainly a record of what was done at the meeting, not what was said by the members".)

AGENDA ITEM H-CLOSED SESSION ITEMS: At 8:45pm President Edwards announced that the Board would go into closed session after public comments were received.

PUBLIC INPUT ON CLOSED SESSION: President Edwards opened public input and David Elsebusch spoke against pursuit of the purchase of each of the properties under consideration. President Edwards closed public input and announced that after a short break the Board would adjourn into closed session.

TIME ADJOURNED TO CLOSED SESSION: The Board went into closed session at 9:00pm for a conference with real property negotiators as per Government Code 54956.8 for the following items:

H1-CONFERENCE WITH REAL PROPERTY NEGOTIATORS: Real property parcel located at 1414 Fischer Road, McKinleyville, CA.

H2-CONFERENCE WITH REAL PROPERTY NEGOTIATORS: Real property parcel at/near intersection of School Road and Washington Avenue, AP#508-242-008, McKinleyville, CA.

H3-CONFERENCE WITH REAL PROPERTY NEGOTIATORS: Real property located at/near Gwin Road, AP#510-401-25, McKinleyville, CA.

TIME OUT OF CLOSED SESSION: The Board came out of closed session at 9:06pm.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION: President Edwards reported that no action was taken in closed session.

AGENDA ITEM I-ADJOURNMENT:

MOTION: It was moved to adjourn the meeting at 9:07pm. Motion by Couch; second by Corbett

MOTION VOTE: Ayes: Corbett, Couch, Mayo, Wennerholm

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

Respectfully Submitted;

Sharon L. Denison, Secretary

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McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **ACTION**

ITEM: D.2. Consider Approval of March, 2010 Treasurer's Report

PRESENTED BY: Steven Edmiston, Finance Director

TYPE OF ACTION: Voice Vote – Consent Calendar

Recommendation:

Staff Requests the Board approve the March 2010 Treasurer's Report.

Discussion:

The March, 2010 Treasurer's Report is attached.

Alternatives:

Take no action.

Fiscal Analysis:

See attached March, 2010 Treasurer's Report.

Environmental Requirements:

Not applicable

Exhibits/Attachments

March, 2010 Treasurer's Report.

**McKinleyville Community Services District
Treasurer's Report
March 2010**

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McKinleyville Community Services District
Investments and Cash Flow Report
March 2010

General Disbursement and Money Market Account:

Beginning Balance		197,181.09	
Utility Billing (inc. \$29,906.59 in CC, EFT, web pay)	234,784.44		
New Services & Capacity Fees: Water	4,237.27		
New Services & Capacity Fees: Sewer	23,307.00		
Money Market Account Interest	87.20		
Other Cash Receipts	81,218.92		
Transfer from Humboldt Co. #2560	<u>0.00</u>		
Total Cash Receipts		343,634.83	
Cash Expenditures:			
Payroll, Taxes, etc.	(121,251.53)		
Capital Expenditures	(15,704.28)		
Debt Service	(4,644.48)		
Other Expenditures	<u>(190,814.36)</u>		
Total Cash Expenditures		<u>(332,414.65)</u>	Estimated Annual Interest Rate
Total Cash in Umpqua Bank		208,401.27	0.76%
Investment Funds:			
LAIF	126,076.71		
Interest Income	<u>0.00</u>		
Balance in LAIF		126,076.71	0.75%
Humboldt Co. #2560 - Beginning Balance	1,275,289.60		
Interest Income	2,121.95		
Secured Property Tax & Measure B Assessment	0.00		
Transfer to Operating Account	<u>0.00</u>		
Balance in Humboldt Co. #2560		1,277,411.55	2.00%
Humboldt Co. #4240 - Beginning Balance	5,129,514.08		
Interest Income	8,549.19		
Transfer from Fund #2560	<u>0.00</u>		
Balance in Humboldt Co. #4240		5,138,063.27	2.00%
Balance in Humboldt Co. #9390		110,584.48	
USDA Bond Reserve Fund	127,923.59		
Bond Reserve Payment	7,800.00		
Interest Income	0.00		
Debt Service Payment	<u>0.00</u>		
Balance in USDA Reserve Funds		<u>135,723.59</u>	0.61%
Total Investments		6,787,859.60	
Total Cash and Investments		6,996,260.87	
Total Cash and Investments Last Month		<u>7,056,757.20</u>	
Net Change to Cash and Investments This Month		<u>(60,496.33)</u>	

McKinleyville Community Services District
Capital Expenditure Report
March 2010

	March	YTD Total	FY 10 Budget	Remaining Budget	Budget %
Water Department					
Pump Upgrades	7,416	143,069	1,000,000	856,931	86%
Radio Telemetry Upgrades	-	-	20,000	20,000	100%
Fire Hydrant Commercial Retrofit	-	1,473	8,000	6,527	82%
Meter Replacements	-	5,375	7,000	1,625	23%
Misc. Replacements	-	927	-	(927)	
Subtotal	7,416	150,844	1,035,000	884,156	
Sewer Department					
WWMF Upgrade Design	2,710	5,740	400,000	394,260	99%
Collection System Upgrades	-	-	200,000	200,000	100%
Radio Telemetry Upgrades	-	-	20,000	20,000	100%
Meter Replacement: WWMF, FIS, Perc Ponds, etc.	-	-	7,000	7,000	100%
WWMF SO2 and CL2 Emergency Tank Shut-off	-	-	15,000	15,000	100%
Studies for Treatment Plant - current fiscal year only	-	62,907	80,000	17,093	21%
Meter Replacements	-	-	2,000	2,000	100%
Grinder Repair	-	794	-	(794)	
Subtotal	2,710	68,647	724,000	655,353	
Water and Sewer Operations					
3/4 or 1 Ton Pickup	-	-	26,000	26,000	100%
Air Compressor	-	-	10,000	10,000	100%
Sutter Addition	720	123,269	250,000	126,731	51%
Digital Network Office Copier	-	-	18,000	18,000	100%
Emergency/Misc. Equipment	-	-	14,000	14,000	100%
Computer Replacement and Upgrades	-	3,409	8,000	4,591	57%
Subtotal	720	126,678	326,000	199,322	
Enterprise Fund Total	10,846	346,169	2,085,000	1,738,831	
Parks and Recreation Department					
Hewett Ranch Improvements	-	-	25,000	25,000	100%
Hiller Park Signage and Equipment	-	240	3,000	2,760	92%
Play Structure for Hiller Park	-	22,650	-	(22,650)	#DIV/0!
Aerator	-	4,605	5,000	395	8%
Pierson Park Landscaping and Signage	-	-	2,000	2,000	100%
AH Equipment	2,489	2,489	2,000	(489)	-24%
MAC Equipment	-	1,780	2,000	220	11%
Computers, Software & Copiers	-	3,738	2,000	(1,738)	-87%
Emergency/Miscellaneous Equipment Replacement	-	-	6,000	6,000	100%
Skate Park	-	-	25,000	25,000	100%
Library	2,369	7,678	10,000	2,322	23%
Bocce Ball Courts	-	6,395	5,000	(1,395)	-28%
Law Enforcement Facility Paving	-	-	3,500	3,500	100%
General Fund Total	4,858	49,575	90,500	40,925	
MCSD Total	15,704	395,744	2,175,500	1,779,756	

McKinleyville Community Services District
Activity Summary by Fund
March 2010

Department Summaries

Water:

Water Sales	101,656	1,212,016	1,275,000	(62,984)	-4.94%	1,700,000	(487,984)	-28.70%	Water usage trend to continue through seasonal low usage.
Other Water Revenues	11,468	84,773	92,852	(8,079)	-8.70%	123,802	(39,029)	-31.53%	
Total Operating Revenue	113,124	1,296,789	1,367,852	(71,063)	-5.20%	1,823,802	(527,013)	-28.90%	
Salaries & Benefits	54,243	512,993	490,211	(22,782)	-4.65%	653,614	140,621	21.51%	Water & Sewer wages variance is due to manpower allocation between departments.
Water Cost	42,926	398,783	450,000	51,217	11.38%	600,000	201,217	33.54%	
Other Expenses	15,094	181,725	233,605	51,880	22.21%	311,473	129,748	41.66%	
Depreciation	18,750	168,750	168,750	-	0.00%	225,000	56,250	25.00%	
Total Operating Expenses	131,013	1,262,251	1,342,566	80,315	5.98%	1,790,087	527,836	29.49%	
Net Operating Income	(17,889)	34,538	25,286	9,252		33,715	823		Interest earnings are less than initial budget estimates.
Interest Income	4,042	38,374	73,500	35,126	47.79%	98,000	59,626	60.84%	
Interest Expense	(4,693)	(42,238)	(42,151)	(87)	0.21%	(56,201)	(13,963)	24.84%	
Net Income	(18,540)	30,674	56,635			75,514			
Sewer:									
Sewer Service Charges	110,051	1,019,576	1,050,000	(30,424)	-2.90%	1,400,000	(380,424)	-27.17%	Water & Sewer wages variance is due to manpower allocation between departments.
Other Sewer Revenues	28,699	143,805	164,697	(20,892)	-12.69%	219,596	(75,791)	-34.51%	
Total Operating Revenue	138,750	1,163,381	1,214,697	(51,316)	-4.22%	1,619,596	(456,215)	-28.17%	
Salaries & Benefits	60,127	520,509	571,253	50,744	8.88%	761,671	241,162	31.66%	Sewer testing expenses are greater during the winter months when discharging treated effluent in the Mad River.
Other Expenses	26,414	259,713	325,308	65,595	20.16%	433,744	174,031	40.12%	
Depreciation	35,500	319,500	318,750	(750)	-0.24%	425,000	105,500	24.82%	
Total Operating Expenses	122,041	1,099,722	1,215,311	115,589	9.51%	1,620,415	520,693	32.13%	
Net Operating Income	16,709	63,659	(614)	64,273		(819)	64,478		Interest earnings are less than initial budget estimates.
Interest Income	4,639	44,163	93,000	48,837	52.51%	124,000	79,837	64.38%	
Interest Expense	(6,023)	(102,048)	(86,852)	(15,196)	17.50%	(115,803)	(13,755)	11.88%	
Net Income	15,325	5,774	5,534			7,378			
Enterprise Funds Net Income	(3,215)	36,448	62,169			82,892			

Enterprise Funds Net Income

McKinleyville Community Services District
Activity Summary by Fund
March 2010

Department Summaries

Parks & Recreation:

Programs
Rentals
Property Tax Assessments
Measure B Assessment
State Bonds & Grants
Other Revenue
Interest Revenue

Total Revenue

Salaries & Benefits
Other Expenditures
Debt Service
Capital Expenditures

Total Expenditures

Excess (Deficit)

Street Lights:

Total Revenue

Salaries & Benefits
Other Expenditures
Debt Service

Total Expenditures

Excess (Deficit)

Governmental Funds Excess (Deficit)

March	FY10 YTD	YTD Budget	YTD Variance	YTD Budget	YTD Variance	%	% Year Remaining:	
							FY10 Budget	Remaining Budget
31,792	197,847	217,500	(19,653)	(19,653)	-9.04%		290,000	(92,153)
4,709	39,980	46,350	(6,370)	(6,370)	-13.74%		61,800	(21,820)
-	254,558	322,500	(67,942)	(67,942)	-21.07%		430,000	(175,442)
-	115,428	146,250	(30,822)	(30,822)	-21.07%		195,000	(79,572)
-	-	72,375	(72,375)	(72,375)	-100.00%		96,500	(96,500)
5,549	81,380	48,518	32,862	32,862	67.73%		64,691	16,689
2,072	17,783	15,000	2,783	2,783	18.55%		20,000	(2,217)
44,122	706,976	868,493	(161,517)	(161,517)	-18.60%		1,157,991	(451,015)
50,207	448,555	480,026	31,471	31,471	6.56%		640,035	191,480
12,513	112,075	132,390	20,315	20,315	15.34%		176,520	64,445
-	191,609	139,068	(52,541)	(52,541)	-37.78%		185,424	(6,185)
2,489	33,946	67,875	33,929	33,929	49.99%		90,500	56,554
65,209	786,185	819,359	33,174	33,174	4.05%		1,092,479	306,294
(21,087)	(79,209)	49,134					65,512	
6,786	60,668	59,405	1,263	1,263	2.13%		79,207	(18,539)
2,402	21,887	21,045	(842)	(842)	-4.00%		28,060	6,173
2,803	28,147	27,164	(983)	(983)	-3.62%		36,219	8,072
-	17,304	12,560	(4,744)	(4,744)	-37.77%		16,746	(558)
5,205	67,338	60,769	(6,569)	(6,569)	-10.81%		81,025	13,687
1,581	(6,670)	(1,364)					(1,818)	
(19,506)	(85,879)	47,770					63,694	

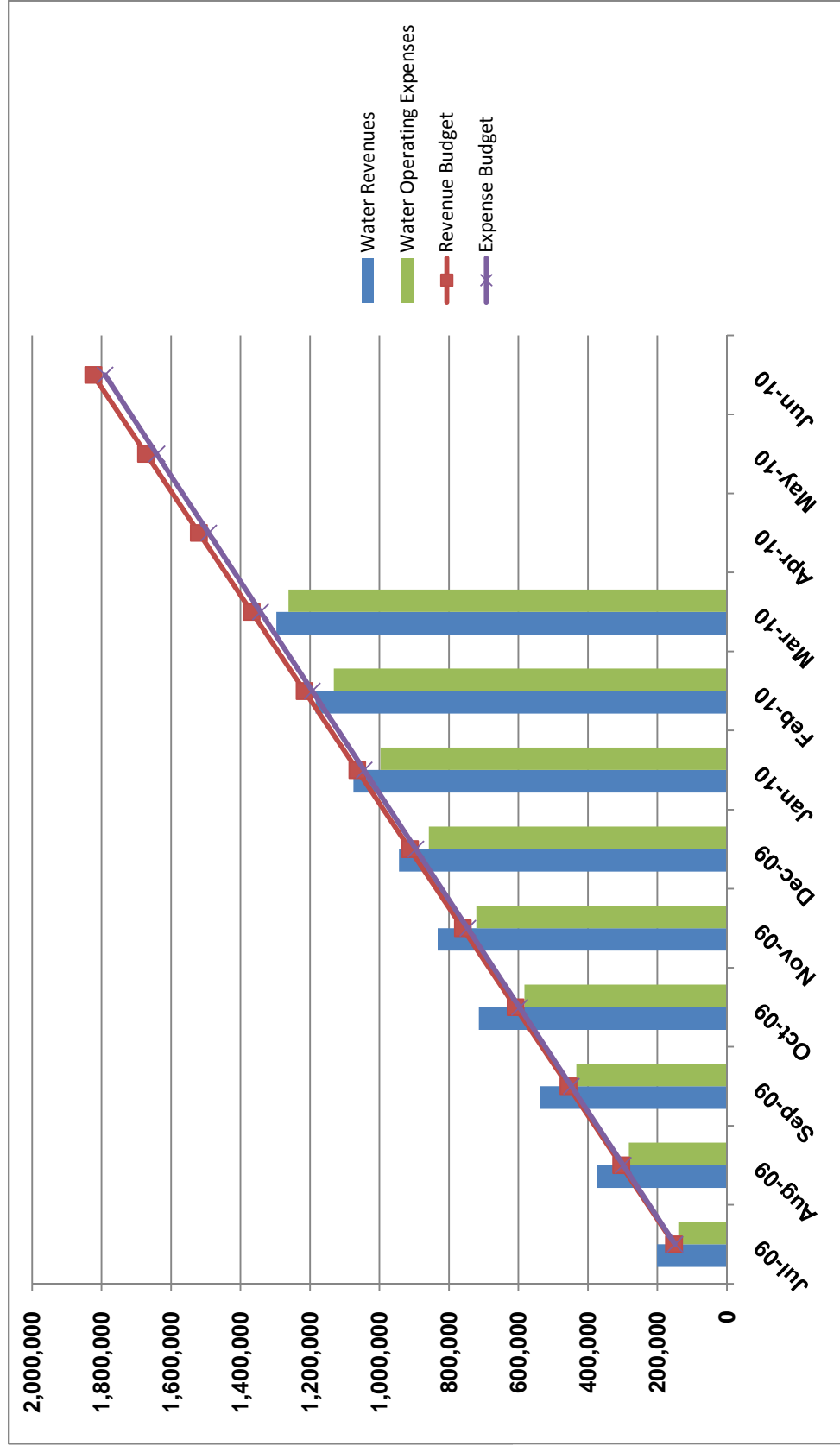
Collection of property tax and
measure B assessments occur in
December and April.

Principal and interest payment on
outstanding debt is made in August.

Principal and interest payment on
outstanding debt is made in August.

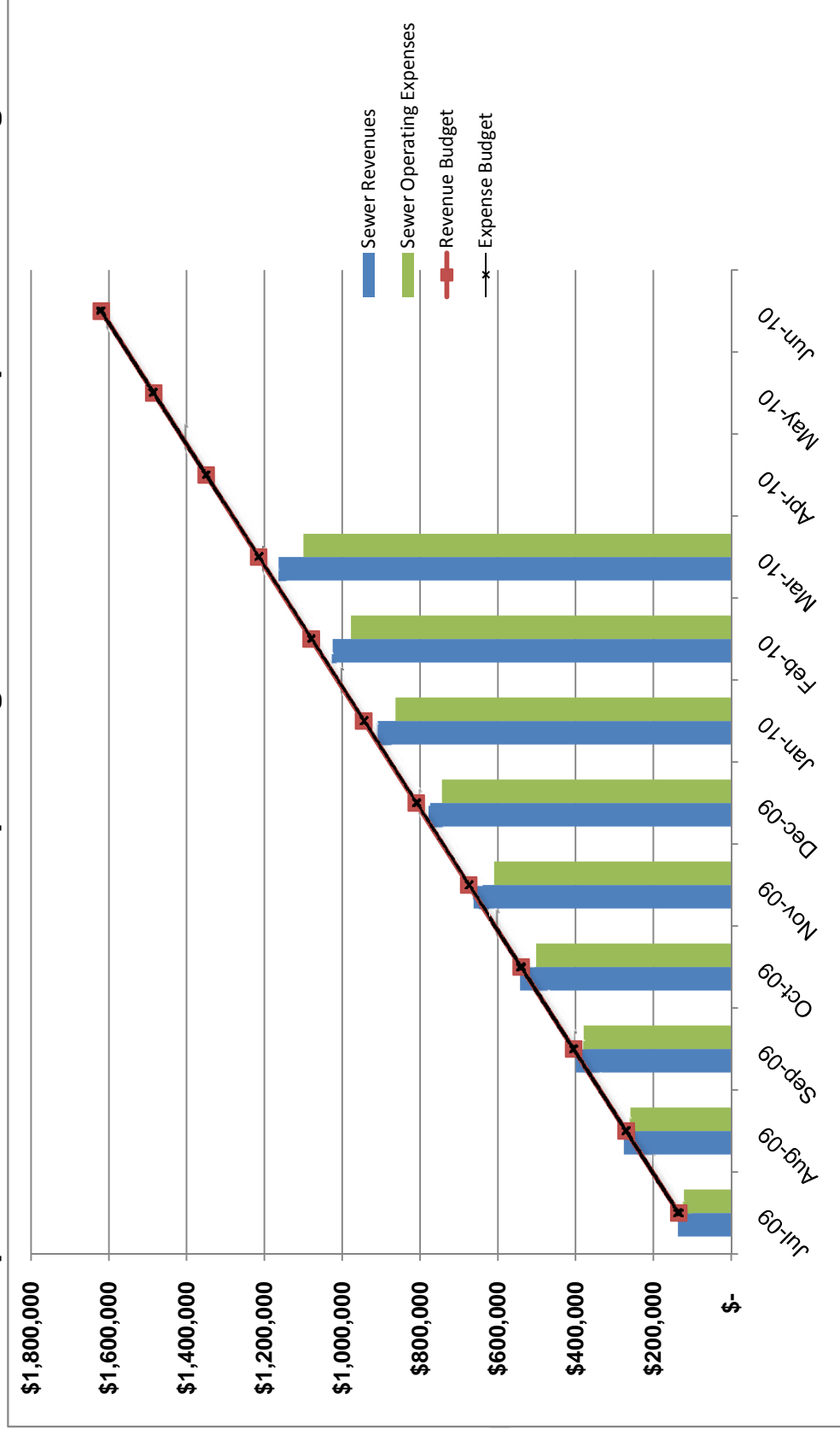
McKinleyville Community Services District March 2010

Comparison of Water Fund Operating Revenues and Expenses to Budget



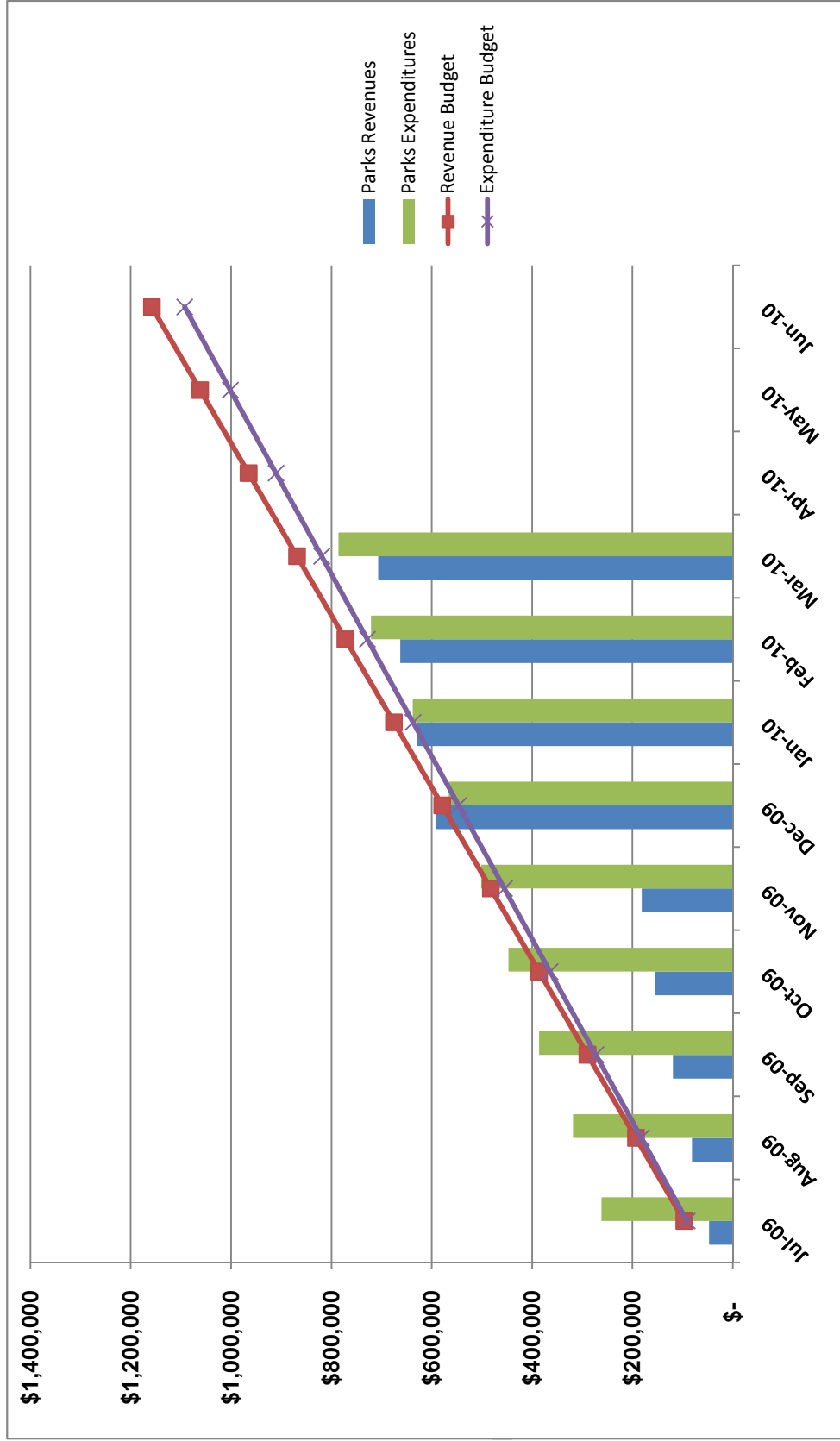
McKinleyville Community Services District March 2010

Comparison of Sewer Fund Operating Revenues and Expenses to Budget



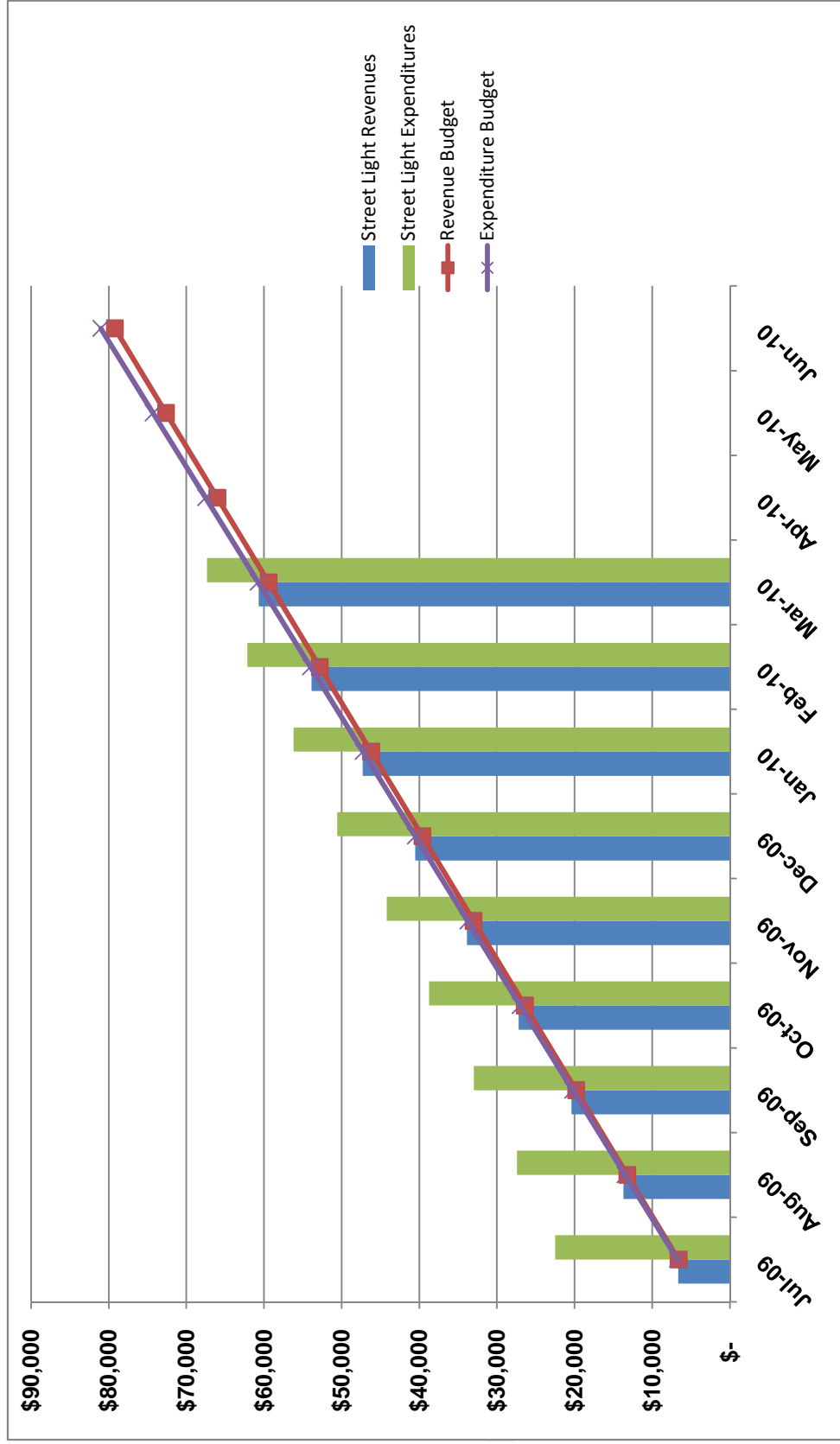
McKinleyville Community Services District March 2010

Comparison of Parks Operating Revenues and Expenditures to Budget

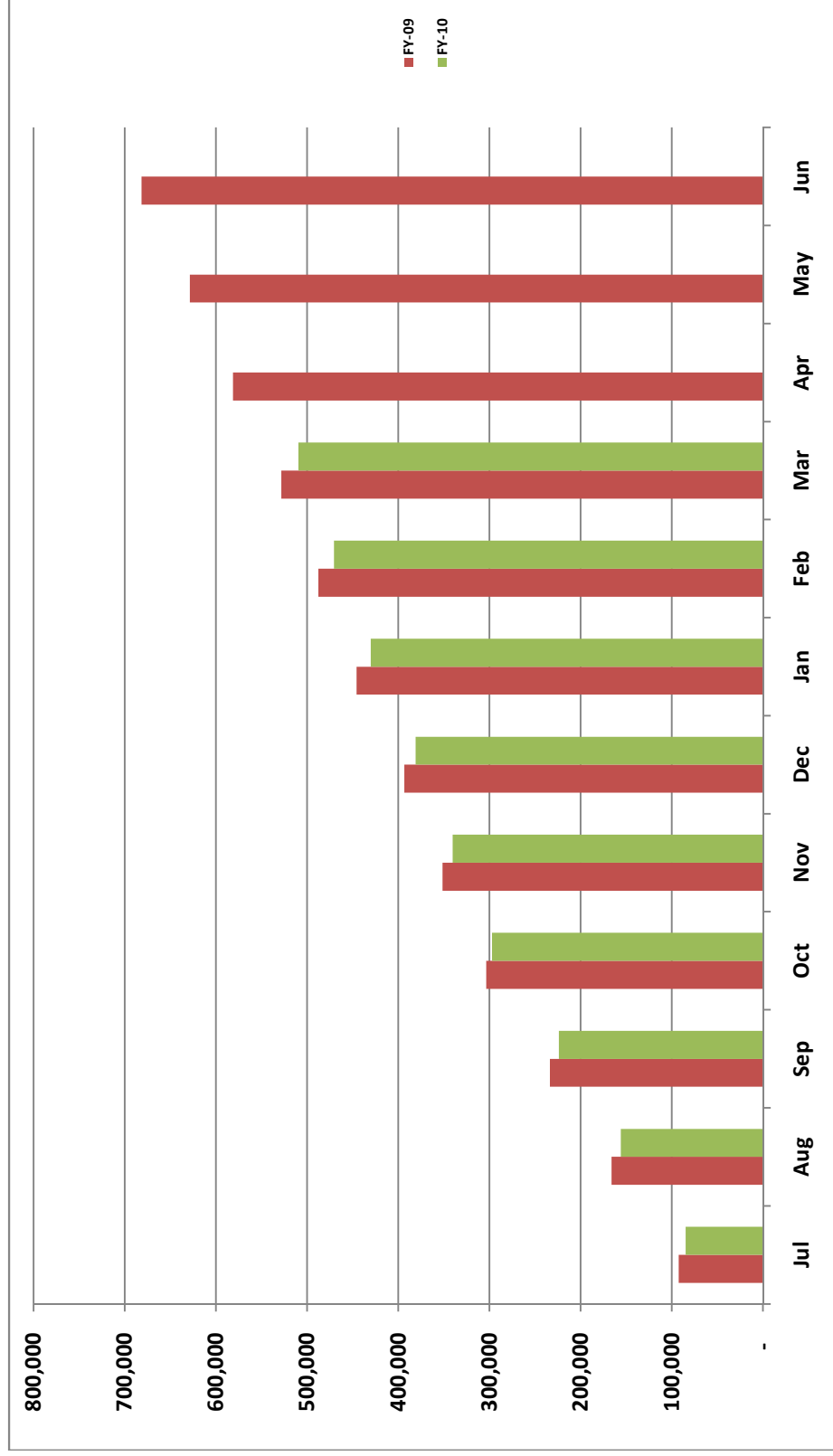


McKinleyville Community Services District March 2010

Comparison of Street Light Fund Revenues to Budget



McKinleyville Community Services District Analysis of Water Volume Usage by Fiscal Year



REPORT.: Apr 09 10 Friday
 RUN....: Apr 09 10 Time: 12:03
 Run By.: STEVEN EDMISTON

McKinleyville C.S.D.
 Cash Disbursement Detail Report
 Check Listing for 03-10 Bank Account.: 10011

PAGE: 001
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 CTL.: MCK

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information----- Invoice # Description
021447	03/05/10	*0021	LAUREN POLLOCK	37.50	.00	37.50	B00304 REFUND KIDERSPORT FEE PD
021448	03/05/10	*0022	LAURA BRIDGEMAN	20.00	.00	20.00	B00304 FINGERPRINTING
021449	03/05/10	ALM02	ALMQUIST LUMBER CO	65.60	.00	65.60	492945 REPAIR FOR FRONT SIGN
021450	03/05/10	BOR01	BORGES & MAHONEY CO.	160.76	.00	160.76	129091 HYPALON & HALAR DIAPHRAGM
021451	03/05/10	CAM01	CAMPTON ELECTRIC SUPPLY	414.72	.00	414.72	B00304 BATTERY REPLACED-WALL PAC
021452	03/05/10	COS03	COSTCO WHOLESALE	186.85	.00	186.85	B00304 D.O. COFFEE AND PLAYGROUP
021453	03/05/10	CSK01	CSK AUTO, INC. (KRAGEN)	31.02	.00	31.02	B00304 FUSES, SWITCH, SEAL MISC
021454	03/05/10	EDM01	STEVEN EDMISTON	41.07	.00	41.07	B00304 REIMBURSE FEB MILEAGE EXP
021455	03/05/10	EUR01	EUREKA BOILER WORKS	257.50	.00	257.50	29816 GATE STOP AND STAINLESS S
021456	03/05/10	EVA01	EVANS MECHANICAL, INC.	377.50	.00	377.50	47982 FURNACE CLEANING @ AH
021457	03/05/10	FNW01	FERGUSON ENTERPRISES, INC.	97.10	.00	97.10	0976229 HYDRANT BOLTS
021458	03/05/10	FRI05	LESLEY FRISBEE	13.05	.00	13.05	B00304 REIMBURSE MILEAGE EXP
021459	03/05/10	GAY01	GAYNOR TELESYSTEMS, INC	152.00	.00	152.00	13901 MAC PHONE REPAIRS
021460	03/05/10	HAR03	HARVEY M. HARPER CO.	107.23	.00	107.23	206304 SERV FLEET TRUCKS
021461	03/05/10	HUB02	HUB INTERNATIONAL INSURAN	293.28	.00	293.28	B00301 SPEC EVENT INS
021462	03/05/10	HUM01	HUMBOLDT BAY MUNICIPAL WA	42922.42	.00	42922.42	B00304 WTR PURCHASED FOR FEB
021463	03/05/10	HUM08	HUMBOLDT SANITATION	832.50	.00	832.50	B00304 TRASH SERVICE FOR FEB
021464	03/05/10	IND02	Industrial Electric Serv	12.51	.00	12.51	1055 MINI LAMPS
021465	03/05/10	LES01	LES SCHWAB TIRE CENTER	366.71	.00	366.71	61600109 BATTERY FOR RODDER, TRAIL
021466	03/05/10	MCK02	MCKINLEYVILLE GLASS CO.	20.00	.00	20.00	38335 ROCK CHIP REPAIR
021467	03/05/10	MCK04	MCK ACE HARDWARE	988.08	.00	988.08	100183 REPAIRS/SUPPLY
021468	03/05/10	MED01	MEDIBAG CO.	785.00	.00	785.00	9502 ADVERTISING BAGS FOR LIMA
021469	03/05/10	MEN01	MENDES SUPPLY CO.	167.08	.00	167.08	M002292 NITRILE GLOVES
021470	03/05/10	MIL01	Miller Farms Nursery	369.51	.00	369.51	B00304 2 PRONGED HOE, CHAINSAW S
021471	03/05/10	MIT01	Mitchell, Brisso, Delaney	2528.00	.00	2528.00	26489 LEGAL
021472	03/05/10	MOR07	DAN MORGAN	146.46	.00	146.46	B00304 REFUND BAL OF PAVING DEPO
021473	03/05/10	NEC01	NEC FINANCIAL SERVICES,LL	376.53	.00	376.53	1336968 PHONE EQUIPMENT
021474	03/05/10	NOC01	NORTH COAST LABS	2621.00	.00	2621.00	B00304 LAB TESTS
021475	03/05/10	NOR03	NO. COAST VETERINARY HOSP	100.00	.00	100.00	12238 FIELD CALL FOR GOATS
021476	03/05/10	NOR20	NORTH COAST JOURNAL	195.00	.00	195.00	WG-201014 AD DISPLAY WEDDING GUIDE
021477	03/05/10	REN01	RENNER PETROLEUM	2950.83	.00	2950.83	B00304 FLEET FUEL & DIESEL
021478	03/05/10	SHN01	SHN ENGINEERING	6972.75	.00	6972.75	71045 NPDES WORK
021479	03/05/10	SIE01	SIERRA FOOTHILL LAB, INC.	2425.00	.00	2425.00	B00304 LAB TESTS WWMF/RAMEY
021480	03/05/10	SIE02	SIERRA CHEMICAL CO.	2038.70	.00	2038.70	96267 CHLORINE
021481	03/05/10	SPE02	SPENCER ENGINEERING	5600.00	.00	5600.00	106 ENG SERV FOR BID DOCS-MAD
021482	03/05/10	THO02	Thomas Home Center	162.86	.00	162.86	B00304 PORTABLE SURGE/HYDRANT RE
021483	03/05/10	UMP03	UMPQUA BANK--VISA	281.01	.00	281.01	B00305 VISA CREDIT CARDS
021484	03/05/10	UPS01	UPS	25.23	.00	25.23	Y6R493070 SHIP LAB SAMPLE
021485	03/05/10	VER01	VERISON WIRELESS	431.06 -431.06	.00 .00	431.06 -431.06	B00304 FEB CELL PHONES B00304u Ck# 021485 Reversed
Check Total.....:				.00	.00	.00	
021486	03/05/10	WIN02	Winzler & Kelly	11886.00	.00	11886.00	50513 RAMEY PUMP STATION IMP PR
021487	03/05/10	ACW01	ACWA HEALTH BENEFITS AUTH	28213.02	.00	28213.02	B00305 HEALTH INSURANCE FOR MARC
021488	03/05/10	COR01	CORBIN WILLITS SYSTEMS	833.42	.00	833.42	B000151 EQUIP. MAINT.
021489	03/05/10	COU09	DAVID R. COUCH	362.24	.00	362.24	B00305 REIMBURSE TRAVEL EXP-SAC
021490	03/05/10	GUA01	THE GUARDIAN	3434.35	.00	3434.35	B00305 MARCH DENTAL INSURANCE

REPORT.: Apr 09 10 Friday
 RUN....: Apr 09 10 Time: 12:03
 Run By.: STEVEN EDMISTON

McKinleyville C.S.D.
 Cash Disbursement Detail Report
 Check Listing for 03-10 Bank Account.: 10011

PAGE: 002
 ID #: PY-DP
 CTL.: MCK

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information----- Invoice # Description
021491	03/05/10	HAR13	The Hartford - Priority A	599.01	.00	599.01	4755229-4 GROUP LIFE INSURANCE
021492	03/05/10	NOR13	NORTHERN CALIFORNIA SAFET	516.00	.00	516.00	16814 SAFETY TRAINING AND MONTH
021493	03/05/10	RES05	RESERVE ACCOUNT	1500.00	.00	1500.00	B00305 POSTAGE
021494	03/05/10	SUD01	SUDDENLINK	173.95	.00	173.95	B00305 HIGH SPEED INTERNET
021495	03/05/10	USB01	U.S. BANK TRUST N.A.	7800.00	.00	7800.00	000B003011 SEWER BOND PAYMENT
021496	03/05/10	\D006	DALIANES TRAVEL SERVICE,	45.00	.00	45.00	000B00301 MQ CUSTOMER REFUND FOR DA
021497	03/05/10	\G006	GREENMAN, LIA	43.31	.00	43.31	000B00301 MQ CUSTOMER REFUND FOR GR
021498	03/05/10	\H001	HOOVEN & COMPANY,	469.05	.00	469.05	000B00301 MQ CUSTOMER REFUND FOR HO
021499	03/05/10	\J002	JACKSON, MARYELLEN	69.93	.00	69.93	000B00301 MQ CUSTOMER REFUND FOR JA
021500	03/05/10	\J003	JOHNSON, JENNIFER	46.96	.00	46.96	000B00301 MQ CUSTOMER REFUND FOR JO
021501	03/05/10	\L003	LOVELACE, C. JAMES	12.68	.00	12.68	000B00301 MQ CUSTOMER REFUND FOR LO
021502	03/05/10	\L004	LOWERY, BETTE A.	6.28	.00	6.28	000B00301 MQ CUSTOMER REFUND FOR LO
021503	03/05/10	\V001	VOLAS, CHRISTOPHER	36.67	.00	36.67	000B00301 MQ CUSTOMER REFUND FOR VO
021504	03/05/10	\W005	WERNTZ, MIKE	60.50	.00	60.50	000B00301 MQ CUSTOMER REFUND FOR WE
021505	03/05/10	\W006	WHEELER, JOE	409.09	.00	409.09	000B00301 MQ CUSTOMER REFUND FOR WH
021506	03/05/10	VER01	VERISON WIRELESS	201.98	.00	201.98	B00305P JAN DO & P/R CELL PHONES
021507	03/05/10	VER01	VERISON WIRELESS	229.08	.00	229.08	084556863P FEB CELL PHONES
021508	03/11/10	COU06	COUNTY OF HUMBOLDT	2271.36	.00	2271.36	10-105P PERMIT FEES FOR MCK LIB A
021509	03/18/10	*0023	PATTY SOTELO	50.00	.00	50.00	B00316 KINDERSPORT REFUND, KID R
021510	03/18/10	ATT01	AT&T	1083.54	.00	1083.54	B00316 TELEPHONES
021511	03/18/10	BAY02	BAY WEST SUPPLY, INC.	584.21	.00	584.21	233285 JANITORIAL SUPPLIES FOR F
021512	03/18/10	BEY01	HILLARIE D. BEYER	32.63	.00	32.63	B00312 ACTIVITY SUPPLY MCK PLAYG
021513	03/18/10	CAS01	CASH	237.23	.00	237.23	B00318 D.O. RECIEPTS, COOKIES WA
021514	03/18/10	COR07	JOHN W. CORBETT	100.00	.00	100.00	B00318 DIRECTORS FEES
021515	03/18/10	COU09	DAVID R. COUCH	100.00	.00	100.00	B00318 DIRECTORS FEES
021516	03/18/10	DEP05	DEPARTMENT OF JUSTICE	32.00	.00	32.00	780503 FINGERPRINTING REC PROGRA
021517	03/18/10	EDW01	HELEN L. EDWARDS	100.00	.00	100.00	B00318 DIRECTORS FEES
021518	03/18/10	EUR07	Eureka Rubber Stamp Co.	82.69	.00	82.69	01396 AP MOUNT STAMP
021519	03/18/10	HEL01	KEVIN HELD	250.00	.00	250.00	B00315 DJ FOR JR HIGH SCHOOL DAN
021520	03/18/10	HUC01	DELILAH HUCK	260.00	.00	260.00	B00316 DOG OBEDIENCE INSTRUCTOR
021521	03/18/10	IND02	Industrial Electric Serv	78.48	.00	78.48	1124 BALLAST KIT FOR PIERSON P
021522	03/18/10	KEY01	KEY EQUIPMENT FINANCE	314.57	.00	314.57	1004 EQUIPMENT LEASE
021523	03/18/10	LAB01	Lab Safety Supply, Inc.	373.12	.00	373.12	4755 8566 EYEWASH BAND-AIDS, GAUZE
021524	03/18/10	NOR35	NORTHERN HUMBOLDT	233.24	.00	233.24	ES10-0168 FEB LANDSCAPING
021525	03/18/10	NYL01	NYLEX.NET	45.00	.00	45.00	B00315 DAVES SOUND PROGRAM CAUSI
021526	03/18/10	PGE01	PG & E (Office & Field)	12037.41	.00	12037.41	B00312 GAS & ELECTRIC
021527	03/18/10	PIT02	PITNEY BOWES	597.00	.00	597.00	MR10 POSTAGE MACHINE RENTAL PA
021528	03/18/10	PIT03	PITNEY BOWES INC.	267.75	.00	267.75	586897 RED INK, MOISTENER FOR ST
021529	03/18/10	PRE08	PRECISION INTERMEDIA	1338.75	.00	1338.75	11605 WEB UPDATE TRAINING DESIG
021530	03/18/10	SDR01	SDRMA	10227.00	.00	10227.00	32005-IN Q4 FY 09-10 WC
021531	03/18/10	SIX02	SIX RIVERS COMMUNICATIONS	225.00	.00	225.00	9522 REPAIR POWER SUPPLY
021532	03/18/10	STA08	SWRCB ACCOUNTING OFFICE	40920.10	.00	40920.10	5805-550- SRF PAYMENT
021533	03/18/10	SUP01	Superior Alarm Sys., Inc.	90.00	.00	90.00	87962 ADD INDOOR SPEAKER TO SYS
021534	03/18/10	TIM01	TIMES-STANDARD	270.07	.00	270.07	162815 HELP WANTED AD FOR OPERAT
021535	03/18/10	UPS01	UPS	364.22	.00	364.22	Y6R493110 MONTHLY SAMPLING TESTING
021536	03/18/10	USP02	USPS: ARCATA BMEU	1200.00	.00	1200.00	B00318 REFILL POSTAGE METER 202

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Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	-----Payment Information-----	
							Invoice #	Description
021537	03/18/10	WEN01	WILLIAM WENNERHOLM, DC	100.00	.00	100.00	B00318	DIRECTORS FEES
021538	03/18/10	MAY02	DENNIS MAYO	100.00	.00	100.00	B00318P	DIRECTORS FEES FOR MARCH
021539	03/25/10	*0024	KAY LIBOLT	100.00	.00	100.00	B00323	AZALEA HALL DEPOSIT REFUN
021540	03/25/10	*0025	CHRISTINA JIORAS	10.00	.00	10.00	B00323	REFUND ALL STAR BB CAMP,
021541	03/25/10	*0026	MCKINLEYVILLE LAND TRUST	100.00	.00	100.00	B00323	AZALEA HALL DEPOSIT REFUN
021542	03/25/10	*0027	MISTY CASE	10.00	.00	10.00	B00323	REFUND ALL STAR BB CAMP,C
021543	03/25/10	BAD01	BADGER METER, Inc.	1402.00	.00	1402.00	85195801	ANNUAL RENEWAL OF HANDHEL
021544	03/25/10	IND01	INDEPENDENT BUS. FORMS	785.32	.00	785.32	18987	SPECIAL WINDOW ENVELOPS
021545	03/25/10	PER05	CALIFORNIA PUBLIC EMPLOYE	600.00	.00	600.00	555	3 VALUATIONS FOR EMPLOYEE
021546	03/25/10	YOU01	NANCY YOUNG	321.75	.00	321.75	B00323	PAYMENT FOR BBY SITTING C
Cash Account Total.....:				209385.32	.00	209385.32		
Total Disbursements.....:				209385.32	.00	209385.32		

**McKinleyville Community Services District
Board Agenda Background**

AGENDA ITEM: D.3.

AGENDA TITLE: Compliance with State Double Check Valve Law

MEETING DATE: April 21, 2010

PRESENTED BY: Greg Orsini, Operations Director

TYPE OF ITEM: Consent Calendar

BACKGROUND: Customers listed below are not now in compliance with State law regarding cross-connection control for water customers with alternate water supply. These customers have been notified of their respective violations as noted and have been provided notification of this meeting.

1st Notice	March 8, 2010
10 Day Notice	April 7, 2010
Board Meeting	April 21, 2010
Lock	May 24, 2010
ROUTES 1,2,3 & 4	

Account	Address	Brand	S/O Out
1-063-000	732 Hunts Dr	Febco	
1-142-000	2572 Sunnygrove	Neptune	
3-925-000	1790 A Ave	Febco	
4-122-000	1795 Van Eaton	Wilkins	
4-650-000	2084 Sutter Road	Febco	

UPDATED: 04/09/10

RECOMMENDATION: Staff recommends that the Board authorized staff to provide these customers with formal notice that their water service will be discontinued in one month if they have not come into compliance with state law regarding water service cross-connection in accordance with MCSD Rules 7 and 10.

McKinleyville Community Services District

BOARD OF DIRECTORS

April, 21 2010

TYPE OF ITEM: **ACTION**

ITEM: E.1. **Consider award of bid for construction of Ramey Pump Station Upgrade to low bidder Wahlund Construction Co. in the amount of \$864,468, and consider bid protest submitted by Northern California Electrical Construction Industry (NCECI) asserting that the bid should be rejected and Wahlund Construction Company and Colburn Electric, Inc. (the electrical subcontractor) should be deemed “non-responsible” bidders. Consider approving construction inspection services, digital and SCADA system, and project contingency funds.**

PRESENTED BY: **Norman Shopay and Greg Orsini**

TYPE OF ACTION: **Voice Vote**

Recommendation:

Staff requests the Board consider:

1. Approve awarding the bid for construction of the Ramey Pump Station Upgrade project to Wahlund Construction Company in the amount of \$864,468.
2. Deem the bid from Wahlund Construction Company and Colburn Electric Company to constitute a responsive bid.
3. Approve up to \$26,000 for construction inspection professional services.
4. Approve a Digital Control and SCADA system upgrade up to \$20,000.
5. Approve a 15 % project contingency amount up to \$136,570.
6. Approve a total expenditure of \$1,047,038.

Discussion:

As part of the District long term plan for supplying McKinleyville with water, the need for more storage would be required to supply fire flow, maintain adequate pressure during summer high demands and through build out. It was recognized that without adequate pumping the ability to fill any new reservoir would be inadequate.

Staff secured the services of Winzler and Kelly (W&K) to conduct hydraulic analyses of the District distribution system and provide the information necessary including the size and number of pumps that would be required to meet the future needs of McKinleyville. This information was contained in the Technical Memorandum dated September 2008.

During the summer of 2009 the Board authorized Staff to issue a Request for Proposals (RFP) to Design the upgrade necessary to supply the needs of McKinleyville through total build out. An RFP was issued, several consulting firms responded and through a selection process that was made public during the July 2009 Board Meeting it was determined that W&K would provide the best design that would meet District needs. The Board directed staff at that meeting to enter in to a contract with W&K to design the project, provide plans and specifications, bid assistance, asbuilds and startup support.

W&K completed the plans and specifications for the bid package and the project was place out to bid in February 2010. A pre-bid meeting was held at Ramey Pump Station and attended by Staff, Pat Kaspari, Carlos Diaz of W&K and several contractors interested in bidding on the project.

The bids deadline was March 6, 2010 and the bid opening was conducted at the District Office Conference Room with Staff, Pat Kaspari, Carlos Diaz of W&K and many of the contractors that submitted bids in attendance. All bids were opened and the results are as follows, listed lowest to highest.

Contractor	Bid Amount
Wahlund Construction Inc.	\$864,468.00
Cal electro, Inc.	\$874,450.00
Mercer Fraser Co.	\$882,700.00
Mountainside Construction	\$944,289.00
Pacific Infrastructure Corp.	\$99,400.00
Granite Construction Co.	\$1,022,289.00

Staff and W&K have reviewed Wahlund's license and bonding information and it is current and up to date, and the bid appears to be complete and responsive and promises to do what the bidding instructions require. Wahlund Construction Inc. is a very reputable contractor and has successfully completed several water and wastewater projects in our area including MCSD Head Works improvement Project in the 90s. The Base Bid includes all of the work to be performed at the pump station including all pump station improvements and disinfection system improvements except for system programming which will be performed by Abbey Systems and construction inspection that will be conducted by a firm that has yet to be decided.

Bid Protest

- On March 8, 2010 MCSD received a protest letter from the Northern California Electrical Construction Industry (NCECI) on behalf of the Electrical Industry doing business in the Humboldt County states that the basis for the protest is that the apparent low bidder, Wahlund Construction who listed Colburn Electric, is a non-responsible bidder and any contractor using them should have their bids rejected. The May 8, 2010 letter stated several reasons.
- On March 11, 2010 MCSD received a response to the NCECI letter from Diane Aqui, attorney for Robert Colburn Electric.
- On March 12, 2010, MCSD sent a letter to NCECI stating that MCSD intends to investigate the assertions.
- On March 18, 2010, MCSD attorney sent a letter requesting any other pertinent facts or circumstances be sent to MCSD from:
 - Mark Jordan, attorney, Colburn Electric;
 - NCECI; and
 - Wahlund Construction Co.
- On March 18, 2010, MCSD received a response letter from both Douglas Nareau, attorney, NCECI and Patrick Wirsing, NCECI
- On March 29, 2010, MCSD received a letter from Diane Aqui, attorney for Robert Colburn Electric.
- On March 29, 2010, MCSD received a letter from the Laborers' International Union of North America, in support of awarding the project to Wahlund Construction.
- On March 30, 2010, MCSD received a letter from Jeremiah Scott, attorney for Wahlund Construction, addressing the assertions in the NCECI bid protest letter and providing
- On April 9, 2010, MCSD received a letter from Diane Aqui, Colburn Electric attorney, addressing each of the assertions stated in the NCECI bid protest correspondence, and includes letters of reference endorsing Colburn Electric as a responsible contractor from St. Joseph Hospital, Blue Lake Rancheria and Colburn Electric's bonding agent, among other documents.

The MCSD attorney has reviewed all available information and provided a summary opinion on the legal standards applicable to bid protests. In

pertinent part, MCSD has been advised that the determination as to whether a bidder is “responsible” involves the following considerations:

A bidder is responsible if it can perform the contract as promised. (*James Luterbach Constr. Co. v. Adamkus* (7th Cir. 1986) 781 F.2d 599, 601.) ***Responsibility means the fitness, quality and capacity of the bidder to satisfactorily perform the proposed work.*** (*City of Inglewood-L.A. County Civil Center Auth. v. Superior Court* (1972) 7 Cal.3d, 861,867.)

“A determination that a bidder is responsible is a complex matter dependent, often, on information received outside the bidding process and requiring, in many cases, an application of subtle judgment. Not only is the process complex, but the declaration of non-responsibility may have an adverse impact on the professional or business reputation of the bidder.” (*Taylor Buss Service v. San Diego Board of Education* (1988) 195 Cal.App.3d 1331, 1341-1342.)

Representatives from NCECI, Colburn Electric and Wahlund Construction have been informed of tonight’s meeting and may potentially like to address the Board on this matter.

Following a thorough review of the materials provided in support of, and in opposition to, the bid protest stated by NCECI, at this time staff recommends the following Board action regarding the bid process and pending protest:

1. Approve awarding the bid for construction of the Ramey Pump Station Upgrade project to Wahlund Construction Company in the amount of \$864,468, the low bidder during the public bid process; and
2. Deem the bid from Wahlund Construction Company and Colburn Electric Company to constitute a responsive bid.

Support for these conclusions includes each of the following points:

- Wahlund Construction was the low bidder on the project;
- The bid appears responsive to the plans and specifications prepared by retained engineers Winzler & Kelly and all components of the proposed Ramey Pump Station Upgrade project;
- No factual information or allegations have been presented demonstrating that Wahlund Construction should be deemed “non-responsible”;
- Wahlund Construction has provided substantial support for the conclusion it is a reputable and responsible contractor experienced with public works of improvement, and is appropriately licensed and bonded;

- The materials submitted by Colburn Electric, Inc., demonstrate that NCECI's allegations against Colburn Electric, Inc., for failure to use apprentice electricians was dismissed by the Department of Industrial Relations on June 3, 2009;
- The materials submitted by Colburn Electric, Inc., indicate that the entity was responsive to past Labor Code violation claims, and is taking responsible action to remedy the claims with the Department of Industrial Relations;
- The materials submitted by Colburn Electric, Inc., demonstrate that it has performed work on numerous public works of improvement, apparently without any bar, preclusion or determination of non-responsibility;
- The letters of reference submitted in support of Colburn Electric, Inc., by reputable Humboldt County entities St. Joseph Hospital and Blue Lake Rancheria demonstrate satisfactory past performance for protracted time periods.
- The materials submitted by Colburn Electric, Inc., support the conclusion that it is appropriately bonded and satisfactorily capitalized.

Alternatives:

- Reject the bid from Wahlund Construction Company and its electrical subcontractor, Colburn Electric, Inc., as "non-responsible", if the Board can find adequate factual support for the conclusion; or
- Take no action pending further inquiry by the Board, if deemed necessary.

Fiscal Analysis:

Pump Upgrade Project	\$864,468	(Engineers est. \$1,118,065)
Construction Inspection	\$26,000	estimate
Digital Control and SCADA	\$20,000	estimate
Contingency	\$136,570	(15%)
Total Estimated Cost	\$1,047,038.00	

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Exhibit 1 Dated 3-8-10
- Exhibit 2 Dated 3-11-10
- Exhibit 3 Dated 3-12-10
- Exhibit 4 Dated 3-18-10
- Exhibit 5 Dated 3-18-10

- Exhibit 6 Dated 3-19-10
- Exhibit 7 Dated 3-29-10
- Exhibit 8 Dated 3-30-10
- Exhibit 9 Dated 4-9-10



NORTHERN CALIFORNIA ELECTRICAL CONSTRUCTION INDUSTRY

LABOR-MANAGEMENT COOPERATIVE TRUST

1800 SUTTER STREET, SUITE 390 • CONCORD, CA 94520

OFFICE 925/688-0163 • FAX 925/688-0165 • www.nceci.info

March 8, 2010

RECEIVED

McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

MAR 11 2010

McK. C.S.D.

RE: Bid Protest

Project: Ramey Pump Station Improvements Project

Contractors: Wahlund Construction
830 Hilma Drive
Eureka, CA 95503

Sub Contractor: Robert Colburn Electric, Inc, dba Colburn Electric
P.O. Box 3667
Eureka, CA 95502

To whom it may concern:

This is an official letter of protest on behalf of the Electrical Industry doing business in the Humboldt County area and the electrical contractors who bid on the above-referenced project, bid March 5, 2010. The basis for this protest is that the apparent low bidder, **Wahlund Construction, Inc who listed Colburn Electric, as their electrical subcontractor on the above project. Colburn Electric is a NON-Responsible bidder and any contractor listing them should have their bids REJECTED.**

The Northern California Electrical Construction Industry is a labor-management cooperative trust working to ensure fairness and lawful bidding in public contracting and by so doing, protect public funds. We represent over 500 C-10 and C-7 electrical contractors and over 7000 electrical workers throughout Northern California. We monitor over 1000 public construction projects yearly for compliance with public contracting and labor laws and maintain an extensive database of pertinent information regarding each project.

Colburn Electric, Inc.'s bid was NON-RESPONSIBLE for the following reasons:

- 1.) Bidder Colburn Electric, Inc. has a history in Northern California of not paying the prevailing wage rate on public work projects. This matter was the subject of a State of California DLSE investigation. The result was a Civil Wage and Penalty

Assessment of over \$300,000 in wages and penalties. This makes Colburn Electric, Inc. a NON-RESPONSIBLE bidder.

- 2.) Bidder Colburn Electric did not pay workers overtime for work done in excess of 8 hours in a day on a public work – a violation of 1815 of the California Labor Code.
- 3.) Bidder Coburn Electric falsely reported the workers not working overtime under the penalty of perjury – a violation of 1771.1 of the California Labor Code.
- 4.) This was done by Colburn Electric, Inc over 70 times to 8 workers.
- 5.) Bidder Colburn Electric was a subcontractor for Wahlund Construction, Inc. on a public work project during the violations listed above.
- 6.) Colburn Electric has not had an apprentice on a public work in over 20 years of contracting in the Humboldt County area. A clear violation of the Labor Code and the Specifications of this project.

The above violations of law make the listed electrical subcontractor Colburn Electric a NON-RESPONSIVE AND NON-RESPONSIBLE.

As a public agency, the McKinleyville Community Services District contracting procedures are governed by the California Public Contract Code and its competitive bidding laws which exist to protect the public from misuse of public funds, eliminate favoritism and corruption and provide all bidders with a fair opportunity to compete. Applicable sections of the California Public Contract Code require that the selected bid must be both “responsible” and “responsive.”

Therefore, on behalf of the responsible electrical contractors in the Humboldt County area, we respectfully request that McKinleyville Community Services District REJECT the bid of the apparent low bidder, Wahlund Construction, NON - Responsible and NON - Responsive, and award the project to the 2nd listed contractor West Coast Contractors.

Please review this formal bid protest and contact me at 925-330-9120 if you have any questions. Please forward this bid protest to the proper entity of person(s) if necessary. I will be available to present my case at the meeting when this project is scheduled for award. Please advise me of the date and time of such meeting, and respond to this request within 5 business days.

Thank you.

Sincerely,


Patrick J. Wirsing

Patrick J. Wirsing

Senior Compliance Officer

NCECI

DEL 6099

Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue Suite 100 Sacramento, CA 95825 916-263-2901 FAX: 916-263-2906	
DATE: December 09, 2009	In Reply Refer to Case No: 40-24537/253

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body City of Crockett City	Work Performed in County of Del Norte
PROJECT NAME Water Pollution Control Facility MBR & Digs	Project No. 38382
Prime Contractor Wahlund Construction Inc.	
Subcontractor Colburn Electric	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Robert Colburn Electric, Inc., a California corporation, violated labor code section 1775 and 1813 for failure to pay the prevailing rate of wages pursuant to the General Prevailing Wage Determination DEL-2006-2 for the Electrician; Inside Wireman classification.

The attached Audit Summary further itemizes the calculation of wages due and penalties under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$168,912.35

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$164,675.00

The Division has determined that the amount of penalties assessed against Colburn Electric under Labor Code section 1776 is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By 
 Christopher Kim
 Deputy Labor Commissioner

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment. To obtain a hearing, a written Request for Review must be transmitted to the following address:

Labor Commissioner, State of California
Civil Wage and Penalty Assessment Review Office
2031 Howe Ave., Suite 100
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Christopher Kim
at the following address: 2031 Howe Avenue Suite 100
Sacramento, CA 95825

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

(continued on next page)

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability of liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

In lieu of a cash deposit, the contractor may post an undertaking with the Department in full amount of the CWPA. The undertaking shall be on the condition that, if any decision is issued by the Director upholding the CWPA in any regard, the employer (contractor) shall pay the amount owed pursuant to the decision the date the decision is final under Labor Code Section 1742 unless the parties have executed a settlement agreement for the payment of some other amount, in which case the contractor shall pay the amount that the contractor is obligated to pay under the terms of the settlement agreement. The undertaking must provide that if the contractor fails to pay the amount owed within 10 days of the date the decision is final or the execution of the settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, is forfeited to the Labor Commissioner to satisfy the amounts owed under the CWPA. A payment bond obtained by a contractor for the public works project which is the subject of the CWPA shall not be accepted as an undertaking unless the following two conditions are completely satisfied: (1) the payment bond provides for the payment of the full amount of the CWPA, including but not limited to, all wages, training, trust contributions, and penalties and (2) the conditions of payment set forth above are expressly agreed to by the affected contractor(s) and the surety which issued the payment bond. The undertaking should be forward to the Department as directed below. The Department's Accounting Office will hold the undertaking until the administrative and judicial review is completed. The disbursement of the bond funds will follow the same process as described above for a cash deposit.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is \$168,912.35

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$168,912.35</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$164,675.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$333,587.35</u>

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

☒ If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$168,912.35</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$164,675.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$333,587.35</u>

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

MARK D. JORDAN*Attorney at Law***1612 Fourth Street****Santa Rosa, CA 95404-4020****Telephone: (707) 526-3700****Facsimile: (707) 526-1716****E-mail: mdj@1612fourth.com****Diane Aqui - Of Counsel**
da@1612fourth.com

March 11, 2010

Sent Via Fax and US Mail (707) 839-8456

Norman Shopay, General Manager
McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519**Re: Bid Protest for the Ramey Pump Station Improvement Project****Our Client: Robert Colburn Electric, Inc. dba Colburn Electric**

Dear Mr. Shopay:

We are in receipt of a bid protest dated March 8, 2010 from NCECI protesting the award of the above referenced project to the low bidder, Wahlund Construction, Inc., who has listed our client, Colburn Electric, as their electrical subcontractor.

In his bid protest, Patrick Wirsing, of the NCECI, emphatically (and erroneously) states that Colburn Electric is both a non-responsive bidder and a non-responsive bidder. Mr. Wirsing requests that you reject the low bid of Wahlund Construction based on his opinion that Colburn Electric is Non-Responsive and Non-Responsible. From his statements, it is not clear whether Mr. Wirsing is aware what these terms actually mean.

First, a bid is "responsive" if it promises to do what the bidding instructions demand. A bidder is "responsible" if they can perform the contract as promised.

Prior to awarding the project to Wahlund Construction, your agency reviewed Wahlund's bid to determine whether it met the prescribed specifications. As a result of this review, your agency determined that Wahlund's bid was responsive.

The next step your agency was required to follow was a determination as to whether Wahlund Construction was a "responsible bidder".

In the context of public work contracts, the word "responsible" includes an element of "trustworthiness, along with quality, fitness and capacity of the low bidder to satisfactorily perform the proposed work." *West v. Oakland* (1916) 30 Cal App 556. In other words, in determining whether a bidder is responsible, the agency must look at whether or not the bidder is able to perform the work as specified.

Mr. Wirsing apparently contends that by virtue of listing Colburn Electric as their electrical subcontractor, Wahlund is not responsible. As far as I am aware, the only evidence of Colburn's "non-responsibility" are the series of six allegations made by Mr. Wirsing in his bid protest.

Mr. Shopay
March 11, 2010
Page Two

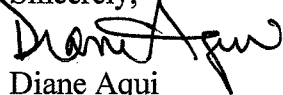
Mr. Wirsing's allegations numbers 1 through 4 concerned a payroll audit performed by the California Department of Industrial Relations. The results of this audit are overstated, Colburn Electric has paid overtime, and we are presently in discussions with the DIR to resolve this issue. Further, allegation number 5 is false. Colburn Electric was not a subcontractor for Wahlund Construction on the project which was the subject of the audit.

Allegation number 6 is also false. Historically, Colburn Electric has used apprentices on their public work jobs. However, for the last few years, because Colburn is not signatory to a collective bargaining agreement with the IBEW Union (International Brotherhood of Electrical Workers), the IBEW has refused to dispatch apprentices to Colburn. Though not required to under the law,¹ Colburn Electric sent one of their employees to a trainee program through the WECA (Western Electrical Contractors Association). In January of 2010, this employee successfully attained apprentice status. Colburn Electric is proud to have contributed to continued education and training in the electrical trade. Mr. Wirsing's statements alleging violations of the apprenticeship law are false.

Even assuming that Mr. Wirsing's allegations are true, they certainly do not deal with quality of work or fitness and capacity of Colburn to perform the work. Allegation number 3 can arguably be considered to reflect on Colburn's trustworthiness, however, this issue was specifically investigated by the Department of Industrial Relations, and no citation was issued.

To our knowledge, despite Mr. Wirsing's repeated efforts, there has been no public agency to date that has designated Colburn Electric a Non-Responsible Bidder. Based on Colburn Electric's thirty year history as a contractor in Humboldt County, we sincerely expect this never to occur.

Sincerely,



Diane Aquino

Cc: Wahlund Construction
830 Hilma Drive
Eureka, CA 95503

¹ CCR Title 8, Section 230.1 provides that an employer must request apprentices for public work jobs from the apprenticeship committees. The Legislature recognized the existence of those situations where an employer is simply not able to obtain apprentices for various reasons. Therefore, an employer's duty under the law is only to request apprentices from the apprenticeship committees. Failure of the apprenticeship committee to dispatch apprentices is not a violation of the statute which is attributed to the employer.



McKinleyville Community Services District
1656 Sutter Road P. O. Box 2037 McKinleyville, CA 95519
(707)839-3251 fax: (707)839-8456 e-mail: mcsd@mckinleyvillecsd.com

March 12, 2010

Patrick J. Wirsing
Senior Compliance Officer
Northern California Electrical Construction Industry
1800 Sutter Street, Suite 390
Concord, CA 94520

Re: MCSD Pump Station Improvement Project
Contractors: Wahlund Construction
Sub Contractor: Robert Colburn Electric, Inc.

Dear Mr. Wirsing:

This letter responds to your letter dated March 8, 2010. The McKinleyville Community Services District ("MCSD" or "District") intends to investigate and assess the claims asserted in your correspondence. Official action by the Board of Directors confirming award of the bid to Wahlund Construction will be delayed until the Board's regularly scheduled meeting on April 21, 2010.

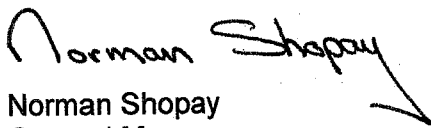
In the interim, District staff intends to further investigate the assertions stated in your letter so that it may fully inform the Board regarding this circumstance.

In connection with this investigation, both Wahlund Construction and Robert Colburn Electric, Inc., will be provided copies of your correspondence and invited to respond to the statements contained within it. On March 11, 2010 we received a letter response from Mark D. Jordan representing Robert Colburn Electric, Inc. dba Colburn Electric. A copy of that letter is attached.

Your letter makes general reference to legal authorities you believe support the conclusion that the low bidder should be deemed non-responsive and non-responsible parties. If there is any specific legal authority you would like the District to consider in this regard please identify it on or before March 18, 2010. Your letter also states that "and award the project to the 2nd listed contractor West Coast Contractors". Please be advised that West Coast Contractors did not submit a bid for this work.

Thank you for your time and attention to this correspondence.

Sincerely,
McKinleyville Community Services District


Norman Shopay
General Manager

Attachments: Letter from Mark D. Jordan, dated March 11, 2010

CC: MCSD Operations Director
MCSD Board of Directors

Wahlund Construction Inc.
Ken Wahlund
830 Hilma Drive
Eureka, California 95503

Mark D. Jordan
1612 Fourth Street
Santa Rosa, California 95404

MARK D. JORDAN
Attorney at Law
1612 Fourth Street
Santa Rosa, CA 95404-4020
Telephone: (707) 526-3700
Facsimile: (707) 526-1716
E-mail: mdj@1612fourth.com

Diane Aquil - Of Counsel
da@1612fourth.com

FACSIMILE TRANSMITTAL

DATE: 3.11.10 OPERATOR: _____

TO: Norman Shupay

FAX NUMBER: () 834-8456

TOTAL NUMBER OF PAGES TRANSMITTED: 3 (including this page)

ORIGINAL TO FOLLOW BY MAIL: Yes: ✓ No: _____

FROM: MARK D. JORDAN

DIANE AQUIL - OF COUNSEL

RE: Colburn Electric/Ramey Pump Station

DOCUMENTS/REMARKS:

If you did not receive the complete document(s), please notify the sender at (707) 526-3700.

NOTICE OF CONFIDENTIALITY

Please be advised that the information that has been transmitted through this facsimile message is intended to be received by and used solely by the individual or entity noted above. The information contained herein is deemed privileged and confidential and is otherwise considered to be the work product of the sender and/or recipient and any use of the enclosed information by any other person without the permission of the recipient or transmitter is prohibited as well as any reproduction or any dissemination. In the event that this information has been transmitted to the wrong telephone number or received by the wrong person, please see that the sender is contacted immediately and advised accordingly.

MARK D. JORDAN
Attorney at Law
1612 Fourth Street
Santa Rosa, CA 95404-4020
Telephone: (707) 526-3700
Facsimile: (707) 526-1716
E-mail: mdj@1612fourth.com

Diane Aqui - Of Counsel
da@1612fourth.com

March 11, 2010

Sent Via Fax and US Mail (707) 839-8456

Norman Shopay, General Manager
McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

Re: Bid Protest for the Ramey Pump Station Improvement Project

Our Client: Robert Colburn Electric, Inc. dba Colburn Electric

Dear Mr. Shopay:

We are in receipt of a bid protest dated March 8, 2010 from NCECI protesting the award of the above referenced project to the low bidder, Wahlund Construction, Inc., who has listed our client, Colburn Electric, as their electrical subcontractor.

In his bid protest, Patrick Wirsing, of the NCECI, emphatically (and erroneously) states that Colburn Electric is both a non-responsible bidder and a non-responsive bidder. Mr. Wirsing requests that you reject the low bid of Wahlund Construction based on his opinion that Colburn Electric is Non-Responsive and Non-Responsible. From his statements, it is not clear whether Mr. Wirsing is aware what these terms actually mean.

First, a bid is "responsive" if it promises to do what the bidding instructions demand. A bidder is "responsible" if they can perform the contract as promised.

Prior to awarding the project to Wahlund Construction, your agency reviewed Wahlund's bid to determine whether it met the prescribed specifications. As a result of this review, your agency determined that Wahlund's bid was responsive.

The next step your agency was required to follow was a determination as to whether Wahlund Construction was a "responsible bidder".

In the context of public work contracts, the word "responsible" includes an element of "trustworthiness, along with quality, fitness and capacity of the low bidder to satisfactorily perform the proposed work." *West v. Oakland* (1916) 30 Cal App 556. In other words, in determining whether a bidder is responsible, the agency must look at whether or not the bidder is able to perform the work as specified.

Mr. Wirsing apparently contends that by virtue of listing Colburn Electric as their electrical subcontractor, Wahlund is not responsible. As far as I am aware, the only evidence of Colburn's "non-responsibility" are the series of six allegations made by Mr. Wirsing in his bid protest.

Mr. Shopay
March 11, 2010
Page Two

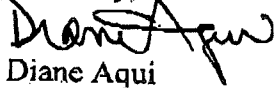
Mr. Wirsing's allegations numbers 1 through 4 concerned a payroll audit performed by the California Department of Industrial Relations. The results of this audit are overstated, Colburn Electric has paid overtime, and we are presently in discussions with the DIR to resolve this issue. Further, allegation number 5 is false. Colburn Electric was not a subcontractor for Wahlund Construction on the project which was the subject of the audit.

Allegation number 6 is also false. Historically, Colburn Electric has used apprentices on their public work jobs. However, for the last few years, because Colburn is not signatory to a collective bargaining agreement with the IBEW Union (International Brotherhood of Electrical Workers), the IBEW has refused to dispatch apprentices to Colburn. Though not required to under the law,¹ Colburn Electric sent one of their employees to a trainee program through the WECA (Western Electrical Contractors Association). In January of 2010, this employee successfully attained apprentice status. Colburn Electric is proud to have contributed to continued education and training in the electrical trade. Mr. Wirsing's statements alleging violations of the apprenticeship law are false.

Even assuming that Mr. Wirsing's allegations are true, they certainly do not deal with quality of work or fitness and capacity of Colburn to perform the work. Allegation number 3 can arguably be considered to reflect on Colburn's trustworthiness, however, this issue was specifically investigated by the Department of Industrial Relations, and no citation was issued.

To our knowledge, despite Mr. Wirsing's repeated efforts, there has been no public agency to date that has designated Colburn Electric a Non-Responsible Bidder. Based on Colburn Electric's thirty year history as a contractor in Humboldt County, we sincerely expect this never to occur.

Sincerely,


Diane Aqui

Cc: Wahlund Construction
830 Hilma Drive
Eureka, CA 95503

¹ CCR Title 8, Section 230.1 provides that an employer must request apprentices for public work jobs from the apprenticeship committees. The Legislature recognized the existence of those situations where an employer is simply not able to obtain apprentices for various reasons. Therefore, an employer's duty under the law is only to request apprentices from the apprenticeship committees. Failure of the apprenticeship committee to dispatch apprentices is not a violation of the statute which is attributed to the employer.

MITCHELL, BRISSE, DELANEY & VRIEZE, LLP

CLIFFORD B. MITCHELL
 NANCY K. DELANEY
 PAUL A. BRISSE
 JOHN M. VRIEZE
 WILLIAM F. MITCHELL
 RUSSELL S. GANS
 NICHOLAS R. KLOEPEL

 VICTOR M. FERRO, of Counsel

ATTORNEYS AT LAW
 814 SEVENTH STREET
 EUREKA, CALIFORNIA 95501-1114

TELEPHONE (707) 443-5643
 FACSIMILE NUMBER:
 (707) 444-9586

P.O. DRAWER 1008
 EUREKA, CA 95502

R.C. DEDEKAM, Retired

EMERY F. MITCHELL (1896 - 1991)
 WALTER J. CARTER (1949 - 1993)

RECEIVED**MAR 19 2010****McK. C.S.D.**

March 18, 2010

Mark D. Jordan
 Attorney at Law
 1612 Fourth Street
 Santa Rosa, California 95404

Re: Bid Protest by Northern California Electrical Construction Industry
 Pump Station Retrofit Project
Our File No:08-187

Dear Mr. Jordan

This letter is written on behalf of the McKinleyville Community Services District. On March 8, 2010, the Northern California Electrical Construction Industry ("NCECI") issued a written bid protest addressed to the McKinleyville Community Services District ("MCSD" or "District") regarding the above referenced project. Enclosed for your review is the March 8, 2010, correspondence from NCECI. The District responded to NCECI by method of a letter dated March 12, 2010, a copy of which is enclosed. On March 18, 2010, Douglas Nareau, an attorney for NCECI replied to the District, a copy of Mr. Nareau's correspondence is enclosed.

The District is currently investigating the complaints asserted by NCECI, and anticipates that consideration of the bid protest as well as the determination regarding the formal awarding of the bid will be made, or at least considered, by the MCSD Board of Directors at the April 21, 2010 Board Meeting.

In anticipation of the Board's consideration of this matter, Colburn Electric, Inc., is requested to submit any response, documents and/or other information it believes prudent to address the statements contained in the NCECI correspondence dated March 8, 2010, and March 18, 2010. Should Colburn Electric, Inc., believe any pertinent points of

law should be considered by the District, Colburn Electric, Inc., and/or its independently retained attorneys are invited to respond.

Further, if Colburn Electric, Inc., believes any other pertinent facts or circumstances merit the District's attention, please provide them by April 5, 2010. Topics or issues that Colburn Electric, Inc., may want to address include each of the following:

1. Any mitigating facts relating to the past Labor Code violations noted by NCECI Colburn Electric, Inc., you would like the District to consider;
2. What reasonable assurances Colburn Electric, Inc., and Wahlund Construction can provide that no Labor Code violations will occur on this job; and
3. Any other information that Colburn Electric, Inc., can produce to demonstrate that it has the fitness, quality and capacity to satisfactorily perform the proposed work.

A similar letter is simultaneously being sent to Wahlund Construction Company.

Thank you for your time and attention to this correspondence.

Very truly yours,

MITCHELL, BRISSO, DELANEY & VRIEZE, LLP

Russell S. Gans

RSG/jg

cc: Norman Shopay, General Manager, MCSD
Patrick J. Wirsing, Senior Compliance Officer, NCECI
Wahlund Construction Company

MITCHELL, BRISSO, DELANEY & VRIEZE, LLP

CLIFFORD B. MITCHELL
NANCY K. DELANEY
PAUL A. BRISSO
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WILLIAM F. MITCHELL
RUSSELL S. GANS
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VICTOR M. FERRO, of Counsel

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R.C. DEDEKAM, Retired

EMERY F. MITCHELL (1896 - 1991)
WALTER J. CARTER (1949 - 1993)

RECEIVED
MAR 19 2010
McK. C.S.D.

March 18, 2010

Patrick J. Wirsing
Senior Compliance Officer
Northern California Electrical Construction Industry
1800 Sutter Street, Suite 390
Concord, CA 94520

Re: Bid Protest by Northern California Electrical Construction Industry
Pump Station Retrofit Project
Our File No:08-187

Dear Mr. Wirsing:

My name is Russell Gans, I am an attorney for the McKinleyville Community Services District ("MCSD" or "District"). Our law office has been requested to review your correspondence dated March 8, 2010, addressed to the District. The District is in the process of investigating the bid protest submitted. As noted in the recent correspondence dated March 12, 2010 and sent to you by Norman Shopay, MCSD General Manager, the Board will formally consider your bid protest and makes its determination regarding the Pump Station Retrofit Contract at its Board meeting scheduled for April 21, 2010.

Reviewing your letter, the principal point of contention Northern California Electrical Construction Industry ("NCECI") asserts appears to be that the low bidder (i.e., Wahlund Construction and named sub-contractor Colburn Electric, Inc.) should be deemed "non-responsible" because of the past Labor Board assessments issued against Colburn Electric, Inc.

Patrick J. Wirsing
Senior Compliance Officer
Northern California Electrical Construction Industry
March 18, 2010
Page: 2

If there are any additional facts and circumstances NCECI would like the District's Board of Directors to consider when evaluating this issue, please submit such documents and information by April 5, 2010. Enclosed for your reference are copies of similar informational requests submitted to Wahlund Construction Company and Colburn Electric, Inc.

Thank you for your time and attention to this correspondence.

Very truly yours,

MITCHELL, BRISSO, DELANEY & VRIEZE, LLP

Russell S. Gans

RSG/jg

Enclosures

cc: Norman Shopay, General Manager, MCSD
Wahlund Construction Company
Colburn Electric, Inc.

MITCHELL, BRISSO, DELANEY & VRIEZE, LLP

CLIFFORD B. MITCHELL
NANCY K. DELANEY
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EMERY F. MITCHELL (1896 - 1991)
WALTER J. CARTER (1949 - 1993)

RECEIVED
MAR 18 2010
McK. C.S.D.

March 18, 2010

Wahlund Construction Company
830 Hilma Drive
Eureka, California 95503

Re: Bid Protest by Northern California Electrical Construction Industry
Pump Station Retrofit Project
Our File No:08-187

Dear Wahlund Construction:

This letter is written on behalf of the McKinleyville Community Services District. On March 8, 2010, the Northern California Electrical Construction Industry ("NCECI") issued a written bid protest addressed to the McKinleyville Community Services District ("MCSD" or "District") regarding the above referenced project. Enclosed for your review is the March 8, 2010, correspondence from NCECI. The District responded to NCECI by method of a letter dated March 12, 2010, a copy of which is enclosed. On March 18, 2010, Douglas Nareau, an attorney for NCECI replied to the District, a copy of Mr. Nareau's correspondence is enclosed.

The District is currently investigating the complaints asserted by NCECI, and anticipates that consideration of the bid protest as well as the determination regarding the formal awarding of the bid will be made, or at least considered, by the MCSD Board of Directors at the April 21, 2010 Board Meeting.

In anticipation of the Board's consideration of this matter, Wahlund Construction is requested to submit any response, documents and/or other information it believes prudent to address the statements contained in the NCECI correspondence dated March 8, 2010, and March 18, 2010. Should Wahlund Construction believe any pertinent points of

law should be considered by the District, Wahlund Construction and/or its independently retained attorneys are invited to respond.

Further, if Wahlund Construction believes any other pertinent facts or circumstances merit the District's attention, please provide them by April 5, 2010. Topics or issues that Wahlund Construction may want to address include each of the following:

1. Any mitigating facts relating to the past Labor Code violations noted by NCECI Wahlund Construction Company you would like the District to consider;
2. What reasonable assurances Wahlund Construction and Colburn Electric, Inc., can provide that no Labor Code violations will occur on this job; and
3. Any other information that Wahlund Construction Company can produce to demonstrate that it has the fitness, quality and capacity to satisfactorily perform the proposed work.

A similar letter is simultaneously being sent to Colburn Electric, Inc.

Thank you for your time and attention to this correspondence.

Very truly yours,

MITCHELL, BRISSO, DELANEY & VRIEZE, LLP

Russell S. Gans

RSG/jg

cc: Norman Shopay, General Manager, MCSD
Patrick J. Wirsing, Senior Compliance Officer, NCECI
Robert Colburn Electric, Inc.



NORTHERN CALIFORNIA ELECTRICAL CONSTRUCTION INDUSTRY RECEIVED

LABOR-MANAGEMENT COOPERATIVE TRUST

1800 SUTTER STREET, SUITE 390 • CONCORD, CA 94520

MAR 22 2010

OFFICE 925/688-0163 • FAX 925/688-0165 • www.nceci.info

McK. C.S.D.

Norman Shopay
General Manager
McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

March 18, 2010

Dear Mr. Shopay,

I want to first thank you and the District for seriously looking at our bid protest and taking the time to investigate the issues. You have asked for specific legal authority in your reply letter to NCECI. I would submit that the 9th District Court of Appeals got it right when they opined that:

“A contractor's ability to comply with all relevant laws be they pertaining to safety, taxation or discrimination - is certainly relevant to whether it is responsible. Association General Contractors v. City and County of San Francisco (9th cir. 1987) 813 F. 2d 922, 925, n.6. Here, Colburn Electric has shown an unwillingness to comply with the most fundamental prevailing wage law of all, i.e. the responsibility to pay prevailing wages.

By way of introduction, I am retired as a Chief Counsel with the California Department of Industrial Relations with whom I worked more than 18 years. During that period of time I tried the vast majority, if not all of the prevailing wage violations in the State from 1988 to 2001. Prior to working for the State, I was the District Attorney for Del Norte County.

Mr. Wirsing was completely upfront by noting that only federal law had addressed the issue of whether a pending charge is sufficient to disqualify a bidder. There is a good reason for that. The exact issue has not been brought before a California Court. We believe, however, that it would be arbitrary and capricious for any awarding body to award a public contract in which Colburn is a subcontractor without waiting for a resolution of the matter or, at the very least, conducting its own investigation into the matter.

The same concerns go for Ms. Aquil's assertions regarding Colburn's use of apprentices. Either Colburn's position is wrong or the IBEW's position is wrong. We submit that a lawful investigation and inquiry by the McKinleyville Community Services District will vindicate the IBEW's assertions.

California's prevailing wage law provides that workers employed by contractors or subcontractors “in the execution of any contract for public work are deemed to be employed upon public work” (Labor Code § 1772) The contractor to whom a public works is awarded, and any subcontractor there under, shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract. (Labor Code § 1774.) Labor Code § 1771 requires that “workers employed on public works” be paid “not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed.”

The prevailing wage law “was enacted to benefit employees as a class by requiring the payment of prevailing wages on public works” *Tippett v. Terich* (1995) 37 Cal. App. 4th 1517, 1533, 44 Cal. Rptr. 2d 862 “The overall purpose of the prevailing wage law is to protect and benefit employees on public works projects.” (*City of Long Beach v. Department of Industrial Relations* (2004) 34 Cal. 4th 942, 946 quoting *Lusardi Construction Co. v. Aubry* (1992) 1 Cal. 4th 976, 985)

The Legislature has declared that it is the policy of California “to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions or for employers that have not secured the payment of compensation, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.” (§ 90.5, subd. (a).)

The McKinleyville Community Services District would certainly not be adhering to California Public Policy if it were to ignore Colburn's past conduct regarding complying with state minimum labor standards regarding the payment of prevailing wages and their refusal to hire apprentices.

If I may be of any further assistance, please contact me.

Douglas Nareau

Douglas Nareau, Attorney
Nicolaus, CA 95659
(916) 718-3684



NORTHERN CALIFORNIA ELECTRICAL CONSTRUCTION INDUSTRY

LABOR-MANAGEMENT COOPERATIVE TRUST

1800 SUTTER STREET, SUITE 390 • CONCORD, CA 94520

OFFICE 925/688-0163 • FAX 925/688-0165 • www.nceci.info

MAR 22 2010

McK. C.S.D.

March 19, 2010

Norman Shopay
General Manager
McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

Mr. Shopay,

I want to first thank you and the District for seriously looking at my bid protest and taking the time to investigate my issues.

An agency has discretion to determine whether a low bidder is responsible i.e. whether the bidder has the fitness, quality, and capacity to perform the proposed work satisfactorily. (*City of Inglewood-L.A. County Civic Center Authority v. Superior Court* (1972) 7 Cal. 3d 861,867, 103 Cal. Rptr. 689.

"A determination that a bidder is responsible is a complex matter dependent, often, on information received outside the bidding process and requiring, in many cases, an application of subtle judgment..." (*Taylor Bus Service, Inc. v. San Diego Board of Education* 195 Cal. App. 3d 1331, 141-1342, 241 Cal. Rptr. 379. Part of the inquiry can include an inquiry into whether a contractor has a history of labor law violations, including violations of laws on minimum wages and prevailing wages. Under federal law, a contractor may be found to be non-responsible even though the dispute concerning the allegedly improper performance of a prior contract has not been resolved. *Howard Electric*, 58 Comp. Gen. 303 (1979). California law appears to be silent on whether unresolved matters may be considered by the awarding body.

My issues with Colburn Electric could not have been better indicated than by Colburn's Attorney. I find it very interesting that Mr. Jordan left out of his statements the heart of the issue on both the Civil Wage and Penalty Assessment and the lack of Apprentices used by Colburn Electric.

Colburn Electric workers went for over a year without proper compensation. Colburn Electric worked their workers a 4/10 work week without compensating the workers for overtime. This is a violation of State Prevailing Wage Law. Colburn Electric, under penalty of perjury, submitted Certified Payroll Records that were false. Not once, not twice but weekly for over a year. This allowed Colburn Electric to not pay overtime due to their workers. This type of cheating subverts the bidding process, and honest contractors avoid bidding projects where cheaters are awarded projects. I know of electrical contractors who do not bid projects in Humboldt County because of the history of violations by Colburn Electric. Colburn paid the overtime to some of the workers in an attempt to avoid penalties for the overtime violations. I have one worker that states he has still not been compensated for overtime worked on the Crescent City Water project.

Mr. Jordan has indicated that Wahlund Construction was not the General Contractor on the project where the Civil Wage and Penalty Assessment was issued. Here is an example of legalese at its best. Another example of Mr. Jordan not telling the whole story so the reader can make an informed decision. Wahlund Construction was

part of a joint venture that included two other general contractors. So technically Wahlund Construction was not the General, he was part of a separate joint venture. Wahlund himself was on site when workers were working 4/10 shifts, falsifying CPR's and not paying overtime to the workers. I believe that letting these violations occur shows that neither Wahlund or Colburn are 'trustworthy' to perform public work. I also believe that Mr. Jordan has been less than 'trustworthy' by not telling the whole story.

Mr. Jordan has indicated that Trainee training is some type of apprenticeship. That is not true, and his attempt at confusing you is an indicator of his honesty in this issue. Trainee training is specific for non-certified electricians, to study for the certification test. It is not an apprenticeship. An apprenticeship is a course of study and work that involves 5 years of school, testing and daily mentoring by a qualified journeyman.

California Prevailing Rate law requires that contractors hire apprentices at a 1/5 ratio. That means that for every 5 hours of Journeyman work, you must have 1 hour of apprenticeship. I estimate that in the 30 years that Colburn Electric has neglected the Apprenticeship laws and regulations that there are over 100 apprentices that have not been trained in the Humboldt area that should have been. On literally hundreds of projects the taxpayers paid a prevailing rate that was suppose to include apprentices. Humboldt County's youth deserved to have the opportunity for a career that was denied by Colburn.

California law now requires that a contractor request an apprentice from a qualified apprenticeship program, and if there is not an apprentice available the contractor must go to the other programs in the area. Colburn Electric has not requested an apprentice from the IBEW in over 5 years. Just because an apprentice was not available 5 years ago does not mean that the contractor does not have the obligation to request apprentices on every project. Colburn Electric has a duty to the community to have trained apprentices and chose not to do so.

I believe that Colburn Electric has not been responsive to the California State laws, rules and regulations when it comes to overtime pay and apprenticeship issues. I believe that Colburn Electric is not a responsible bidder because of his past violations.

I have again included a copy of the DIR Civil Wage and Penalty Assessment.

Patrick J. Wirsing

Patrick J. Wirsing
NCECI/ Senior Compliance Officer
925-330-9120 Cell

DEL 6099



In Reply Refer to Case No.
40-24517/259

Awarding Body	Work Performed in County of
City of Crescent City	Del Norte
PROJECT NAME	Project No.
Water Pollution Control Facility MBR & Bldgs.	39382
Prime Contractor	
Wicklund Construction Inc.	
Subcontractor	
Colburn Electric	

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

The attached Audit Summary further itemizes the calculation of wages due and penalties under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$164,675.00

The Division has determined that the amount of penalties assessed against under Labor Code section 1776 is:	<u>Colburn Electric</u> \$0.00
--	-----------------------------------

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

By Christopher Kim
Deputy Labor Commissioner

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment. To obtain a hearing, a written Request for Review must be transmitted to the following address:

Labor Commissioner, State of California
Civil Wage and Penalty Assessment Review Office
2031 Howe Ave., Suite 100
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Christopher Kim
at the following address: 2031 Howe Avenue Suite 100
Sacramento, CA 95825

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

(continued on next page)

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability of liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

In lieu of a cash deposit, the contractor may post an undertaking with the Department in full amount of the CWPA. The undertaking shall be on the condition that, if any decision is issued by the Director upholding the CWPA in any regard, the employer (contractor) shall pay the amount owed pursuant to the decision the date the decision is final under Labor Code Section 1742 unless the parties have executed a settlement agreement for the payment of some other amount, in which case the contractor shall pay the amount that the contractor is obligated to pay under the terms of the settlement agreement. The undertaking must provide that if the contractor fails to pay the amount owed within 10 days of the date the decision is final or the execution of the settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, is forfeited to the Labor Commissioner to satisfy the amounts owed under the CWPA. A payment bond obtained by a contractor for the public works project which is the subject of the CWPA shall not be accepted as an undertaking unless the following two conditions are completely satisfied: (1) the payment bond provides for the payment of the full amount of the CWPA, including but not limited to, all wages, training, trust contributions, and penalties and (2) the conditions of payment set forth above are expressly agreed to by the affected contractor(s) and the surety which issued the payment bond. The undertaking should be forward to the Department as directed below. The Department's Accounting Office will hold the undertaking until the administrative and judicial review is completed. The disbursement of the bond funds will follow the same process as described above for a cash deposit.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is \$168,912.35

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$168,912.35</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$164,675.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$333,587.35</u>

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

☒ If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$168,912.35</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$164,675.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	<u>\$333,587.35</u>

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

MARK D. JORDAN
Attorney at Law
1612 Fourth Street
Santa Rosa, CA 95404-4020
Telephone: (707) 526-3700
Facsimile: (707) 526-1716
E-mail: mdj@1612fourth.com

Diane Aqui - Of Counsel
da@1612fourth.com

March 29, 2010

Sent Via Fax and US Mail (707) 444-9586

Russell Gans
Mitchell, Brisso, Delaney & Vrieze, LLP
814 Seventh Street
Eureka, CA 95501

Re: Bid Protest for the Ramey Pump Station Improvement Project

Our Client: Robert Colburn Electric, Inc. dba Colburn Electric

Dear Mr. Gans:

Thank you for your letter of March 18, 2010 in which you gave us the opportunity to provide additional information in response to the bid protest initiated by NCECI.

It is our intent to address the issues and provide additional documentation, however, you requested that we respond by April 5, 2010.

It would be most appreciated if you would give us until Friday, April 9, 2010 to respond. This would still allow the Board ample time to review the issues prior to the April 21, 2010 Board Meeting. If this is not feasible, please contact me at your earliest convenience.

Thank you for your assistance in this matter.

Sincerely,

Diane Aqui
Diane Aqui

Cc: Client

Laborers' International Union of North America

Local 139

P.O. BOX 5438

TELEPHONE (707) 542-1107
SANTA ROSA, CALIFORNIA 95402

FAX (707) 542-6113

RECEIVED

APR 01 2010

McK. C.S.D.

March 29, 2010

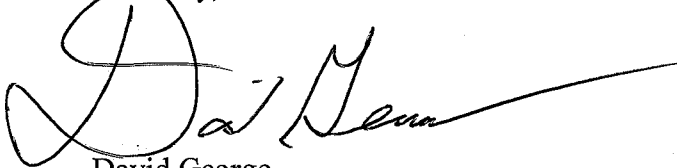
Norman Shopay
General Manager/McKinleyville Community Service District
1656 Sutter Road
P.O. Box 2037
McKinleyville, CA 95519

RE: MCSD Pump Station Improvement Project

Mr. Shopay,

I write this letter in support of awarding the above project, rightfully, to Wahlund Construction. Wahlund Construction has been contracting work in the Humboldt and surrounding areas for over 20 years, with no complaints. Colburn Electric which was listed as the subcontractor has been working in these areas for over 30 years with only one assessment showing. I hardly believe this makes a "history" violations as portrayed. These employers combined have been improving communities in the North Coast for over 50 years by performing public works projects to specifications. I have not heard any complaints about the quality or competence of work by either company. Please do the right thing in awarding this project to Wahlund Construction.

Sincerely,



David George
Business Manager/Secretary Treasurer

SCOTT, ROBINSON & PAVLICH

JEREMIAH R. SCOTT
(1902 - 1987)

JEREMIAH R. SCOTT, JR.

MICHAEL K. ROBINSON

ROMAN E. PAVLICH (RETIRED)

ATTORNEYS AT LAW

1118 SIXTH STREET

EUREKA, CALIFORNIA 95501

TELEPHONE:
(707) 443-2781
(707) 443-0831

FAX:
(707) 443-0608

EMAIL:
SSRP_LAW@SBCGLOBAL.NET

ASSOCIATE

LAWRENCE M. KILLORAN

March 30, 2010

McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

HAND DELIVERED AND
U.S. MAIL

Attention: Norman Shopay, General Manager

Re: The Ramey Pump Station Improvement Project

Dear Mr. Shopay:

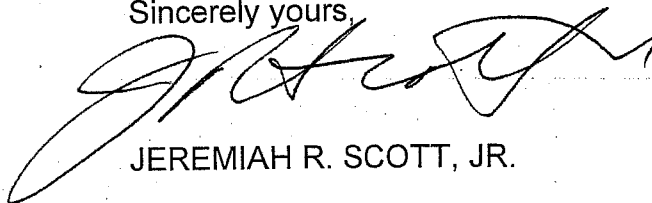
I am the attorney for Wahlund Construction, Inc., a California corporation. I enclose herewith original letter made by Wahlund Construction, Inc., dated March 30, 2010 directed to the McKinleyville Community Services District which also includes certification under penalty of perjury by Ken Wahlund along with six copies for your Directors.

I also enclose herewith an original and six copies of my letter dated March 30, 2010 directed to the Board of Directors.

I am informed that the Board of Directors of the McKinleyville Community Services District will hold a public meeting with this issue as an agenda item on Wednesday, April 21, 2010 at 7:00 p.m. at the district office. I would appreciate you sending to me a copy of the agenda items and the above item report scheduling the same for April 21, 2010.

Thanking you herein, I am

Sincerely yours,



JEREMIAH R. SCOTT, JR.

JRS/jm

cc: Wahlund Construction, Inc.
Russell S. Gans, Esq.
Diane Aqui, Esq.

SCOTT, ROBINSON & PAVLICH

JEREMIAH R. SCOTT
(1902 - 1987)

JEREMIAH R. SCOTT, JR.

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ASSOCIATE

LAWRENCE M. KILLORAN

March 30, 2010

McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

HAND DELIVERED AND
U.S. MAIL

Attention: Board of Directors

Helen Edwards, President

Dennis Mayo, Vice President

John Corbett, Director

David Couch, Director

Bill Wennerholm, Director

Norman Shopay, General Manager

Re: Wahlund Construction, Inc., a California Corporation
The Ramey Pump Station Improvement Project

Dear Ladies and Gentlemen:

I am the attorney for Wahlund Construction, Inc., a California Corporation.

We have been the attorney for Wahlund Construction, Inc. since the early 1990's.

I enclose herewith a letter dated March 30, 2010 made by Wahlund Construction, Inc., a California corporation certified under penalty of perjury by Ken Wahlund as President. The wastewater improvement projects and other water projects for public bodies performed by Wahlund Construction, Inc., in Humboldt County and Del Norte County include the McKinleyville Services District, Del Norte County, Humboldt County, City of Eureka, City of Fortuna, City of Rio Dell, and Special Districts.

It is interesting to note that Wahlund Construction, Inc., has completed all of their public projects to the satisfaction of each owner and engineer without any court litigation pertaining to contract performance or consideration whatsoever.

McKinleyville Community Services District
March 30, 2010
Page Two
Re: The Ramey Pump Station Improvement Project

No person or third party has ever alleged that Wahlund Construction, inc. is "unresponsive" or "non-responsible".

I had the privilege of serving as statutory counsel and attorney for the Board of Commissioners of the Humboldt Bay Harbor Recreation and Conservation District for thirty (30) continuous years (1974-2004).

During my above thirty (30) year period as legal counsel and advisor for the Board of Commissioners of the Humboldt Bay Harbor Recreation and Conservation District the Harbor District performed numerous public improvement and construction projects dealing with Humboldt Bay, adjacent to Humboldt Bay and Humboldt County which included the following:

1. Woodley Island Marina Project (1978-1981) Six Million Five Hundred Thousand Dollars (\$6,500,000.00) public works which dealt with ten (10) separate prime construction contractors. Wastewater was included.
2. Boat Building and Repair Facility Project at Fields Landing (1982-1984) Two Million Five Hundred Thousand Dollars (\$2,500,000.00) project with wastewater included.
3. King Salmon Beach Erosion Project (1982-1985) Eight Million Five Hundred Thousand Dollars (\$8,500,000.00) project.
4. Shelter Cove Improvement Projects Two Millions Dollars (\$2,000,000.00) plus project. Four separate projects over a 15 year period including wastewater project.

During my above legal experience in the above public works projects as counsel for the Humboldt Bay Harbor District I had the opportunity to observe numerous contractors and subcontractors pertaining to the issues of responsive, responsible, trustworthy, quality, fitness and capacity as low bidder to satisfactorily perform the proposed work.

With my above experience for the above past thirty five (35) year period I have observed Wahlund Construction, Inc., to be in the upper top echelon of public works contractors.

Attorney Diane Aqui representing Colburn Electric, Inc., dba Colburn Electric in her letter dated March 11, 2010 to the District Services Manager, Norman Shopay,

correctly states the legal description of "responsive" and "responsible":

"First, a bid is "responsive" if it promises to do what the bidding instructions demand. A bidder "responsible" if they can perform the contract as promised.

Prior to awarding the project to Wahlund Construction, your agency reviewed Wahlund's bid to determine whether it met the prescribed specifications. As a result of this review, your agency determined that Wahlund's bid was responsive.

The next step your agency was required to follow was a determination as to whether Wahlund Construction was a "responsible bidder".

In the context of public work contracts, the word "responsible" includes an element of "trustworthiness, along with quality, fitness and capacity of the low bidder to satisfactorily perform the proposed work." West v. Oakland (1916) 30 Cal App 556. In other words, in determining whether a bidder is responsible, the agency must look at whether or not the bidder is able to perform the work as specified."

In the California Supreme Court decision of City of Ingelwood - L.A. County Civic Center vs. Supreme Court 7 C.3d 861 (1972) in an opinion written by Justice Stanley Mosk, the City was required to award a public contract under the California Government Code to the "lowest responsible bidder" (same definition as McKinleyville Services District). The Court stated at 7C.31 at page 867 the following:

"(2a) The next issue is whether petitioners applied the proper standards in determining that Swinerton was the lowest responsible bidder, as that term is used in section 25454.

(3) It bears emphasis that the word "responsible" in the context of the statute is not necessarily employed in the sense of a bidder who is trustworthy so that a finding of nonresponsibility connotes untrustworthiness. Rather, while that term includes the attribute of trustworthiness, it also has reference to the quality, fitness and capacity of

the low bidder to satisfactorily perform the proposed work. (See West v. Oakland (1916) 30 Cal.App. 556, 560 [159 P. 202].) Thus, a contract must be awarded to the lowest bidder unless it is found that he is not responsible, i.e., not qualified to do the particular work under consideration.

Whether or not an express finding of nonresponsibility is required (see Raymond v. Fresno City Unified Sch. Dist. (1954) 123 Cal.App.2d 626, 629-630 [267 P.2d 69], if a contract is awarded to one other than the lowest monetary bidder, the ineluctable implication is that the latter is not responsible."

Attorney Douglas Nareau in his letter to Mr. Shopay dated March 18, 2010 appears to believe the case of Associated General Contractors of California, Inc. vs. City and County of San Francisco 813 F. 2d 922, 925, N. T. favors disregarding the "lowest responsible bidder". A careful reading of the City and County of San Francisco case shows the public body is required to award the contract to the "lowest responsible bidder".

In 1984 the San Francisco Board of Supervisors enacted an ordinance designed to increase the participation of MBE's (minorities?), WBE's (women?) and LBE's(?). The County and City of San Francisco in its ordinance gave MBE's, WBE's and LBE's a five percent (5%) bidding preference to those contracts put out to bid. The net result of the enacted ordinance would give minorities and women a five percent (5%) bid preference. If the "lowest responsible bidder" were not MBE's or WBE's the City and County could award the bid to a second lowest bidder MBE or WBE if within five percent (5%) of the low bid.

The Associate General Contractors of California filed suit in the San Francisco Federal District Court (single trial court judge). The lower court (Federal District Court) found in favor of the City and County of San Francisco and ruled the MBE's and WBE's preference was lawful.

The three (3) Appellate Judges on the Appellate Court (Court of Appeal) unanimously reversed and overruled the lower trial court and found the MBE's and WBE's ordinance invalid. The Appellate Court cited as valid law the Inglewood case which held at 922-923:

"In Inglewood-Los Angeles County Civic Center Authority v. Superior Court, 7 Cal.3d 861, 500 P.2d 601, 103 Cal.Rptr.689 (1972), the California Supreme Court interpreted California Government Code section 25454, a provision very similar to charter section 7.200. It held that the term "responsible" has reference to the quality, fitness and capacity of the low bidder to satisfactorily perform the proposed work. Thus, a contract must be awarded to the lowest bidder unless it is found that he is not responsible, i.e., not qualified to do the particular work under consideration."

The lower court used a Ohio State case as authority. The Appellate Court (Court of Appeal) in reversing the lower court stated in note 6:

"6 The court below also cited Weiner v. Cuyahoga County Comm. Coll. Dist. 19 Ohio St.2d 35, 249 N.E.2d 907 (1969), cert. Denied, 396 U.S. 1004, 90 S.Ct. 554, 24 L.Ed.2d 495 (1970), where the Ohio Supreme Court stated that "The capacity to assure a performance which complies with antidiscrimination laws is reasonably a part of the standard of a best or responsible bidder on a contract involving the expenditure of public funds." Id. At 39, 29 N.E.2d at 910. We fail to see how this unremarkable proposition supports the district court's conclusion. A contractor's ability to comply with all relevant laws-be they those pertaining to safety, taxation or discrimination-is certainly relevant to whether it is responsible. Here, the city does not claim that non-MBE contractors are less capable of complying with antidiscrimination laws than MBE contractors."

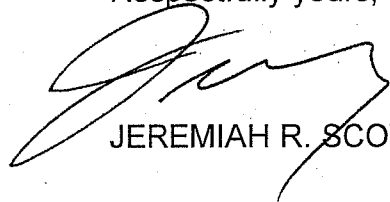
The Appellate Court (Court of Appeal) does not adopt the lower court approval of the Ohio case.

The evidence is clear Wahlund Construction, Inc., is the lowest "responsive bidder" and "responsible bidder" to the above bid invitation by the McKinleyville Community Services District.

McKinleyville Community Services District
March 30, 2010
Page Six
Re: The Ramey Pump Station Improvement Project

We respectfully request the Board of Directors of the McKinleyville Community Services District award the Ramey Pump Station Improvement Project to Wahlund Construction, Inc., as the lowest responsible bidder at its meeting of April 21, 2010.

Respectfully yours,



JEREMIAH R. SCOTT, JR.

JRS/jm

enclosure

cc: Wahlund Construction, Inc.
Russell S. Gans, Esq.
Diane Aqui, Esq.

WAHLUND CONSTRUCTION, INC.

A General Engineering Contractor
Lic. #678993 A, B., Asbestos, Hazmat

March 30, 2010

McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519

Attention: Board of Directors
Helen Edwards, President
Dennis Mayo, Vice President
John Corbett, Director
David Couch, Director
Bill Wennerholm, Director

Norman Shopay, General Manager

Re: The Ramey Pump Station Improvement Project

Dear Ladies and Gentlemen:

Our firm Wahlund Construction, Inc., a California corporation, is the successful low bidder on the above Ramey Pump Station Project advertised by the McKinleyville Community Services District. This letter is made in response to letter dated March 18, 2010 from Russell A. Gans, attorney for the District pertaining to a letter by Patrick Wirsing dated March 8, 2010.

This is to advise you of the following history of successful public work projects performed by Wahlund Construction, Inc. in water and wastewater public works in Humboldt and Del Norte County. This successful and responsible public work and improvements performed by Wahlund Construction, Inc. for the past twenty (20) years are on public projects in Humboldt County and Del Norte County.

Wahlund Construction, Inc. is a California corporation formed in July, 1996. The sole shareholders and officers of Wahlund Construction, Inc. are Ken Wahlund, President and his wife, Kelly Wahlund, Secretary/Treasurer. Ken Wahlund and wife Kelly Wahlund are both natives of Humboldt County and graduates of Eureka High School class of 1976. Ken Wahlund is the responsible managing officer.

Ken & Kelly Wahlund

830 Hilma Drive, Eureka, CA. 95503

Office: 707-464-9768

Fax: 707-464-9670

Wahlund Construction, Inc. holds the following State of California licenses:

1. 1989 Class A General Engineering Contractor
2. 1991 Class B Building Contractor
3. 1998 Asbestos
4. 1999 Haz-Mat (Hazardous Materials, Soil Contamination)

Wahlund Construction, Inc. submitted the successful bid based upon the plans and specifications for the project by the McKinleyville Services District. We are informed Wahlund Construction, Inc. is the apparent low bidder.

Wahlund Construction, Inc. since 1989 is a party to contracts with local unions including the Operator's Local #3 and Labors Local #139. Since 1989 to date Wahlund Construction, Inc. has been contractor on the following public projects in Humboldt County and Del Norte County pertaining to repairs and installation of sewage, wastewater systems and water systems. On all of the following public works Wahlund Construction, Inc., was the prime contractor on all projects except P.G. & E. job designated as number 1 hereafter where we are a subcontractor to Haskell. Those successful and responsive public projects as performed by Wahlund Construction, Inc. are as follows:

1. P.G. & E. fire system and pump station, King Salmon (2009-2010 on-going). Subcontractor to Haskell Corporation. Wahlund Construction subcontract Three Million Six Hundred Thousand Dollars (\$3,600,000.00) work project is the installation and modification of wastewater and water pump stations at the P.G. & E. power plant at King Salmon, Humboldt County, California. Haskell subcontract administrator Chris Szolomayer, telephone 360-941-3768.
2. Crescent City wastewater plant remodel (2009-2010 ongoing). Total contract Thirty-eight Million Dollars (\$38,000,000) entitled Crescent City Waste Water Improvement Project. This is a joint venture with three prime contractors including Wahlund Construction, Inc. and Sequoia Construction Specialties, Inc. of Eureka, California. The Crescent City Wastewater Improvement project has over 17 wastewater pump stations incorporated into the project. Wahlund Construction, Inc. is the project administrator for all three joint venturers. This project commenced May,

March 30, 2010

Page Three

Re: The Ramey Pump Station Improvement Project

2007 and currently continues at approximately 91% satisfactorily complete and on schedule. It is interesting to note that Colburn Electric is not a subcontractor of Wahlund Construction, Inc. on the Crescent City project but in fact Colburn is a subcontractor to Sequoia Construction Specialties, Inc., a California corporation.

Crescent City project contact person, Crescent City Public Works Director, Jim Barnts, 707-464-9506.

3. Lucky Seven Casino, Smith River, Del Norte County (2009) wastewater treatment vertical turbine pumps project. Contract Two Million Three Hundred Thousand Dollars (\$2,300,000.00). Engineer Winzler & Kelly, Neil Carnam, 443-8326. All completed to the satisfaction of the owner and engineer.
4. City of Eureka (2007). Cross Town Interceptor Cathodic Protection Improvements. Contract One Hundred Eighty-one Thousand Dollars (\$181,000.00). Contact person, Assistant City Engineer, City of Eureka, Angie Sorensen, 499-8418, 268-1970. Project completed to the satisfaction of the owner and engineer.
5. City of Eureka H Street pump station (2008). Contract Two Hundred Two Thousand Dollars (\$202,000.00). Assistant City Engineer Angie Sorensen, 499-8418, 268-1970. Project completed to the satisfaction of owner and engineer.
6. City of Eureka, K Street Cross Town Interceptor Pipe, based on project emergency (2009). Contract Four Hundred Sixty-four Thousand Dollars (\$464,000.00). Project completed to the satisfaction of the City of Eureka and Assistant City Engineer Angie Sorensen, 499-8418, 268-1970.
7. City of Eureka, (1989-2010).
 - A. Harris Street pump station, water main improvements. Contract Two Million Dollars (\$2,000,000.00), completed to the satisfaction of the City of Eureka and its Engineer.
 - B. Elk River pump station improvement. Contract Five Hundred Seventy Thousand Dollars (\$570,000.00), all

March 30, 2010

Page Four

Re: The Ramey Pump Station Improvement Project

completed to the satisfaction of the City of Eureka and its Engineer.

- C. Harris and K Street water tower modification. Contract Two Million Two Hundred Thousand Dollars (\$2,200,000.00). All completed to the satisfaction of the City of Eureka and its Engineer.
- D. Harris Street water system improvements, Phase One, Three Million Five Hundred Thousand Dollars (\$3,500,000.00) and Phase Two, Three Million Eight Hundred Thousand Dollars (\$3,800,000.00). All completed to the satisfaction of the City of Eureka and its Engineer.
- E. McCullen Avenue pump station improvement. Contract One Million Seven Hundred Thousand Dollars (\$1,700,000.00). All completed to the satisfaction of the City of Eureka and its Engineer.

The following City of Eureka Engineers were the inspectors and contract engineers for the above: Bruce Young 441-4255; Frank Mathis 441-4257 and 499-6920.

- 8. City of Eureka water valve improvements (2003). Contract Five Hundred Eighty Thousand Dollars (\$580,000.00). Project completed to the satisfaction of City of Eureka and Assistant Engineer Sheila Parrott 499-8419, 441-4350.
- 9. City of Eureka installation of new water meters (2006). Install 2,000 new water meters. Contract in excess of Two Million Dollars (\$2,000,000.00). Project completed to the satisfaction of City of Eureka and Assistant City Engineer Bruce Young 441-4255.
- 10. Palmer Creek District water system improvements and pump station (1998) near Fortuna. Contract Three Million Eight Hundred Thousand Dollars (\$3,800,000.00). Job completed to the satisfaction of the District and Engineer Steve McHaney of Winzler & Kelly, 599-6931, 443-8326.
- 11. Rio Dell emergency water system (2000). Contract Two Million One Hundred Thousand Dollars (\$2,100,000.00). Project completed to the

March 30, 2010

Page Five

Re: The Ramey Pump Station Improvement Project

satisfaction of the City of Rio Dell and Engineer Steve McHaney of Winzler & Kelly, 599-6931, 443-8326.

12. City of Fortuna Waste Water Sewer Improvement Project (2005-2007). Contract Twelve Million Dollars (\$12,000,000.00). All completed to the satisfaction of the City of Fortuna and contact person Duane Rigge, City Manager, 725-1409.
13. Loleta Water Improvement Project (2009-2010). Installation of water and sewer pump. Contract Nine Hundred Thousand Dollars (\$900,000.00). Completed to the satisfaction of the owner and Engineer John DeBoice of Oscar Larson & Associates, 445-2043.
14. County of Del Norte - Olive Street pump station installation (2004). Contract Two Hundred Forty Thousand Dollars (\$240,000.00). Project completed to the satisfaction of the County of Del Norte and Del Norte County Engineer Art Reeves, 464-7229.
15. McKinleyville Community Services District (1998-2000). Two jobs, pump station improvements, various amounts. All completed to the satisfaction of the McKinleyville Community Services District, Tom Marking, Community Services District Manager, 839-2073.

The above successful public work contracts have dealt with water and wastewater projects.

Since 1989 we have performed in excess of 25 other public work projects with the County of Humboldt involving storm drains, earthquake and storm water improvements. The Humboldt County Civil Engineers on these projects were Tony Seghetti or Chris Whitworth (445-7448).

We are pleased to report that in our performance of all of the above public projects or any other public projects we have never been involved as a party to any court litigation involving our work performance or contract consideration.

Our successful record of public work projects over the past 20 plus years illustrate our history of being "responsible" with the quality, fitness and capacity as the apparent low bidder to satisfactorily perform the proposed project for the McKinleyville Services District known as the Ramey Pump Station Improvement Project.

March 30, 2010

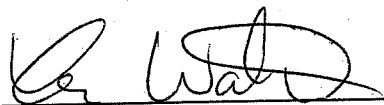
Page Six

Re: The Ramey Pump Station Improvement Project

We appreciate the Board of Directors of the McKinleyville Services District awarding the above contract to Wahlund Construction, Inc. at its meeting of April 21, 2010 based upon Wahlund Construction, Inc. being the responsible low bidder.

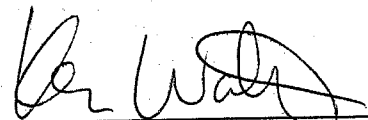
Respectively yours,

WAHLUND CONSTRUCTION, INC.

By: 
KEN WAHLUND, President

I certify under penalty of perjury based upon information and belief that the above is true and correct.

DATED: March 30, 2010


KEN WAHLUND

MARK D. JORDAN
Attorney at Law
1612 Fourth Street
Santa Rosa, CA 95404-4020
 Telephone: (707) 526-3700
 Facsimile: (707) 526-1716
 E-mail: mdj@1612fourth.com

Diane Aquil - Of Counsel
da@1612fourth.com

April 9, 2010

Sent Via Fax and US Mail (707) 444-9586

Russell Gans
 Mitchell, Brisso, Delaney & Vrieze, LLP
 814 Seventh Street
 Eureka, CA 95501

**Re: Robert Colburn Electric, Inc. dba Colburn Electric;
 Ramey Pump Station Improvement Project**

Dear Mr. Gans:

Thank you for the opportunity to respond to the complaint initiated by Patrick Wirsing of the NCECI for the above referenced job.

1. Patrick Wirsing's March 8, 2010 Complaint:

First, I believe the parties involved have been mischaracterizing Patrick Wirsing's complaint as a "bid protest." It is my understanding that the Ramey Pump Station Improvement Project has not yet been awarded. It is also my understanding that Wahlund Construction is the low bidder for that project. However, prior to a bid protest, the public agency typically provides notice of the award of the project. In this case, that has not yet been done; any bid protest may be premature.

Further, most bid packages contain the procedures for filing a bid protest. In the case of *MCM Construction, Inc. v. City and County of San Francisco* (1998) 66 Cal App 4th 359, the appellate court reviewed protest requirements that the City set forth in the bid package for the project. The Court concluded that those requirements were a prerequisite to pursuing a bid protest. In the *MCM* case, the court held that the unsuccessful bidder waived its right to pursue a bid protest since it failed to comply with the procedures.

I am unclear whether Patrick Wirsing's "bid protest" followed the District's procedures, a necessary prerequisite, or whether there are even procedures in place. It would be most appreciated if you could inform me whether the bid package contained a formal bid protest procedure.

2. Patrick Wirsing Lacks Standing:

Second, and perhaps more importantly, if this is a bid protest, the NCECI lacks standing to bring a bid protest. *International Organization of Masters v. National Park Service*, 2006 U.S. Dist. LEXIS 37329 (N.D. Cal. May 26, 2006) stated, "jurisdiction to challenge a bidding process is limited to 'an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract.'"

In *AFGE, Local 1482 v. United States*, 258 F.3d 1294, 1302 (Fed. Cir. 2001), the court held that because they were not actual or prospective bidders, unions lacked standing to bring bid protest actions in the Court of Federal Claims.

Mr. Gans
April 9, 2010
Page Two

The issue of standing is crucial as we believe Mr. Wirsing's complaint to be frivolous as set forth *infra*. The bid protest procedures that were set forth in the *MCM Construction* case included the provision that if the agency "determines that a protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards."

In this case, Patrick Wirsing of the NCECI is initiating this complaint. If this complaint is ultimately treated as a "bid protest", what is the remedy if the District determines, as we believe it will do, that he is acting frivolously? Would all the "500 C-10 and C-7 electrical contractors" he purports to represent be ineligible for future contract awards in the District of McKinleyville?

For these reasons, we believe Mr. Wirsing has initiated a "complaint" as a concerned citizen, and not a "bid protest". We therefore address the issues as follows.

3. Alleged Labor Code Violations:

In his letter dated March 8, 2010, Mr. Wirsing alleges that Colburn Electric "has a history in Northern California of not paying the prevailing wage rate on public work projects." Mr. Wirsing also provided to you a copy of the Civil Wage and Penalty Assessment from the Department of Industrial Relations concerning a public works job in Crescent City performed by Colburn, and Colburn's alleged failure to pay the prevailing wage rate for overtime hours worked in excess of 8 per day.

As you are aware, in California, an employer is required to pay over time ($1 \frac{1}{2}$ x the hourly rate) for all hours worked in excess of 8 per day.

However, under current and very detailed California Industrial Welfare Commission wage orders, employers may institute alternative work schedules of four 10 hour days with an exemption from the daily overtime rules if the affected employees agree to the arrangement in writing and by secret ballot. Two-thirds of the company's employees must agree to the change. The social effect of this is that it gives employees more flexibility and choices regarding the balance between their work, personal and family lives. Further, it also decreases "wasted" time and expense for commuting.

Based on information Colburn obtained from the Department of Industrial Relations website concerning alternative work weeks, they believed that the alternative work schedule governed all work performed by their employees, including both private work and public work projects. Therefore, when Colburn Electric began work on the Crescent City job, the employees voted to work four 10 hour days as it would allow them to spend more time with their families in Eureka.

Unfortunately, the alternative work week law conflicts with the even more detailed prevailing wage laws which state that for public work projects, employees must be paid the prevailing wage for all straight time and over time.

In August of 2009, NCECI was on site at the Crescent City job, and informed Colburn that the prevailing wage laws took precedence over the alternative work week laws. Once Colburn confirmed this, they immediately made additional payments to its employees to make up the difference between the straight time the employees were paid for the two hours worked in excess of 8 per day and the overtime rate. (At the time of the Crescent City job, the prevailing wage rate was \$32.38 for straight time and \$48.57 for overtime).

By neglecting to pay their employees overtime for hours worked in excess of eight per day, Colburn was not acting maliciously or with any intent to circumvent the prevailing wage law. They simply made an error and corrected it.

At this time, Colburn Electric has reached a tentative settlement agreement with the Department of Industrial Relations regarding the Wage and Penalty Assessment, and we expect the charge to be dismissed.

4. Alleged Violations Regarding Apprentices:

In his March 8, 2010 letter, Mr. Wirsing also alleges that Colburn Electric has failed to hire apprentices. Douglas Nareau, Attorney for NCECI, also states in his March 18, 2010 letter to the McKinleyville Community Services District that Colburn Electric “refus[es] to hire apprentices.”

In my letter of March 11, 2010 to Norman Shopay, General Manager of the McKinleyville Community Services District, I addressed this allegation and stated the following, “Colburn Electric has used apprentices on their public work jobs. However, for the last few years, because Colburn is not signatory to a collective bargaining agreement with the IBEW Union (International Brotherhood of Electrical Workers), the IBEW has refused to dispatch apprentices to Colburn. Though not required to under the law, Colburn Electric sent one of their employees to a trainee program through the WECA (Western Electrical Contractors Association). In January of 2010, this employee successfully attained apprentice status.”

Please also be aware that after the audit performed by the Department of Industrial Relations on the Crescent City project, there was no finding of any violation of the apprenticeship laws. I also attach for your consideration a June 3, 2009 Notice of Dismissal from the DIR regarding Mr. Wirsing’s allegations. Despite this dismissal almost a year ago, Mr. Wirsing and his attorney, Mr. Nareau, continue to misrepresent that Colburn Electric fails to hire apprentices for public work jobs.

5. Colburn Electric is a Responsible Bidder:

Robert Colburn, the principal of Colburn Electric, started as an electrician and foreman for Brizard Construction Company in Arcata in 1967. When the company closed in 1978, Mr. Colburn joined B&B Electric in Eureka as a partner. In 1986, he started Colburn Electric, and has completed numerous projects for the City of Eureka, City of Fortuna and the County of Humboldt. The company has also expanded into Tillamook County, Oregon ¹ and performed a \$2.2 million dollar contract at the county hospital in 2001.

In 2009, Colburn Electric upgraded the Dow’s Prairie School and the Morris Elementary School in McKinleyville. These obviously were both public work jobs, and you may speak with Dan Johnson of Danco Builders (707-822-9000) for additional information as to Colburn’s “fitness, quality and capacity to satisfactorily” perform this present project.

In addition, over the last 10 years, Colburn has completed the following public work projects with out ever being involved in any court litigation involving the quality of their work, or performance of contract obligations, or failure to comply with the Labor Code statutes, including prevailing wage statutes:

¹ Oregon also has its own prevailing wage laws for public work projects.

Mr. Gans
April 9, 2010
Page Four

1. Humboldt County Recorder's Office Remodel (2000); \$89,500.00; *Resco Construction*, Al Alora;
2. Trinity County Juvenile Facility (2001); \$270,013.00; *Adroit Construction*, Craig Funsten (541) 482-4098;
3. College of the Redwoods Learning Center Building (2002); \$833,424.00, *Rainbow Construction*; Doug Anderson (707) 468-5504;
4. Ferndale High School Fire Alarm System (2003); \$43,334.00; *Crow Clay, Architect* (541) 269-9388;
5. Pacific Union Elementary School (2004); \$216,402.00; *Rainbow Construction*, Bob (707) 468-5504;
6. South Bay Elementary School District, Pine Hill School (2004); \$184,517.00; *Danco Builders*, Joe Nickols (707) 822-9000;
7. Fortuna Union High School (2004); \$142,218.54; *Pierson Company*, Dean Beck (707) 268-1800;
8. Humboldt State University Student Rec Center (2004); \$355,481.00; *Rainbow Construction*, Lou (707) 468-5504;
9. Eureka County Courthouse (2004); \$427,758.00; *Danco Builders*, Dan Johnson (707) 822-9000;
10. Eureka Cal Trans Maintenance Station (2004); \$390,719.00; *Mayan Construction*, Roy Hedien (707) 822-6900;
11. Humboldt High, Eureka High School Annex (2005); \$500,022.00; *Danco Builders*, Dan Johnson (707) 822-9000;
12. Humboldt State University Remodel Science Building (2006); \$225,000.00; *Beacon Construction*, Dave Morris (707) 725-3323;
13. Fortuna Ambrosini Elementary School (2008); \$1,041,484.00; *Danco Builders*, Dan Johnson (707) 822-9000;
14. Arcata Airport (2009); \$1,041,484.00; *Mayan Construction*, Roy Hedien (707) 822-6900;
15. City of Eureka Reservoir Maintenance Project (2010); \$411,312.00; *Mercer Fraser*, Mark Benzinger (707) 443-6371.

As you know, a *responsible* bidder must be a licensed contractor who has not been barred from government contracts for prior misconduct. In addition, a responsible bidder must have the equipment and skills necessary to perform the work in question or have a subcontractor who has those particular skills. Colburn Electric holds the required C-10 electrical license, has never been barred from public work contracts, and has never been deemed a Non Responsible bidder.

Mr. Gans
April 9, 2010
Page Five

In fact, Colburn Electric has been pre-qualified as a Responsible Bidder for Humboldt State University in 2005, and for Skanska USA for work they are presently performing at the St. Joseph Hospital project in Eureka.²

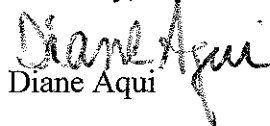
I have also attached two letters of reference from the Blue Lake Rancheria and St. Joseph Hospital, and two letters from Colburn's surety company regarding Colburn's financial condition, management abilities and equipment provisions.

You have requested assurance from Colburn Electric that no Labor Code violations will occur on the Ramsey Pump job. It is probable that at this point in time, Colburn Electric, Inc. is the current expert in prevailing wage law in Humboldt and Del Norte Counties, and their knowledge has surpassed even that of Mr. Wirsing. Therefore, it is not likely that any Labor Code violations will occur on this job.

Additionally, under California law, a labor and materials bond is required to be provided for any public work in excess of \$25,000. (Civil Code Section 3247(a)). Further, under the California Contractor's Licensing Bureau, both Wahlund Construction and Colburn Electric are required to be bonded. Finally, most public work contracts also require a performance bond. In the unlikely event that violations do occur, the District of McKinleyville and its citizens are adequately protected.

I am aware that a Board Meeting is scheduled for April 21, 2010 to consider and/or determine the formal awarding of this project. I am confident that we have addressed Mr. Wirsing's complaint and alleviated any concerns that may have arisen because of it.

Sincerely,


Diane Aqui

encl.

Cc: Client
Jeremiah Scott, Esquire
Norman Shopay, General Manager

² Public Contract Code §20101 allows a public entity to require that each prospective bidder for a contract complete and submit to the entity a standardized questionnaire and financial statement in a form specified by the entity, including a complete statement of the prospective bidder's experience in performing public works.

The criteria that are used by a number of public entities in their uniform system of rating bidders include: (a) similar projects that have been completed by the contractor within the last five years; (b) prior defaults by the contractor and/or prior bankruptcy filings; (c) the type of license the contractor holds; (d) disqualification on prior jobs; (e) assessment of liquidated damages on earlier projects; (e) prior terminations; (f) bondability; (g) insurability; (h) workers compensation experience; (i) violation of regulations and rules; and (j) financial strength.

Typically, answers to the questionnaire are assigned a preset number of points. The bidder will be determined to be qualified if it has a minimum number of points

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Tel: (415) 703-4920
Fax: (415) 703-5218

www.dir.ca.gov



ADDRESS REPLY TO:
Div. of Apprenticeship Standards
P. O. Box 420603
San Francisco, CA 94142-0603

NOTICE OF DISMISSAL

June 3, 2009

Patrick J. Wirsing, Senior Compliance Officer
Northern California Electrical Construction Industry
1800 Sutter Street, Suite 390
Concord, CA 94520

Dear Mr. Wirsing,

RE: Robert Colburn Electric, Inc. dba Colburn Electric
Water Pollution Control Facilities, Crescent City
DAS Complaint # 2009-0203

This letter is to advise you of the dismissal of the above referenced complaint.

Our investigation shows that Robert Colburn Electric, Inc. dba Colburn Electric is approved to train by Western Electrical Contractors Association (WECA), submitted its training fund contributions, and the DAS 140 to WECA, and that a request for apprentices was made for the above noted project.

DAS makes no determination of merit and this complaint is dismissed. No further action will be taken.

If you have any questions, please contact me at 415-703-4930.

Sincerely,

Sarah Chen

Sarah Chen
Industrial Relations Representative

Cc: Robert Colburn Electric, Inc. dba Colburn Electric
Wahlund Construction, Sequoia Construction Specialties, O&M Industries
– Joint Venture
City of Crescent City
File



BLUE LAKE RANCHERIA

Post Office Box 428

Blue Lake, California 95525-0428

BUS: (707) 668-5101 • OFFICE: (707) 668-5615 • FAX: (707) 668-4272

June 22, 2007

To Whom It May Concern and potential Colburn Electric customers:

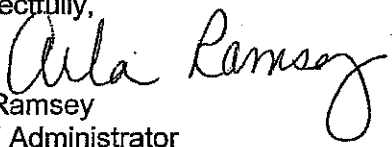
Colburn Electric has been performing all of the Blue Lake Rancheria's electrical work for the last 6 years. This includes the construction of the 45,000 sq.ft. Tribal casino, a 14,000 sq.ft. special events pavilion and a recently completed Gas Station/Convenience Store. These large projects are in addition to a myriad of other projects and remodels that Colburn has contributed to. The total cost to the Tribe of these projects has been over \$30 million with the Colburn portion about 10% of that or around \$3 million- half of that since completion of the original casino project.

The Tribe has found the Colburn Electric contribution to be of the highest caliber. They have diligently met all schedules, deadlines and budgets and are a major force driving project excellence. The electrical component of our projects is the most integrated into the balance of the project and affects every other trade. This requires a strong ability to coordinate with all other trades on a shared job site and Colburn excels at this- indeed Colburn drives the pace of our jobs. Colburn Electric has always been immediately responsive to any urgent needs, completely willing to work around our business needs/customer comfort and the quality of their work is outstanding. Colburn Electric plays such a vital role in the Tribe's development projects that we even have them contribute value engineering input during our design phases.

The Blue Lake Tribe is very demanding and carries high expectations for all contractors. Colburn consistently rises to the challenge and is the most significant contributor to our string of successful projects. They not only bring their own integrity and excellence to the job, they drive the balance of the contractors to a higher level of performance.

I strongly recommend Colburn Electric to anyone. Please feel free to call me or my Construction Manager, Bruce Ryan, with any questions you might have.

Respectfully,



Arla Ramsey
Tribal Administrator

June 19, 2007

Skanska USA Building Inc.
2555 SW 153rd Drive
Beaverton, Oregon 97006

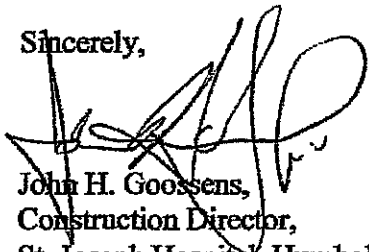
To Whom It May Concern:

It is a privilege that I provide this letter of recommendation for Colburn Electric. In my seven years of service to St. Joseph Hospital Colburn Electric has provided exemplary service to the St. Joseph and Redwood Memorial hospitals. Over the years Colburn Electric has done every kind of project imaginable, from the simple electrical system to highly complex projects such as the 1997 East Wing Addition.

Bob Colburn is a committed professional, which is reflected in his staff. From the office staff to the technician in the field, each member of the Colburn team is a highly trained professional. Colburn Electrical is recognized in the Humboldt community as leader in the industry. I would highly recommend Colburn Electric for any job, including the New Addition project.

If you have any questions please feel free to contact me.

Sincerely,



John H. Goossens,
Construction Director,
St. Joseph Hospital, Humboldt County

M.B. McGowan & Associates
INSURANCE AGENCY, INC.

Surety Bond Specialists

Lic. No. 0C88554

March 31, 2010

Skanska USA Building, Inc.
1633 Littleton Road
Parsippany, NJ 07054-3808

RE: Robert Colburn Electric, Inc.

To Whom It May Concern:

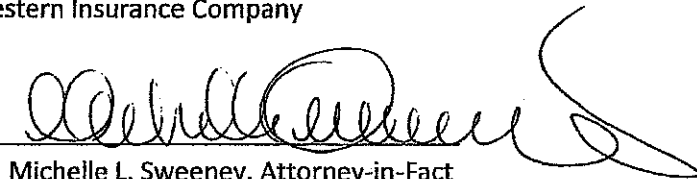
It has been the privilege of M.B. McGowan & Associates Insurance Agency, Inc. and Western Insurance Company to provide bonds on behalf of Robert Colburn Electric, Inc. for over two years, during which time Robert Colburn Electric, Inc. has performed and we have agreed to issue performance and payment bonds for contracts valued in the range of five million dollars (\$5,000,000). In our opinion, Robert Colburn Electric, Inc. remains properly financed, well equipped, and capably managed.

At the present time, Western Insurance Company provides a five million dollar (\$5,000,000) single project / ten million dollar (\$10,000,000) aggregate surety program to Robert Colburn Electric, Inc. As always, Western Insurance Company reserved the right to perform normal underwriting at the time of any bond request, including, without limitation, prior review and approval of relevant contract documents, bond forms, and project financing. We assume no liability to Skanska USA Building, Inc. or its affiliates if for any reason we do not execute such bonds.

Western Insurance Company is listed on the U.S. Treasury Department's Listing of Approved Sureties (Department Circular 570), and is rated [B++] ([V]) by A.M. Best Company.

Very truly yours,
Western Insurance Company

By:



Michelle L. Sweeney, Attorney-in-Fact

M.B. McGowan & Associates

INSURANCE AGENCY, INC.

Surety Bond Specialists

Lic. No. 0C88554

February 13, 2008

Skanska USA Building, Inc.
1633 Littleton Road
Parispany, NJ 07054

Re: Robert Colburn Electric Co.

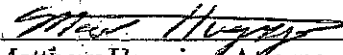
To Whom It May Concern:

It has been the privilege of M.B. McGowan & Associates Insurance Agency and Western Insurance Company to provide surety bonds on behalf of Robert Colburn Electric Co for over one year, during which time Robert Colburn Electric Co has performed and we have issued performance and payment bonds for contracts valued in the range of Three Million Dollars (\$3,000,000). In our opinion, Robert Colburn Electric Co remains properly financed, well equipped, and capably managed.

At the present time, Western Insurance Company provides a three million dollar (\$3,000,000) single project / six million dollar (\$6,000,000) aggregate surety program to Robert Colburn Electric Co. As always, Western Insurance Company reserves the right to perform normal underwriting at the time of any bond request, including, without limitation, prior review and approval of relevant contract documents, bond forms, and project financing. We assume no liability to Skanska USA Building, Inc. or its affiliates if for any reason we do not execute such bonds.

Western Insurance Company is listed on the U.S. Treasury Department's Listing of Approved Sureties (2005 Department Circular 570), and is rated [A-] ([v]) by A.M. Best Company.

Very truly yours,
Western Insurance Company

By: 
Matthew Huggins, Attorney-in-Fact

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **ACTION**

ITEM: E.2. Water rate increase in the amount of 3% as a result of Humboldt Bay Municipal water District (HBMWD) anticipated rate increase to MCSD.

PRESENTED BY: Norman Shopay/Steve Edmiston

TYPE OF ACTION: Voice Vote

Recommendation:

Staff Requests the Board:

1. Approve a 3% water rate increase to be applied to water billings prepared by the District starting on May 1, 2010 as a result of HBMWD anticipated water rate increase to MCSD as described in Table 1 below.
2. Revise the District Rules and Regulations to reflect these water rate changes.
3. Proceed to initiate an evaluation of a new Proposition 218 process to consider establishing a water rate increase adjustment formula that accounts for future actual water cost increases approved by the HBMWD Board of Directors, include an annual cost of living inflation factor, addresses the deficiency needed to make up the difference to meet the total rate increase by HBMWD and incorporates needed contributions to fund our reserve account. The planned term of the rate adjustment formula should be for a five (5) year term. Bring this item back to the Board in a future meeting for consideration and approval.

Discussion:

The District charges water rates to fund its costs to provide water service, including operating costs and the cost to purchase water from the Humboldt Bay Municipal Water District (HBMWD). Customers pay water bills based on a base rate and a rate for the amount of water consumed, plus other charges for certain uses. Water charges are billed monthly. On April 15, 2009 the Board approved a rate increase that included a 3% additional adjustment factor that was not accessed at that time. A copy of the Board approval is attached as Exhibit 1.

In a meeting on March 23, 2010 HBMWD provided information on their projected rate increase to MCSD in the amount of \$89,656. HBMWD total projected budget will increase from \$3,492,137 to \$4,047,895 an increase of

\$555,758. The increase is associated with eliminating existing furloughs; increasing O&M expenses, addressing some of the deferred maintenance/projects, and advancing two Capital improvement projects (begin replacement of Laterals at Ranney Collector 3 (\$208,000) and Techite Replacement (\$100,000)). The \$89,656 represents MCSD's share of the total budget increase. Information presented in that meeting is attached as Exhibit 2. HBMWD will seek final approval from their Board in June 2010.

Each year MCSD is face with the challenge of obtaining an accurate projection related to the actual increase in water rates HBMWD Board of Directors will ultimately approve. Since HBMWD's process and approval is completed in June of each year MCSD is faced with having to estimate or project what we believe will be the final rate adjustment assessed by HBMWD so that we can include the projected amount in our next year's budget. Each year we are then faced with potentially having to do a Proposition 218 rate process and try to catch up with the rate increase that has already occurred after MCSD's budget is approved.

The projected \$89,656 in cost to MCSD will result in a needed rate adjustment of 5.27% to MCSD rate payers as described in the fiscal analysis below.

Since the District only has a 3% reserve adjustment factor we are requesting the 3% rate adjustment be approved by the Board at this time. Approving this rate adjustment will assist in offsetting only a portion of the anticipated projected rate increase by HBMWD. An adjustment greater than 3% would not be authorized, unless a new Proposition 218 process was conducted and approved for any amount over 3%.

Therefore, staff is recommending the Board consider approval of a process to evaluate a new Proposition 218 process to establish a rate increase adjustment formula that accounts for future actual water cost increases approved by the HBMWD Board of Directors, and includes an annual cost of living inflation factor. Staff recommends the term of the rate adjustment formula be for a five (5) year term.

The following is an informational example of how staff is considering how the rate adjustment formula may be implemented.

New Rate = Old Rate x ((1+ (A +C))), where

A = Actual increase percentage to MCSD in annual wholesale water costs based on increase approved and adopted by Humboldt Bay Municipal Water District (Wholesaler) Board of Directors.

C = CPI, All Urban Consumers, US City Average, Percent change in the annual average for the prior calendar year.

In addition to the rate adjustment formula, staff intends to evaluate and considering adding and percentage adjustment needed to maintain sufficient contributions to our reserve account for funding of future projects. Under our current structure the District is not adding to our reserve account for and replacement or upgrades to our current water system.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action
- Approve an adjustment factor of less than 3%.

Fiscal Analysis:

	FY-10	FY-11	
Water Cost PER HBMWD	540,224	629,880	
Salaries & Benefits - FY-10 budget	653,614	653,614	
Other Expenses - FY-10 budget	311,473	311,473	
Depreciation - FY-10 budget	225,000	225,000	
Interest Expense - FY-10 budget	56,201	56,201	
<i>Total Cost & Exp</i>	<u>1,786,512</u>	<u>1,876,168</u>	
Interest Income - FY-10 budget	98,000	98,000	
Other Water Revenues - FY-10 budget	123,802	123,802	
Water Revenues - FY-10 budget	1,700,000	1,700,000	
Rate Increase Needed	-	89,656	5.27%
Total Water Revenues	1,700,000	1,789,656	
Total Revenues	<u>1,921,802</u>	<u>2,011,458</u>	
Net Income	<u>135,290</u>	<u>135,290</u>	

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Table 1
- Exhibit 1 Board Action
- Exhibit 2 HBMWD Municipal Customer Meeting, March 23, 2010

Table 1

Comparison of current MCSD water rates to a proposed 3% water rate increase as a result of Humboldt Bay Municipal Water District increased rates to MCSD.

Rule (16.01) - The monthly charge for water service shall be calculated by adding the minimum charge for the customer to the consumption charge for the amount of water consumed by the customer. Minimum charges per month for multiple living units: \$7.27 per living unit regardless of the meter size.

Minimum charge per month for all customers

Meter Size	Current Monthly Rate	Future Example Rate
5/8"x3/4", 3/4"x1"	7.27	7.49
1 1/2" & 2"	37.60	38.17
3" and Larger	58.03	59.77

The consumption charge for non-multiple unit customers shall be calculated as a function of the actual water consumed as follows:

Amount of Water Consumed	Charge Per 100 Cubic Feet	Charge Per 100 Cubic Feet (Future Rate)
100 to 500 Cubic Feet	\$1.08	\$1.11
500 to 1,300 Cubic Feet	\$1.61	\$1.66
Over 1,300 Cubic Feet	\$2.50	\$2.58

Illustrative example of Rule 16.01: (Current Rates)

A single living unit with a 5/8"x3/4" meter with a water consumption of 10,000 gallons

Convert 10,000 gallons to hundreds of cubic feet by dividing 10,000 gallons/7.48 gallons per hundred cubic feet (ccf) = 13 ccf. Usage of 1-5 ccf is charged at \$1.08 per ccf, usage of 5-13 ccf is charged at \$1.61 per ccf, usage over 13 ccf is charged at \$2.50 per ccf.

Base charge	\$ 7.27
Consumption Charge 5ccf times \$1.08	\$ 5.40
Consumption Charge 8 ccf times \$1.61	\$12.88
TOTAL WATER BILL	\$25.55

Illustrative example of Rule 16.01: (Future Example Rates)

Base charge	\$ 7.49
Consumption Charge 5ccf times \$1.11	\$ 5.55
Consumption Charge 8 ccf times \$1.66	\$ 13.28
TOTAL WATER BILL	\$26.32

RESULTING INCREASE TO ILLUSTRATIVE EXAMPLE WATER BILL = \$0.77

Fire System Charge (Rule 13.05)

Current Rate

\$5.00 / per inch / month

Future Example Rate

\$5.15 / per inch / month

Backflow Prevention Device Charges (Rule 7.10)

Current Rate

\$2.50/month

Future Example Rate

2.58/month

Water Haulers (Rule 14.09)

Current Rate

\$6.00 processing fee per load

\$1.50 per 100 cubic feet in district

\$2.25 per 100 cubic feet out of district

Future Example Rate

\$6.00 processing fee per load

\$1.55 per 100 cubic feet in district

\$2.32 per 100 cubic feet out of district

Temporary Water Service (Rule 14.02)

Current Rate

\$500 deposit

\$15.00 meter set fee or additional move of location

\$58.03 per month plus usage rate of \$1.08 per ccf and the \$1.61 for any consumption over 5 ccf per month, the regular commercial rate for water use

Future Example Rate

\$500 deposit

\$15.00 meter set fee or additional move of location

\$59.77 per month plus usage rate of \$1.11 per ccf and the \$1.66 for any consumption over 5 ccf per month, the regular commercial rate for water use.

ORDINANCE 2009-1

**AN ORDINANCE OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
AMENDING THE MCSD RULES AND REGULATIONS TO INCREASE FEES AND CHARGES**

- WHEREAS,** MCSD last increased its water rate April 1, 2009; and
- WHEREAS,** MCSD's water supply cost, the largest expense in the Water Department budget, has increased almost 14.3% over the past year; and
- WHEREAS,** The closure of the pulp mill has resulted in a substantial increase in purchased water cost; and
- WHEREAS,** The Board finds that a conservation rate consisting of a third tier for water use would be appropriate for higher users and encourage conservation and help with operations cost during peak period of use; and
- WHEREAS,** The Board finds that an 8 % increase in water base rates with 5% to be implemented on July 1, 2009 and the remaining 3% to be considered at a later date are needed and necessary to provide a reasonable level of service to MCSD customers and constituents.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT DOES HEREBY AMEND THE MCSD RULES AND REGULATIONS AS FOLLOWS:

- SECTION 1.** The minimum charge per month for multiple living units specified in Rule 16.01 is increased from \$6.92 per living unit to \$7.27 per living unit.
- SECTION 2.** The minimum charge per month for 5/8" to 1" meters for all customers specified in Rule 16.01 is increased from \$6.92 per living unit to \$7.27 per month.
- SECTION 3.** The minimum charge per month for 1½" to 2" meters for all customers specified in Rule 16.01 is increased from \$35.81 per living unit to \$37.60 per month.
- SECTION 4.** The minimum charge per month for 3" or larger meters for all customers specified in Rule 16.01 is increased from \$55.27 per living unit to \$58.03 per month.
- SECTION 5.** The consumption charge schedule specified in Rule 16.01 is replaced with the following schedule:

"The consumption charge for non-multiple unit customers shall be calculated as a function of the actual water consumed to the following schedule:

<u>AMOUNT OF WATER CONSUMED</u>	<u>CHARGE PER 100 CUBIC FEET</u>
100 to 500 Cubic Feet	\$ 1.08
500 to 1300 Cubic Feet	\$ 1.61
Over 1300 Cubic Feet	\$2.50

The consumption charge for multiple unit customers shall be calculated by summing the product of the average actual water consumed per unit multiplied by above schedule for all units."

- SECTION 6.** Rule 10.03, DEPOSIT, RECONNECTION CHARGE is amended with the addition of:

"A \$80 deposit will be required of customers beginning a new service, reconnected or with a bad debt remaining from a previous MCSD service."

- SECTION 7.** Rule 27.04, RATE SCHEDULE is unchanged from the April 1, 2009 rates under Rule 27.04:

THE SEWER RATES ARE UNCHANGED FROM APRIL 1, 2009 BUT ARE LISTED AS FOLLOWS:

Rule 27.04. RATE SCHEDULE. Sewer service charges are hereby prescribed as follows:

Schedule of Charges

<u>User Classification</u>	<u>Monthly Charge</u>
Single Family Residence	\$16.56 + \$0.22 ccf up to 12 ccf
Apartment or Multiple Living Units (each)	\$16.56 + \$0.22 ccf up to 12 ccf/provided that the \$0.22/ccf consumption charge for multiple unit customers shall be calculated by summing the product of the average actual water consumed per unit multiplied by the above schedule for all units.
Mobile Home	\$16.56 + \$0.22 ccf up to 12 ccf
Mobile Home Park (per space)	\$16.56 + \$0.22 ccf up to 12 ccf provided that the \$0.22ccf consumption charge for multiple unit customers shall be calculated by summing the product of the average actual water consumed per unit multiplied by above schedule for all units.
Office Buildings and Post Office (up to 2,000 sq. ft / 7 people)	\$17.60
Church, Hall or Rectory	\$17.60
Restaurant or Tavern	\$17.60 plus \$2.86/100 cf of water over 440 cf
Bakery	\$17.60 plus \$2.61/100 cf of water over 440 cf
Motel or Hotel	\$17.60 plus \$2.61/100 cf of water over 759 cf
Market	\$17.60 plus \$3.34/100 cf of water over 440 cf
Retail Store, Banks, Theater and all others	\$17.60 plus \$2.48/100 cf of water over 769 cf
Gas Station (No Market)	\$17.60 plus \$2.13/100 cf of water over 786 cf
Laundromat	\$17.60 plus \$2.61/100 cf of water over 840 cf
Fire Station or School	\$17.60 plus \$1.33/100 cf of water over 769 cf
Barber or Beauty Shop	\$17.60 plus \$1.99/100 cf of water over 440 cf
Coast Guard Station or Airport	\$17.60 plus \$2.39/100 cf of water over 769 cf
Car Washes	\$17.60 plus \$2.65/100 cf of water over 769 cf
Industrial	To be Calculated based on flow & load
Septage Delivered to Headworks	\$247 plus \$182.18 per 100 cf over 133.67 cf per dump
Customers Without MCSD Water Service	\$17.60

First reading: April 15, 2009

Upon the second reading on May 20, 2009, the foregoing ordinance will be duly accepted for implementation effective on July 1, 2009.

On a motion by Director CORBETT seconded by Director EDWARDS, the foregoing ordinance is duly accepted on second reading this 20th day of May 2009 by the following polled vote:

AYES: CORBETT, DUNK, EDWARDS, MAYO, WENNERHOLM

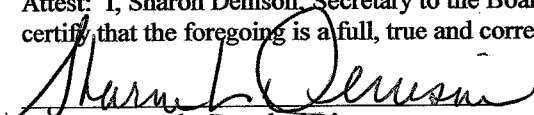
NOES: NONE

ABSENT: NONE



Bill Wennerholm, President, MCSD Board of Directors

Attest: I, Sharon Denison, Secretary to the Board of Directors of the McKinleyville Community Services District, hereby certify that the foregoing is a full, true and correct copy of the ordinance duly adopted this 20th day of May 2009.


Secretary to the Board of Directors

Humboldt Bay Municipal Water District

Municipal Customer Meeting
FY2010/11 Budget Discussion

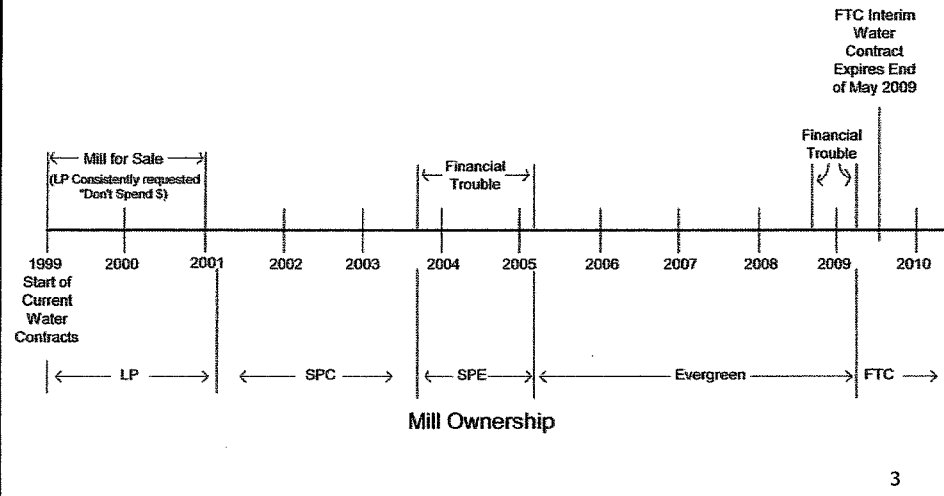
March 23, 2010

Overview

- Brief introduction
- FY 2010/11 Budget Proposal
 - estimated wholesale charges
 - first two CIP projects:
 - replacement of laterals at Collector 3
 - replacement of Techite Pipeline
- Status of CIP and potential future charges
- Discussion and Muni input

2

Introduction - Mill Ownership Changes



3

Introduction – Loss of the Pulp Mill

■ Implications:

- No contribution to "Base Water Facility" costs (mill contributed 45% to regional system costs)
- Lost contribution ~ \$1 million

■ Significant transition last year:

- Cost allocation changed in Ord. 16 contracts
- District reduced costs by ~ \$435k
- Munis absorbed cost increase of ~ \$670k
- HBMWD allowed to keep proceeds of PF3 reconciliation (one-time only) to help replenish General Reserves

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Introduction – Transition Approach

- HBMWD needed to participate in transition and reduce costs
- Only opportunity to reduce costs was to stop or defer core (“base”) work - a situation we know most of you face in these tough budget times too
- But if deferrals continue long enough, adverse implications (\$ and/or service implications) – and again, we know you face this too

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Introduction – Cost Reductions

How Accomplished:

- employee work furloughs
- reduction in O&M budget
- reduction in project budget
 - 6 projects cancelled/deferred in 2009/10
 - 14 projects deferred and 20 reduced for a total cost reduction of \$786,000 in 2008/09 (when financial troubles at mill commenced)

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Where We Are Now

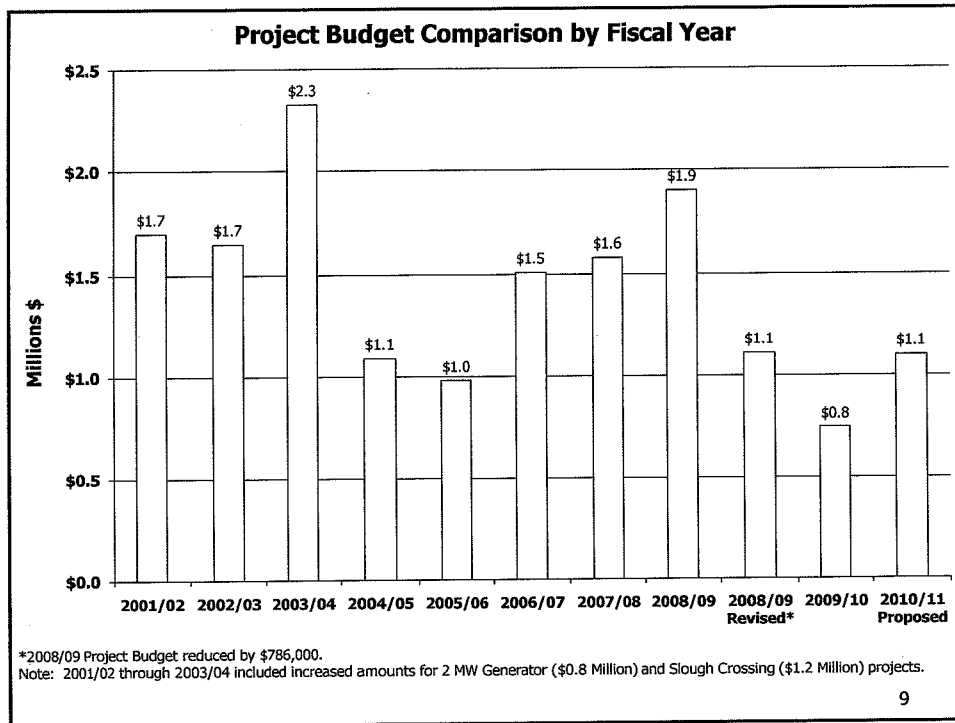
- Another transition year
- Begin to restore funding for core ("base") work
 - eliminate furloughs
 - increase O&M expenses modestly (still less than 08/09 level)
 - address some of the deferred maintenance/projects
 - Add \$100,000 to General Reserves
- Position and advance two key CIP projects

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Customer Charges – Without Mill

	2009/10 Budget	2010/11 Budget	Comparison	
			\$	%
Evergreen Pulp Inc.	\$0	\$0	\$0	#DIV/0!
Total Industrial:	\$0	\$0	\$0	#DIV/0!
Eureka	\$1,508,864	\$1,740,153	\$231,289	15.3%
Arcata	\$707,821	\$812,971	\$105,150	14.9%
Blue Lake	\$102,769	\$118,631	\$15,862	15.4%
Humboldt CSD	\$507,227	\$601,647	\$94,420	18.6%
McKinleyville CSD	\$540,224	\$629,880	\$89,656	16.6%
Fieldbrook CSD	\$81,335	\$94,628	\$13,293	16.3%
Manila CSD	\$43,897	\$49,985	\$6,088	13.9%
Total Munis:	\$3,492,137	\$4,047,895	\$555,758	15.9%
Total Wholesale	\$3,492,137	\$4,047,895	\$555,758	15.9%

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Capital Improvement Plan (CIP)

Regional water system infrastructure 50 years old

■ CIP initiated in 2006:

- 20-year planning horizon, but segmented into 5-year periods to focus on project timing
- "Version 1" of plan approved in Oct 2007
- Additional work required to complete plan - project details (what & when), estimated costs, and financing options
- Progress unfortunately stalled given loss of mill, but work to complete plan has been reinitiated

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Capital Improvement Plan (CIP)

This year, advance two key CIP projects:

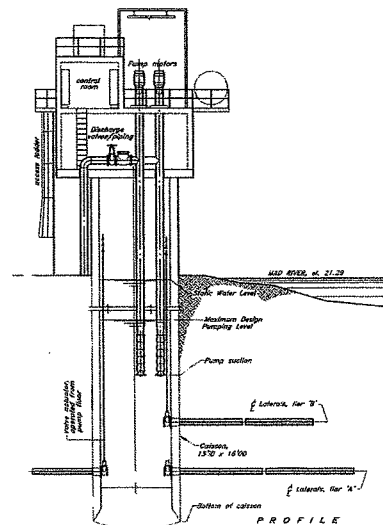
- Replacement of laterals at Ranney Collector 3
- Replacement of Techite Pipeline

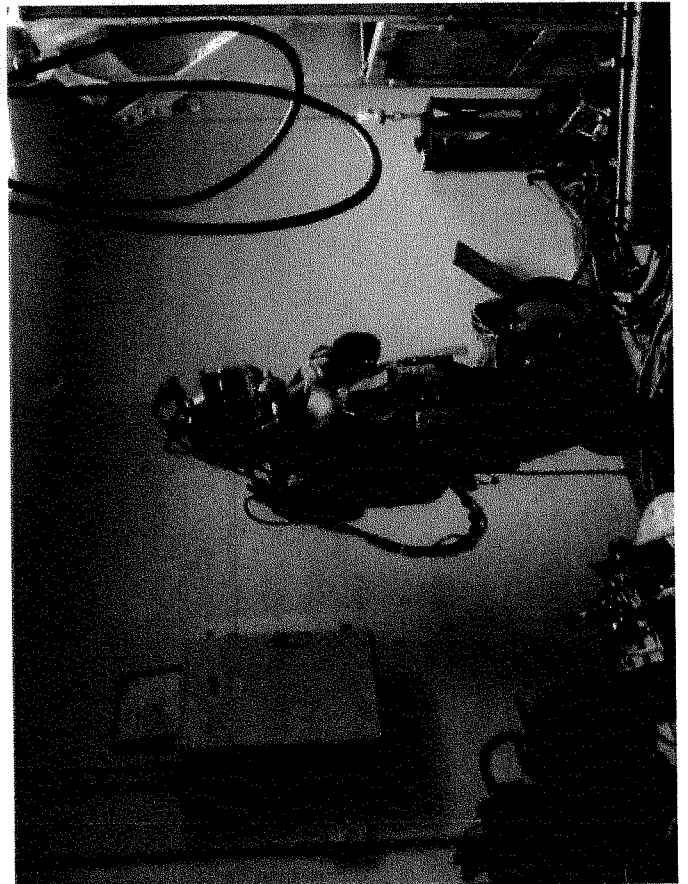
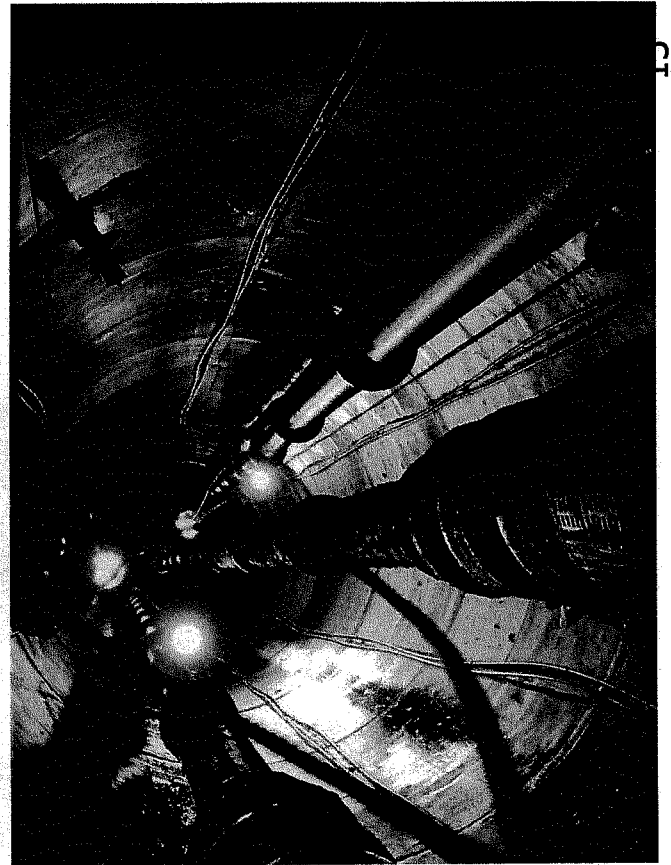
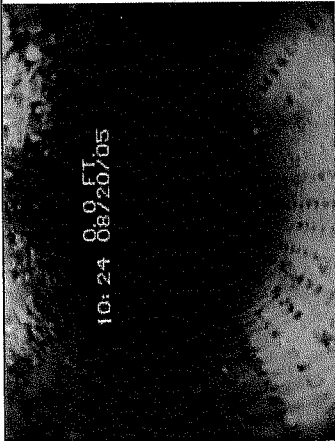
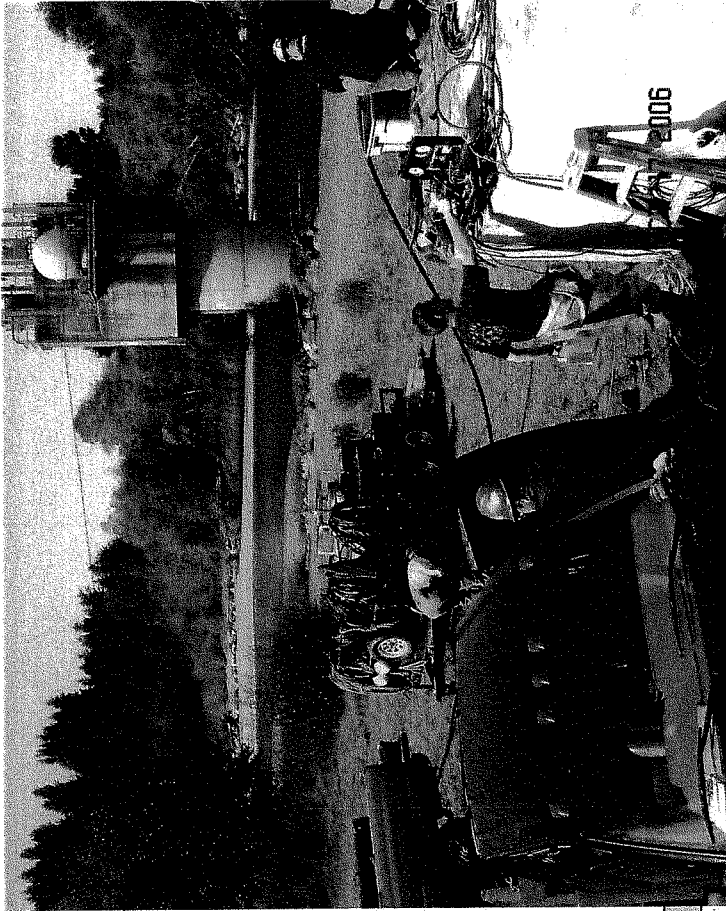
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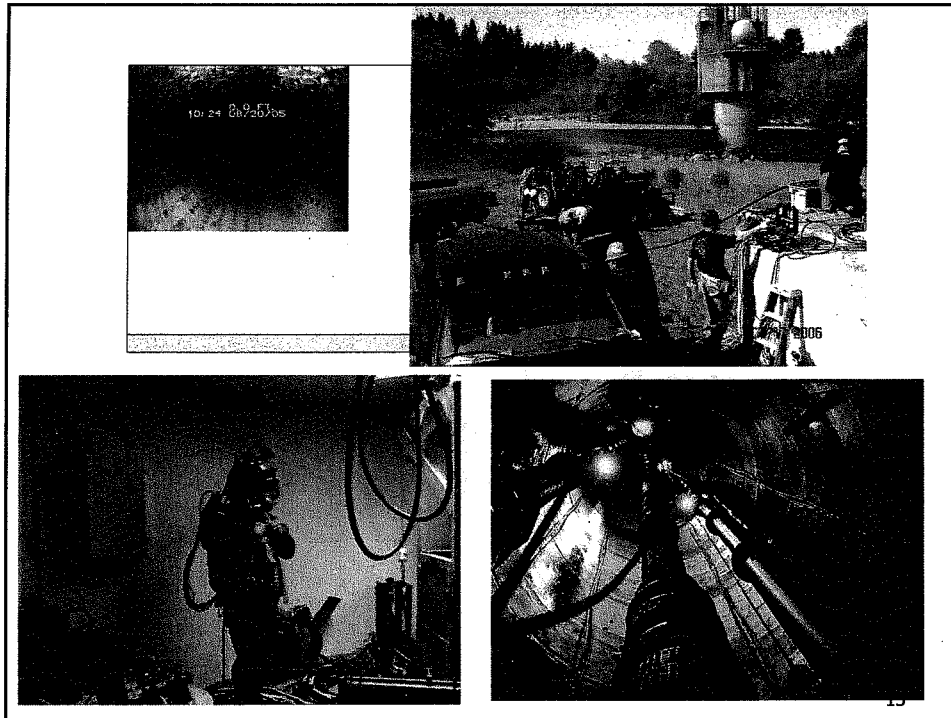
CIP - Collector Lateral Replacement

One of the highest priority CIP projects:

- estimated cost to replace laterals at Collector 3 ~ \$1.5 million







Collector Assessment & Planning Work

- 2002** – Collector 2 Video Inspection and Pump Test
- 2003** – Rehabilitation Feasibility Report
- 2005** – Collector 2 Cleaning and Rehabilitation (with cost benefit analysis)
- 2006** – Groundwater Study and Model (grant funded)
- 2006** – Collector 2 Evaluation Final Report
- 2006** – Inspection Report for Collectors 1, 1A, 3, 4
- 2008** – GW Model updated & recommendations for new laterals at Collector 3
- 2009** – Plans & Specifications for Collector 3 laterals

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Lateral Replacement - Proposal

So after 8 years of condition assessment, economic analysis, groundwater modeling, geotech work, ready to proceed with first one

- **Last year:**

- Specifications completed
- \$50,000 "advance charge" budgeted & collected from Munis

- **This year:** proposed budget includes:

- \$8,000 (for bid process)
- \$200,000 (another "advance charge")

- **Next Year:** proceed with construction

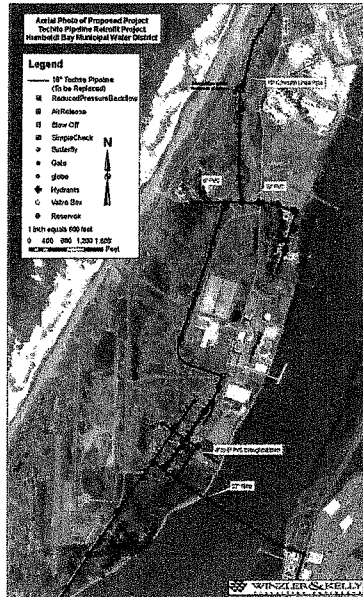
- ~ \$ 1.25 million (the estimated balance needed)

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Lateral Replacement - Begin Soon

- **Importance** – one of the most important components of regional drinking water system
- **Service Reliability:**
 - 50 years old, worn, and time to begin replacement program
 - Summer demands approaching max capability
 - Annual Peak Day Demand - 15 MGD
 - Peak Hourly Demand - 16.6 MG
 - Sustained Capacity of 3 Collectors - 17.1 MGD (one out of service during project)
 - Current demands require sustained pumping during peak periods
- **Schedule** - after first one, set schedule for remaining lateral replacements over 20-year CIP planning horizon⁶

CIP – Techite Pipeline Replacement



Who it Serves:

1. Town of Fairhaven
2. Fairhaven Power Plant
3. Coast Guard Station
4. Humboldt CSD
3. Eureka (via emergency intertie)
4. Samoa, Manila CSD, Arcata, & Eureka (via backfeed when necessary)
5. Possible future backfeed to McKinleyville CSD

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Techite Replacement- Why Necessary?

- Techite is a resin and sand-impregnated, fiberglass-wound pipe manufactured by Amoco Reinforced Plastics Co. in 1960's & 70's
- Marketed as being resistant to corrosion and able to withstand severe loading conditions, extreme temperature variations, and aggressive chemical attack
- Material was susceptible to catastrophic failure resulting from internal deterioration
- Numerous failures in water and wastewater industry, and numerous lawsuits
- Very difficult to repair, and susceptible to seismic events¹⁸

Techite Replacement- Why Now?

- Will be a high priority in CIP (first or second five-year period of 20-year plan)
- HBMWD applied for Hazard Mitigation Grant through two FEMA programs (4 times over last 3 years)
 - program provides 75% funding with 25% local match required
- Just received notification from California Emergency Management Agency that project has been awarded \$2 million grant
- Estimated project cost ~ \$2.75 million (with District share ~ \$750k)

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Techite Replacement - Proposal

•**This year (2010/11):** proposed budget includes:

- \$100,000 (for CEQA, permitting and design)

•**Following Two-years (2011/12 or 2012/12):**

- proceed with construction
- ~ \$650,000 (District share)

Note: Work on this will commence only if final grant agreement received and approved (estimated about 6-9 months). If for any reason grant funding does not come through, this project will be deferred until recommended time in final CIP

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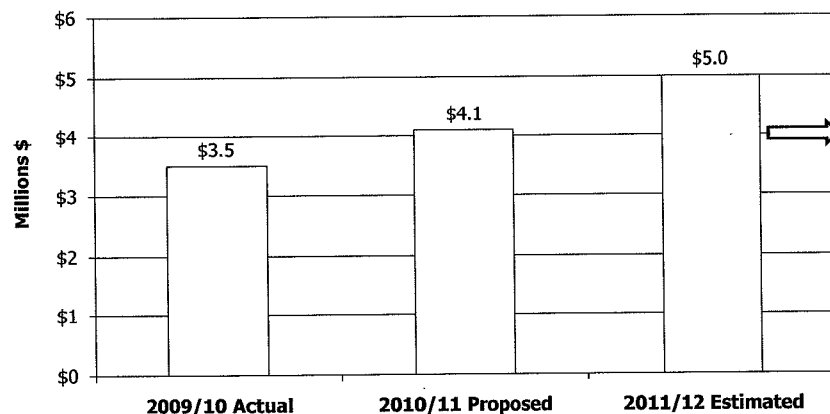
First Two CIP Projects (Ranney & Techite) – How to Fund?

- District is currently exploring short-term financing for construction phase
- Will have additional information in next month or two
- We've run a scenario to show illustrative charges (assume financing over 3 years)

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Preliminary Estimate of Future Charges Given First Two CIP Projects

Comparison of Total Costs for Munis including 3 Year Financing Costs
for Ranney & Techite Projects *



*Note: Assumes financing of \$2.5 Million over 3 years starting with 2011/12.

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Customer Charges – With Finance for Ranney and Techite Projects

Estimated Budgets Starting With 2011/12*	
Municipality	Customer Charges
Eureka	\$2,108,800
Arcata	\$984,100
Blue Lake	\$145,000
Humboldt CSD	\$754,400
McKinleyville CSD	\$777,300
Fieldbrook CSD	\$117,300
Manila CSD	\$61,000
Total Munis:	\$4,947,900

Includes financing for Ranney and Techite projects
at \$2.5 million over 3 years (without mill).

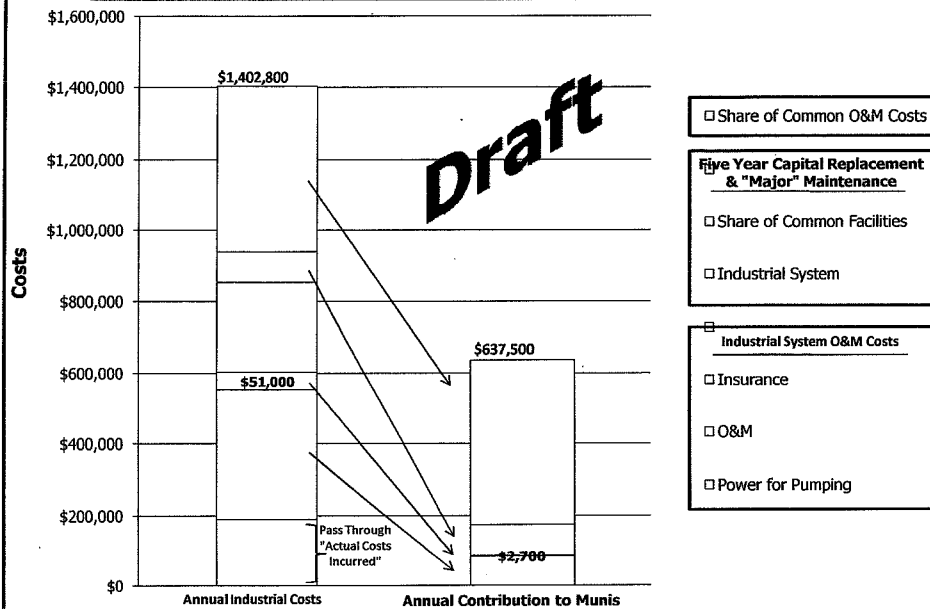
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What if Mill Returns?

- Revenue from mill would offset shared costs
- Annual Contribution to Munis would be approximately \$637,500
- This assumes mill comes back on line under proposed terms currently being negotiated with the mill owners
- See chart on next slide for details

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Contributions to Munis if Mill Returns*



*Note: Assumes mill comes back on line under proposed terms currently being negotiated with the mill owners.

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Customer Charges – With Mill

Municipality	Proposed 2010/11 Budget If Mill Comes Back		
	Customer Charges	Decrease over 2009/10	
		\$	%
Eureka	\$ 1,479,000	\$ (29,800)	-2.0%
Arcata	\$ 691,700	\$ (16,100)	-2.3%
Blue Lake	\$ 100,000	\$ (2,800)	-2.7%
Humboldt CSD	\$ 493,500	\$ (13,800)	-2.7%
McKinleyville CSD	\$ 525,400	\$ (14,800)	-2.7%
Fieldbrook CSD	\$ 78,600	\$ (2,700)	-3.4%
Manila CSD	\$ 42,200	\$ (1,700)	-4.0%
Total Munis:	\$ 3,410,400	\$ (81,700)	-2.3%

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McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **ACTION**

ITEM: E.3. **Consider award of Measure B renewal proposal submitted by The Lew Edwards Group for assistance related to the Measure B renewal process in an amount not to exceed \$40,000 for the current FY 2009/10.**

PRESENTED BY: **Jason Sehon, Parks & Recreation Director**

TYPE OF ACTION: **Voice Vote**

Recommendation:

Staff recommends that the Board approve proceeding to execute an agreement with The Lew Edwards Group at a cost not to exceed \$20,000 for polling and \$20,000 for professional services, as outlined in Exhibit 1. This recommendation is based on the following evaluation of the proposals:

Discussion:

Staff prepared and submitted RFP to the following four (4) firms in January 2010 who expressed an interest. Attached as Exhibit 1, please find the Scope of Work submitted to each firm.

Staff received two (2) proposals by the time of the deadline. After reviewing each proposal, staff scheduled a follow-up phone interviews with each firm.

Proposal Comparison:

Each proposal is available to review at the District Office. Included in each proposal is the recommendation to conduct a poll/survey in order to identify not only what type of parks and recreation amenities, and or operation and maintenance funds the community would like to see, but also to identify how much voters might be willing to support the measure.

We spoke at length during phone conferences with each firm about the importance of doing a survey, and the each agreed and concurred that in their opinion it is in the best interest of the District to proceed with conducting a survey, to ensure a successful Measure.

In fact, during one of our recent Park Development Meetings, one member of the public specifically stated that they felt that only a valid professional survey would identify support for a Measure and determine what the community feels is needed in the community.

SCI Consulting Group's proposal is \$7,850 less than that of the Lew Edwards Group. However, the Lew Edwards Group proposal gives more of an option to complete many of the tasks in house, which can result in a substantial cost savings. Another advantage is that we might be able to utilize local businesses to complete some aspects of the proposal.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

By comparison, the following is a breakdown of what the District paid for professional services in 1991 compared to what staff is proposing now.

According to the records we have found, in 1991, MCSD paid approximately \$55,000 to firms to assist with the polling, engineer's report, and mailing of the ballots. Staff feels that it is important to note that according to an inflation calculator, what cost \$55,000 in 1991 would cost \$85,548 in 2009.

The total fees from the proposal submitted by The Lew Edwards Group is \$105,500. However, staff feels that we will have significant cost savings by completing a number of these tasks in house and also by submitting RFP's to other service providers. Please see below:

Lew Edwards Group:	\$105,500.00
SCI Consulting Group:	\$97,650.00
Difference:	\$7,850.00

Potential Cost Savings:

	Lew Edwards Group	Estimated In House savings
Professional Fee	\$35,000.00	\$7,000.00
Polling	\$17,500.00	
engineering	\$26,000.00	\$20,000.00
Balloting	\$18,000.00	\$6,000.00
Informational Mailing	\$9,000.00	\$5,000.00
	\$105,500.00	\$38,000.00
Estimated Total Measure B Cost	\$67,500.00	

After confirming the cost savings by completing tasks in house, we will be requesting authorization for the release of additional funds from the Board throughout the budget process for next year's budget.

Staff would also like to point out that the FY 2009/10 budget underestimated revenues from Measure B in the amount of \$30,000, which will offset a portion of the cost.

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Exhibit 1 Lew Edwards Group Proposal
- Exhibit 2 Scope of Work for RFP's
- Exhibit 3 Lew Edwards Group Proposal Supplement



February 8, 2010

To: General Manager Norman Shopay
Jason Sehon, Parks & Recreation Director
McKinleyville Community Services District

From: Catherine Lew, Esq.
President & CEO, The Lew Edwards Group

VIA EMAIL TRANSMISSION

Thank you for your invitation to submit a proposal to serve the McKinleyville Community Services District (MCSD). The Lew Edwards Group (LEG) would welcome a partnership with MCSD to prepare for a potential 2010 Measure B extension vote.

ABOUT THE LEW EDWARDS GROUP

The Lew Edwards Group (LEG) has passed more than \$27 Billion in California Revenue Measures of all types, with a 93+% success rate, including measures which have succeeded in 2009 even as the economy worsened and voter concerns about unemployment increased. The following are some of the many qualities that our team experts offer to the McKinleyville Community Services District:

- ✓ Extensive experience and a proven track record of success on California revenue measures of all types, including new revenue or revenue extensions requiring a simple majority, two-thirds requirement, super-majority, weighted ballot, or Prop. 218 hearing;
- ✓ Experience with agencies and districts of all sizes and characters, with an understanding of the social, demographic, and political context of your region and the specific nuances of California parcel taxes, levies authorized under the Landscape and Lighting Act, and open space, parks or recreation measures;
- ✓ Experts with decades of professional experience, and award-winning communications products; and
- ✓ A team and consensus-building management style, with enthusiastic and committed dedication to your needs, and a shared credo of the importance of "people and relationships" to the success of our projects.

LEG's successes include winning local measures in March, May, July and November 2009 during the height of concerns about the economy, state budget crisis, and the growing unemployment rate. **LEG has represented well over 100 public agencies** throughout California, and was successful in 29 of 31 local revenue campaigns in November 2008 during the toughest economy in generations.

LEG experts are outstanding professionals from disciplines such as communications, direct mail, media relations, government affairs, coalition building, and public information campaigns. LEG's award-winning communications products have been honored multiple times in the prestigious national Pollie Awards.

LEG prides itself on providing individualized, quality service to each of our clients and has an extensive track record of designing effective Revenue Preparation and Public Information programs and winning elections for public agencies across California. LEG experts are frequent lecturers and trainers for organizations that include the **League of California Cities, Local Government Commission, California Municipal Treasurers Association, Institute for Local Governments, Rural Healthcare Symposium, Coalition for Adequate School Housing**, and other public agency advocacy organizations.

PERTINENT EXPERIENCE

Having overseen hundreds of successful revenue measure projects since 1997, LEG is proud of its demonstrated track record of success on revenue measures, a firm specialty. Further, many of LEG's agency clients need funding for services or programs similar to those provided by MCSD. Selected case studies include:

- *Napa County Open Space District:* In 2006 LEG successfully represented a local committee seeking to **establish a countywide Open Space Parks District** in Napa County, one of the few Northern California counties without an Open Space District. Measure I established an open space parks district to preserve, maintain and improve local parks, open space, and recreational areas. In November 2008, LEG consulted with the City of San Juan Capistrano on its **second open space bond**, which was successfully adopted – and also helped to pass Measure OO in the City of Oakland, working on behalf of a coalition of nonprofit organizations concerned about protecting and **maintaining youth after-school and recreational programs.**

- *City of Gardena:* LEG successfully passed a **Lighting Assessment District increase** – the City’s first in 30 years – in July 2009, during the height of concerns about the economy and unemployment. Earlier in 2009, when the economy was very soft, LEG passed a new **storm drain fee levied on property owners** in the City of Burlingame following their election loss utilizing a different consultant. LEG was also successful in passing a Lighting and Landscape Assessment District increase in the City of San Ramon, and is working to establish a new LAD in the City of Emeryville.
- *Shasta Union High School District:* LEG successfully passed SUHSD’s Measure B school bond a number of years ago, raising \$31 Million to upgrade and improve area schools following the District’s election disappointments with other consultants. Also in the greater upper Northern California region, LEG also worked with **Trinity Public Utilities District** and **Mountain Community Medical Services** to establish a Hospital District and successfully pass a Parcel Tax for Emergency Room Services.

KEY CONSIDERATIONS

Economic Environment

Despite the fact that pundits are opining that “the recession is over,” the average person doesn’t believe it and in most cases, hasn’t experienced it – significant voter concern and distraction about home foreclosures, jobs and the economy remains, along with a healthy distrust of “government.” Though MCSD appears well managed, accountable, and responsive to its constituents it is wise to be planning early by seeking a straight renewal of Measure B without a tax increase. However, in light of today’s recession, specifically focused information and facts about MCSD’s local funding needs and fiscal challenges, is critical.

We concur that the District is wise to get started and seek renewal this year, leaving an important window of time remaining before expiration, should something go awry with the extension effort. In addition, the necessity of any sunset for the renewal should be carefully considered.

Election Timing and Format (Mail or Poll) Considerations

As we have discussed, it will be important for LEG to review all available Measure B background which the District has, so that all professionals on the team are on the same page as to how the current assessment is structured and the legal needs for any upcoming extension measure.

The information that we received from the Humboldt County Elections Department indicated that a “Measure B-91 Advisory Vote” occurred within MCSD on November 5, 1991 to recommend that MCSD construct a community center, acquire acreage for sports facilities, and levy an assessment of “...up to \$30 per household and business per year plus a fee on new development.” This measure was on the ballot during a consolidated Humboldt County election and was acted on by voters -- not property owners -- and received a 63% vote.

In general, all assessment district ballot proceedings require weighted property owner (not voter) mail ballot, so our presumption is that the District is probably looking at a simple majority requirement property owner mail ballot in August of 2010 if renewing your measure this year.

During a November 2010 consolidated election, a 67% passage rate would be required as it would be a voter parcel tax (not a property owner vote). However, these are among the many issues we should review with your District Counsel once we have access to reviewing MCSD’s previous ordinance and accompanying materials, which we do not currently have.

Property Owner vs. Poll Voter Demographic Considerations

If proceeding with a property-owner—not voter-based—mail ballot in August 2010, the formulaic weighting of ballots (or the number of ballots per parcel owner) and the proportionate vote share of respective categories of property owners can render entire classifications of owner-voters virtually moot in some jurisdictions. For example, in some jurisdictions opposition by just one or two large governmental or private entities – such as a school district, transit district or large condominium complex – has literally over-ridden the support of hundreds of single-family residential homeowners, even if those homeowners support the assessment at levels significantly higher than a simple majority. Large out of town landlords or property owners can also potentially defeat these types of measures in other jurisdictions, depending on their proportional vote share and whether their votes outweigh those of other property owners.

Fortunately, our preliminary review of the materials from the District appears to indicate that the bulk of your property owner vote would be from Improved Single Family Homes, making your property owner vote more straightforward than in other jurisdictions. Nevertheless, it will be necessary to understand how the District's vote is apportioned between categories, and to execute targeted outreach strategy to each different audience of owner-voter.

LEG's successful Assessment District Outreach Plans generally include recommendations on selected, one-on-one outreach by District staff, to larger property owners. As the government entity levy is fairly limited in MCSD's case, it would appear that mobile home park owners, assisted living owners, and apartment owners fall into this outreach category. A specific Large Property Owner program tailorized to the District will be recommended by LEG following consultation with District staff.

It is important to recognize that the demographics of a Property Owner Mail Ballot are significantly different than the demographics of a Poll Voter election that is consolidated with the Gubernatorial General Election. As described in this section, Property Owners could be corporate or government entities that have vote share. Further, even those owners casting ballots in the Improved Single Family Home category are likely to be longer-term residents, older, retired and on fixed incomes. In addition, men are more likely to open these types of ballots and cast the vote(s).

The demographics of a Poll Voter likely to vote during a consolidated Gubernatorial Election will be younger, more Democratic, and more female. Conventionally, these types of demographics are more likely to support tax measures, particularly those that benefit parks and recreation. However, the District would then be subject to a two-thirds requirement threshold, which could be a difficult bar to reach in this economy, even with a "no tax increase" message. The pros and cons of each could be summarized as follows:

	Property Owner Mail Ballot	Poll Voter Consolidated Election
Vote Threshold	Majority	Two-thirds
Voting Audience	Property Owners	Registered Voters
Pros	Lower Vote Threshold, definable/segmented vote share	Stereotypically Favorable Demographics
Cons	In some districts, "veto" possible if some categories hold big share	2/3s requirement is tough

The Role of Public Opinion Research

Some districts opt to use Public Opinion Research (polling) to assess the viability of your Measure B Renewal and to determine the risks and nuances in today's sensitive environment. LEG looks forward to conversing with the District to determine whether this activity is recommended or necessary in your case. However, in general:

If the District enjoys strong community credibility, is viewed as fiscally well managed, and is leaning towards a Property Owner Mail Ballot with an extension that simply maintains the current rate and includes a sunset, conducting Public Opinion Research may be more optional. However, it will be important to determine the respective vote shares of the various property owner categories and evaluate whether the District foresees any problems or issues with some of the categories, prior to making a final decision.

If the District is leaning towards making any changes or revisions in what your community has been accustomed to paying, considering removing the sunset, or proceeding in a Consolidated Gubernatorial Election where a two-thirds requirement threshold is necessary, then Public Opinion Research is strongly advised.

RECOMMENDED SCOPE OF SERVICES

Scope of Work Components

Project Facilitation/Coaching

To ensure that MCSD is effectively positioned for its Measure B renewal, LEG will provide overall strategic direction and project management for the District's communications activities, including legally-permissible District-sponsored Information Materials. With your active participation and assent, LEG will "coach" the overall planning towards a successful Measure B renewal within the appropriate timeline.

To ensure that key benchmarks are reached during the planning period, LEG can facilitate and coordinate District and consultant teleconference sessions. LEG prides itself on a team building approach and typically facilitates, manages and oversees all team members for effective deployment on all benchmarks during the planning process.

Our team will initiate our efforts through a Kick Off meeting and schedule subsequent, consistent planning teleconferences with MCSD. With the input of all participants, LEG will develop meeting agendas, facilitate sessions, and coordinate the timely deployment

of all tasks and assignments. Our planning efforts throughout the process are designed to use the District's time efficiently and well, while providing important Project Management leadership and coaching to ensure that all timetables and benchmarks are met within the necessary timeframe.

LEG approaches its leadership role with personal dedication, enthusiasm, and a commitment to excellent service, recognizing that our ultimate consumer is not only the District, but also most importantly, the constituents you represent. LEG's role as the District's Project Facilitator and Project Coach is to walk the District and its team through the daily, weekly and monthly tasks that need to be accomplished throughout the process.

If we find that the District must implement a Parcel Tax mechanism rather than Property Owner vote, the approach will focus instead on likely voters rather than property owners.

Recommend Key Messages

The Public Information Program is a critical method of educating your audience about your past accountability and Measure B needs. Communication Goals are to:

1. Develop messages that effectively inform, solicit and respond to questions from the public
2. Provide structure and copy for informational materials to educate residents about the needs
3. Implement an earned (non-paid) media press and Internet strategy to highlight projects already completed under Measure B and ongoing service or project needs
4. Implement a Community Information direct mail program to your audience

LEG will assist the District in focusing key messages for use in all communications vehicles, with an emphasis on articulating the community service benefits for local residents. In general, we would emphasize the following messages, *as applicable*:

- This is a No Tax Rate Increase extension of existing Measure B, which was overwhelmingly adopted by local voters.
- The Measure B No Tax Rate Increase extension includes a sunset of X years, to allow voters to have final approval on whether they wish to extend, in the future.

- All Measure B tax proceeds have been spent efficiently and as promised to the voters. All projects have been completed on time and within budget. Future Measure B spending will continue to be subject to independent annual audits to ensure that they are spent properly.
- The community's establishment of Measure B successfully created Azalea Hall, McKinleyville Activity Center, and Hiller Sports Complex in addition to maintaining and providing important community programs at these facilities. Unless we act to extend Measure B funding, we will lose this important local revenue source, which cannot be touched by Sacramento.

Any information provided is factual, not advocacy, and approved by District Counsel. As a member of the California Bar, I have enjoyed an outstanding relationship with all of our client Attorneys, an important consideration when preparing for your renewal measure.

This is particularly important as the level of opposition and scrutiny from naysayers and taxpayer advocates -- particularly in regions like yours -- has only increased. Recent opinions and rulings issued by the state Fair Political Practices Commission (FPPC) and State Supreme Court in *Vargas v. Salinas* point to the need for care in the implementation of the Public Information Program to assure that all activities are legally-permissible.

Communications Services

Direct Mail

LEG recommends that an informational direct mail program be implemented to your audience. Doing so will raise awareness beyond "insiders" or already-active stakeholders, to the silent majority. A minimum of three issue-specific mailings are typically implemented on behalf of our other agencies. In consultation with MCSD staff, LEG will also draft and/or refine informational articles for District and/or Parks & Recreation newsletters, handouts, press releases and website, with appropriate supporting materials (charts, graphs, visual aids, etc.) to communicate key messages and inform residents. In addition, LEG will draft, review and/or refine supporting fact sheets, flyers and other communications.

Speakers Bureau and other Communications Vehicles

LEG will also work with the District to maximize use of your website, community television, and an informational Speakers' Bureau program strategically directed to key

stakeholder organizations in your District. Our firm will develop presentation materials that deliver an effective, persuasive message and train District staff, officials and key stakeholders on how to deliver the message. We have already reviewed some of the District's excellent Measure B materials and will work to build on them, not reinvent the wheel.

Press Coverage

LEG will review earned (non-paid) media press opportunities with District staff. Balanced or positive press coverage will build additional awareness and support throughout the process, which is critical to engaging community stakeholders and informing your public about your accountability, future needs, and Measure B renewal.

Rapid Response

LEG will redirect message points and materials to assist in rapid response to problematic media or citizen inquiries as necessary. Frequently, communities that pride themselves on having active stakeholder groups can, at times, be prone to being victims of inaccurate information, or controversy-based media coverage. LEG experts will be available to craft appropriate rapid responses as necessary to address changing external nuances.

PROPOSED PROFESSIONAL FEE

LEG's proposed Professional Fee is \$30,000 for a project period through August 2010. Payments will be prorated for the project period.

This proposal presumes an August Property Owner Mail Ballot. If the District is proceeding with a November 2010 Consolidated Voter Election, it may be necessary to have a longer project period, in which case additional fees will apply.

Please note that does not without exception and consistent with industry standards, LEG does not charge on an hourly basis. Out-of-pocket expenses such as consultant travel, teleconferencing and messenger expenses are in addition to our fee. We recommend a not-to-exceed budget of \$5,000 for reimbursable expenditures (airfare, car rental, teleconferencing, messenger). Only those expenses actually incurred will be invoiced, at cost.

LEG's Professional Fee is the District's cost to retain our strategic expertise and does not include costs associated with the direct mail program (polling, bulk postage, graphics, printing and mailhouse services) if the District budget allows this type of outreach. Direct mail costs are dependent upon the number of property owners in your audience.

LEG typically works with our agencies to establish a direct mail budget after we are retained. However, districts your size would typically budget approximately \$25,000 to mail three property owner mailings (these are in addition to the mail ballot package produced by the engineering/balloting company). Examples of LEG's nationally recognized, award-winning direct mail products have been previously provided to the District.

Polling costs are also not included in our professional fee. Should the District choose to do polling, costs would range from \$18,500 to \$22,500 depending on the polling firm, sample size and length of questionnaire.

SUMMARY OF LEG BID

Professional Fee through August 30th	\$30,000
Out of Pocket Expenses	\$5,000
Not to Exceed	\$35,000*

*As noted above, this cost does not include polling or direct mail costs.

I look forward to hearing back from the District and meeting your Board, as appropriate.

<u>RECOMMENDED PROJECT PLANNING SCHEDULE</u>	
This preliminary timeline only includes communications activities. If retained by the District, a more comprehensive timeline integrating additional benchmarks will be developed in consultation with District staff, District Counsel, engineering and balloting professionals.	
FEBRUARY 2010	<u>LAUNCH PLANNING EFFORTS</u> <ul style="list-style-type: none"> <input type="checkbox"/> Retain Consultants <ul style="list-style-type: none"> ○ Decide whether polling will be conducted <input type="checkbox"/> Conduct Kick Off Planning Session
MARCH 2010	<u>IMPLEMENT STRATEGIC COMMUNICATIONS</u> <ul style="list-style-type: none"> <input type="checkbox"/> If conducting polling, design and field survey questionnaire <ul style="list-style-type: none"> ○ Analyze results ○ Report to the Board ○ Issue media release as appropriate <input type="checkbox"/> Develop Strategic Communications Plan <ul style="list-style-type: none"> ○ Recommend Public Information Plan ○ Refine Key Community Messages ○ Decide on District Messenger(s)

	<ul style="list-style-type: none"> ○ Recommend Earned Media strategy ○ Establish regular telecon schedule ❑ Begin scheduling community presentations (MCSD) ❑ Update Opinion Leader Lists (MCSD) ❑ Develop Speakers' Bureau Toolkit <ul style="list-style-type: none"> ○ Presentation ○ FAQs ○ Speakers' Training Materials ❑ Conduct Speakers' Bureau Training ❑ Update District website with targeted messaging and information ❑ Develop Large Property Owner Strategy/Talking Points ❑ Mail Opinion Leader Letter #1 ❑ Print/Mail Informational Mailer #1 ❑ Launch informational Speakers' Bureau (MCSD) ❑ Continue regular team planning sessions ❑ Maximize any Earned Media opportunities ❑ Address Rapid Response Needs as necessary
APRIL - MAY 2010	<p><u>CONTINUE TO IMPLEMENT STRATEGIC COMMUNICATIONS</u></p> <ul style="list-style-type: none"> ❑ Meet/Greet with Large Property Owners as appropriate (MCSD) ❑ Issue Informational Mailer #2 ❑ Issue Opinion Leader Update #2 ❑ Continue informational Speakers' Bureau (MCSD) ❑ Continue regular team planning sessions ❑ Maximize any Earned Media opportunities <ul style="list-style-type: none"> ○ Meet with Editorial Board(s) ❑ Address Rapid Response Needs as necessary
JUNE -JULY 2010	<p><u>PREPARE FOR BALLOTING</u></p> <ul style="list-style-type: none"> ❑ Issue 3rd Informational Mailer ❑ Finalize Ballot Materials (Balloting Professional) ❑ Update District website information ❑ Maximize any Earned Media opportunities ❑ Address Rapid Response Needs as necessary
AUGUST 2010	<p><u>CONDUCT PROPERTY OWNER BALLOT</u></p> <ul style="list-style-type: none"> ❑ Update District Website information ❑ Address Rapid Response Needs as necessary ❑ Develop post-ballot tabulation press releases

PROJECT PERSONNEL

CATHERINE LEW, Esq.

President and CEO, The Lew Edwards Group

Catherine Lew, a co-founder and President/CEO of The Lew Edwards Group, is a premier consultant in California providing strategic, public information, and campaign management services to cities, counties, special districts, transportation, K-12 school and community college districts, and other public agencies, as well as private sector and nonprofit clients.

Lew has 30 years of experience in the communications, organizing and political arena. She is a veteran of approximately 500 political campaigns, specializing in difficult revenue enhancement measures for California cities and public agencies.

Under Lew's strategic direction, The Lew Edwards Group has enjoyed twelve years of success in representing scores of public agencies that need professional expertise in seeking community support at the ballot box during the toughest economy in generations. The firm has passed more than \$27 Billion in California revenue measures, with a 93% win rate. Lew prides herself on her firm's excellent service to each and every client, diverse cities and agencies that range dramatically in size and scope of strategic needs.

Her many cities and clients have included communities that have beaten the odds to win their revenue measures. In 2002, she led efforts to win the City of La Habra's Utility Users Tax Re-Authorization – one of the first in California – by a slim margin following a bitter Supreme Court challenge to the UUT by the Jarvis Taxpayers and paid opposition by Jarvis during the campaign. It is not unusual for her firm to win all measures during a given election cycle, often with percentages at the top of measures passing statewide.

In addition to passing tough local measures in cities when pundits have predicted failure – and working with cities to beat back taxpayer-initiated challenges to existing revenue measures, often winning by a scant percentage or a handful of votes – Catherine Lew has earned a reputation as one of the state's toughest advocates and tacticians on behalf of local cities.

A graduate of the University of California, Berkeley and the University Of San Francisco School Of Law, is also a member of the California State Bar.

JENNIFER RINDAHL

Senior Associate, The Lew Edwards Group

Jennifer Rindahl's experience leading candidate, healthcare, and educational communications projects throughout the state of California offers Lew Edwards Group clients creative expertise in winning campaigns and building support for their issues.

Rindahl has led communications efforts on behalf of Lew Edwards Group clients that include Imperial County, Tulare County, City of Ceres, City of Cloverdale, City of Desert Hot Springs, City of Dinuba, City of Lincoln, City of Los Banos, City of Selma, Ceres Unified School District, and Fontana Unified School District, among several others.

Known as a top operative in coalition-building and community organizing, Rindahl also has special expertise in innovative Internet communications strategy and e-based organizing, fundraising, and outreach efforts derived from her years as Director of rockcity.com, a Southern-California based internet company that did original programming on the internet.

Rindahl attended the Medill School of Journalism and graduated from Northwestern University.



March 9, 2010

To: General Manager Norman Shopay
Jason Sehon, Parks & Recreation Director
McKinleyville Community Services District

From: Catherine Lew, Esq.
President & CEO, The Lew Edwards Group

VIA EMAIL TRANSMISSION

Thank you for requesting follow up costs from our organization to enable the District to more effectively compare costs and approach between the finalists. The Lew Edwards Group (LEG) is enthusiastic about a potential partnership with MCSD to prepare for its Measure B extension vote.

Accountable, Client-Empowered Approach

As we discussed on Monday, The Lew Edwards Group (LEG) is not a balloting/engineering firm. LEG is a nationally-recognized, award-winning professional in the disciplines of communications outreach and successful revenue measures, winning \$27 Billion with a 93% success rate. This means:

- ✓ Our firm functions as the Lead Consultant and Communications Specialist in facilitating and overseeing the work of other independent, credible professionals who would be assisting the District in its Measure B extension. On a special district's behalf, the Lead Consultant typically works with:
 - MCSD Legal Counsel
 - An independent engineering/balloting firm
 - If desired, an independent polling firm
- ✓ Our single project team addresses all project components as independent professionals who provide seamless support through LEG's centralized project leadership. Throughout the project, the team works within the context of meeting community needs and understanding your unique local issues. However, in our model, all team members are independent professionals from various firms, ensuring the District impartiality and professional accountability from each discipline and project component, which a traditional sole-firm turn-key operation does not. For example:
 - It may not be prudent to have the firm who profits from producing the ballots also develop and assess your polling results, as the survey results should be impartial and not influenced in any way, towards proceeding to balloting quickly.

- Each professional has singular focus in their designated profession of polling, communications or balloting, and does not purport to be an expert in all areas. With regard to polling, should the District invest in this activity it should be a statistically valid study, not self-selected by the respondents as in a mail survey.
- MCSD Legal Counsel has the opportunity, as necessary and helpful, to question, query and interact with each professional in their respective disciplines to ensure the highest standard of service and accountability to the District.

This model of Client Service allows the District to hear and consider both unified and diverse viewpoints from your professional team, which in our experience benefits the clients tremendously and empowers them in all aspects of their planning and decision-making. As the Lead Consultant, it is LEG's role to facilitate an efficient, client-responsive project model with a high level of accountability from each project component.

Recommended Team Professionals

LEG will not review its professional background again in this memorandum. Kindly refer to our extensive vitae as described in our February 8th proposal. Per the District's request for additional cost information, LEG has obtained project estimates from the following professionals. Please note that LEG has had experience working with both of these professionals as a team in providing a cohesive project approach to client service:

Godbe Research (polling needs)

LEG was unaware that the District had previously received a proposal from Godbe Research (GR), a highly respected opinion research firm with extensive experience with special districts. GR conducted polling for the successful McKinleyville Elementary School District Bond Measure in June of 2008 and has represented Bear Mountain Recreation and Park District, Big Bear Valley Recreation and Park District, El Dorado Hills Community Services District, and NorthStar Community Services District, among many others.

If the District has opted to invest in polling, it is important that your money be spent on a statistically valid, impartial survey document. LEG has never advised its clients to rely solely on mail surveys, which are self-selected returns from respondents and therefore not representative of the overall profile of your owner-voter. Also, if the District wants to assess the viability of a small increase, mail surveys limit the ability to accurately assess various tax rates. GR conducts their surveys by telephone and will give the District a reflective demographic sample of those owner-voters likely to return a mail ballot. After conferring with GR on the District's current thinking, LEG recommends that the District conduct a 15 minute telephone survey of 150-200 owner-voter respondents, should it proceed with polling.

Willdan Financial Services (engineering, benefit analysis, balloting)

Willdan Financial Services has an outstanding reputation for technical excellence, cost effectiveness, and client service in providing engineering and planning services. Willdan specializes in providing revenue generation, enhancement, and administration services to public agencies. Willdan's clients include more than 800 cities, counties, state agencies, port authorities, housing agencies, special districts, and school districts. Willdan typically provides the following services to special districts in the same phase of planning as MCSD:

1. Task 1: Conduct thorough engineering review and benefit analysis, address Prop. 218 compliance. Identify future improvement maintenance needs for your facilities. Evaluate current assessment methodology, recommend any revisions needed. Present findings in technical memorandum that summarizes analysis and proposed methodology.
2. Task 2: Prepare and finalize comprehensive Engineer's Report. Draft required resolutions, work with District Counsel to finalize.
3. Task 3: Prepare notices and ballots; print, process and mail approximately 5400; tabulate returned ballots. Be on site for key activities, attend required Board meetings.

Lead Consultant Fee and Estimated Project Costs

Lew Edwards Group Fee: Not to Exceed \$35,000

- \$30,000 fee for six months of service
- Not to exceed \$5,000 for travel and out-of-pocket expenses actually incurred

Polling (optional): \$15,545 -\$17,500

- Range is dependent on whether 150 or 200 sample size is selected by District
- 15-minute interviews by telephone to reflect demographics of owners likely to return ballots

Estimated Engineering/Balloting costs: \$44,000

- Task 1: \$16,000
- Task 2: \$10,000
- Task 3: \$18,000

Informational Mailing costs: \$9,000

- Budgets for two mailings to improved single family owners (in addition to balloting package) if LEG oversees production using its vendors
- Cost efficiencies may be achieved if District opts to use in-house printers or vendors; LEG would provide text copy if District opts for this model

Scope for Proposal:

Please provide us with the following:

1. Summary of your firm
2. Pertinent Experience
3. Key Considerations
 - a. Economic environment
 - b. Election timing and format (mail or poll) considerations
 - c. Property owner ballot considerations
 - d. Public opinion research

SCOPE OF WORK

4. Project facilitation/coaching:
5. Recommended key messages regarding education:
6. Communication services
 - a. Direct mailings
 - b. Public speaking
 - c. Press coverage
 - d. Response to negative media
7. Recommended project planning schedule/timeline
8. Proposed Professional fee's
 - a. Flat rate project fee (not fee-based on time and materials)
 - b. Include out of pocket budget (airfare, car rentals, etc.)
9. Recommended project planning schedule
10. Project Personnel

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **INFORMATIONAL**

ITEM: E.4. **Staff presentation and brief video highlighting the 6th Annual Humboldt Hoops Youth 3 on 3 Basketball Tournament.**

PRESENTED BY: **Jason Sehon, Parks & Recreation Director**

TYPE OF ACTION: **None**

Recommendation:

None

Discussion:

Players from all over Humboldt County participated in the 6th Annual Humboldt Hoops Youth 3 on 3 Basketball Tournament. Over 150 boys and girls in 3rd through 8th grades put together their own teams to compete in this fun and exciting tournament.

On Friday afternoon, there were approximately three hundred players, coaches and spectators at the McKinleyville Activity Center to kick off the weekend tournament.

The tournament is a fundraiser for McKinleyville Parks & Recreation's Youth Fee Reduction Fund, which gives 25% - 50% reduction in fees for recreation programs to families that might not otherwise be able to afford.

There were some really exciting games throughout the weekend and you could really hear the crowd get into it. This year was particularly successful as we received many compliments about how smooth the tournament was run. We also received compliments about the positive sportsmanship displayed by coaches and players.

I would like to thank Jens Andersen, Recreation Supervisor and Co-Director of the tournament, coaches, referee's, volunteers, and sponsors for all their hard work to make this tournament a huge success. I would also like to thank Marilyn Mathewson for going above and beyond to help us promote the tournament.

Alternatives:

Take Action

Fiscal Analysis:

Not applicable

Environmental Requirements:

Not applicable

Exhibits/Attachments

- None

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **INFORMATIONAL**

ITEM: E.5. **Status report regarding negotiations with Fernando Lourenco for purchase of Real Property at 1414 Fischer Road, APN: 508-021-008**

PRESENTED BY: **Norman Shopay**

TYPE OF ACTION: **NONE**

Recommendation:

Meet in closed session to continue discussion regarding status of negotiations related to price and terms and obtain further direction from the Board.

Discussion:

Staff has had initial discussion with Mr. Lourenco and requested that he provide 3 initial alternative proposals that he would like the Board to consider regarding the purchase of his property. The District has received a response from Mr. Lourenco. Staff would like to meet in closed session to discuss the initial price and terms suggested by Mr. Lourenco and obtain board direction related to price and terms.

Alternatives:

N/A

Fiscal Analysis:

N/A

Environmental Requirements:

N/A

Exhibits/Attachments

None

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **INFORMATIONAL**

ITEM: E.6. **Status report regarding continued negotiations with JL Furtado Inc. to purchase property adjacent to the McKinleyville Activity Center (APN 510-401-025).**

PRESENTED BY: **Norman Shopay and Jason Sehon**

TYPE OF ACTION: **NONE**

Recommendation:

Meet in closed session to continue discussion regarding status of negotiations related to price and terms and obtain direction from the Board.

Discussion:

Staff has had initial discussions with Jim Furtado with JL Furtado Inc. to inquire about the property located adjacent to the McKinleyville Activity Center (to the west). The property is approximately .28 acres and is flat with no trees. The property could be used for future expansion of the McKinleyville Activity Center, buffer or other uses related to Pierson Park. We are in the process of obtaining an independent appraisal.

Alternatives:

N/A

Fiscal Analysis:

N/A

Environmental Requirements:

N/A

Exhibits/Attachments

None

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **ACTION**

ITEM: E.7. Consider participation in household hazardous waste collection event to be held at Pierson Park scheduled for Saturday, July 17, 2010 by approving a 30% cost share not to exceed \$10,000.

PRESENTED BY: Norman Shopay

TYPE OF ACTION: Voice Vote

Recommendation:

Staff Requests the Board approve participation in the household hazardous waste collection event to be held at Pierson Park on Saturday July 17, 2010 by approving a 30% cost share not to exceed \$10,000.

Discussion:

The previous household hazardous collection event held at Pierson Park in May 2009 saw more than 85% participation by households within the MCSD service area. That event was made possible by a cost sharing agreement between MCSD and Humboldt Waste Management Authority (HBWMA). HBWMA is planning another event in McKinleyville on Saturday, July 17, 2010 at Pierson Park. Last year MCSD contributed approximately \$9,100 toward the event a similar expense is anticipated for the 2010 event. The benefits of this participating include diverting potential hazardous chemicals and medications from the MCSD waste water management facility to an approved disposal facility.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

As stated above

Environmental Requirements:

Not applicable

Exhibits/Attachments

Not applicable

McKINLEYVILLE COMMUNITY SERVICES DISTRICT

Monthly Report

April 21, 2010

AGENDA ITEM: F.2.a.
PRESENTED TO: MCSD Board of Directors
FROM: Steven Edmiston, Finance Director
SUBJECT: Monthly Report

WATER AND SEWER BUDGET

Revenues for water sales are within 5% of the budgeted amount for the fiscal year to date. This is consistent with the expected returned to a normal water usage pattern in the winter and spring months.

Sewer expenses are below the fiscal year to date budget by \$65,595. This is due to the seasonality of the District's sewer effluent testing requirements. In the summer months effluent is used to irrigate alfalfa fields adjacent to Fischer Road. In the winter months effluent is discharged in the Mad River which necessitates additional monitoring and lab testing costs which have not been invoiced to the District.

Water department wages are slightly higher (4.65%), and Sewer department wages are slightly lower (8.88%), than budgeted year to date. Full-time, permanent staff are budgeted with the assumption that 50% of each employee's working hours will be spent evenly between the water and sewer departments throughout the fiscal year. The allocation of manpower to daily tasks pertaining to either department is recorded based on the actual tasks performed.

PARKS AND RECREATION BUDGET

In December, 2009, the District received its first installment of secured property tax for the fiscal in the amount of \$254,558; and the first half of Measure B assessments in the amount of \$115,428. The balance has been received this month and will be reflected in the in April, 2010 Treasurer's Report.

The annual interest and principal debt service payment for the General Fund is due August 1. The portion of this payment attributable to the General Fund was \$204,200 for the fiscal year. An interest only payment on this obligation was made on February 1.

COST OF PUBLIC INFORMATION REQUESTS AND CORRESPONDENCE

The District received correspondence from the public during March, 2010. The cost to the District for this is \$159.50 for March, 2010, bringing the total for the fiscal year to \$3,267.80.

McKINLEYVILLE COMMUNITY SERVICES DISTRICT

Board Agenda Background: Department Report

April 8, 2010

To: MCS D Board

From: Gregory P Orsini, Operations Director

Subject: Agenda Item: F.2.B. – April 21, 2010 Board Meeting
Operations Department - March 2010 Report

Progress in achieving the Board's adopted FY09-10 Goals are summarized in the following narrative:

Water Department:

◇ Water Statistics:

The district pumped 38.6 million gallons of water in March.

Five water quality complaints were investigated and rectified in March.

One service line leak was reported and repaired in March.

No water service installations were completed in March.

Daily, weekly and monthly inspections of all water facilities were conducted.

◇ Double Check Valve Testing:

Routes 5 and 6 testing was completed in March accounting for 85 devices.

◇ PRV Station Annual Maintenance:

The district has five pressure reducing stations that maintain a safe mainline pressure throughout the distribution system. These facilities are inspected and exercised on an annual basis to insure adequate but not excessive pressure to district customers.

◇ Fire Hydrant Maintenance:

Hydrant inspections and maintenance were completed in October and discrepancies discovered are addressed by severity or as time allows. During the Month of March repairs were made to a hydrant on Bartow.

◇ ADA Compliance:

Staff has been in the process of updating the front of the Administrative Office. The work is being done in collaboration with Parks and Recreation and Operations Department. Staff is interested in making our facilities more accessible to the public so our handicap accessibility is being redesigned. Replacement of the parking location and upgrade of the sidewalks is underway. In March the sidewalk from the parking area was demolished, the grade changed and widened. This will allow a more easy transition to the main entrance and also solve a preexisting problem of rain water being trapped along the northern exposure of the building. During this process areas of the front sidewalk that have deteriorated were also replaced improving the overall appearance and safety of the walkways. This work was conducted in house for a substantial savings demonstrating the field crew's ability to work outside their area of expertise and their versatility.

◇ New Construction Inspections:

Airport Ramp Project, waiting on completion of punch list; Central Terrace, cleared to pave; School Ridge, cleared to pave; Valadao Subdivision, pending water main testing; and Van Eaton Subdivision, pending asbuilts and completion letter.

Sewer Department:

◇ Waste Water Statistics:

38 million gallons of wastewater were collected and pumped to the W.W.M.F in March.

40 million gallons of waste water were treated and discharged to the Mad River in March.

No sewer services were completed in March.

Daily, weekly and monthly inspections of all sewer facilities were conducted.

◇ **Flow Monitoring:**

Wet Weather flow monitoring of the sewer collection system has started and will continue throughout the winter. This biannual monitoring is conducted to collect data on inflow and infiltration and to monitor capacities in our sewer collection system.

◇ **Sewer Collection System Maintenance:**

Regularly scheduled hydro-cleaning of sewer lines was conducted in March. This maintenance is conducted quarterly to ensure buildups of grease and grit are removed to prevent sewer main blockages. Staff also completed hydro-cleaning on Sutter Rd. and Azalea Ave. area. This included 77 mains line pulls totaling 17,582 feet of pipe. This area has shown to be a troublesome area and we clean these lines as needed. Observations made during this task prompted further inspection with our sewer line camera. Upon further inspection the main on Azalea was determined to have on problems but the main on Sutter showed two areas of infiltration, one a faulty joint and the other at the manhole. These will be scheduled for repairs in the near future.

◇ **Manhole Inspections:**

During periods of heavy rain and every three years staff conducts manhole inspections. These are done to trace areas of inflow and infiltrations back to their source. During these inspections staff is also able to observe the interior of manholes make notes and if maintenance is required it can be scheduled and completed. Manhole rehabilitation is conducted in house for a considerable savings.

◇ **Sewer Lift Station Maintenance:**

As part of the Districts scheduled maintenance the sewer pump impeller to wear plate clearances are checked and adjusted. This procedure improves the efficacy of the pumps, saving money on electricity and pumping down the wet wells faster. During high flow events, this helps prevent sewer overflows that cause harm to the environment and would be violation of regulatory requirements.

◇ **Fischer Rd. Station Wet Well Blower:**

During routine inspection the blower was found to be inoperative. It was disassembled and the damaged parts were ordered. The parts arrived in March and the blower was repaired and is back in service.

◇ **Street Light Department:**

Five streetlight problems were reported and repaired in March.

Promote Staff Training and Advancement:

Weekly safety meetings were conducted.

Special Notes:

Annually the State Health Department inspects our water facilities and associated regulatory requirements. Usually this requires an engineer from Redding come over and spends part of the day going over written plans and then touring the tank sites. The conclusion to this year's inspection was no discrepancies. This is due in great part to our staff's performance and professional attitude.

As part of the District's commitment to improve the quality of our discharge from the WWMF and meet regulatory requirements, improvements in treatment and source control measures must be considered. Source control is by far the most economical and efficient means to improve the quality of our effluent. So the district has entered into a contract with a consultant to update our local limits and give the District authority to enforce and

issue permits to local business. This scope of work is also a requirement in our NPDES Permit.

Due to a recent resignation, a Utility Person position was opened. In early February it was decided to fill that position and the process of advertising and hiring a new person was started. March 6, 2010 was the deadline for taking applications and the response was favorable. Staff members went through applications and selected 10 candidates to interview and a date of April 19th and 20th has been set. Staff will be contacted perspective interviewees by phone and has mailed a thank you for interest letter the other 53 applicants.

Staff met with members of a local consulting firm to discuss the District's options in proceeding with the process of implementing our facilities into a usable Geographic Information System (GIS). Staff has been in the process of collecting points and have the majority of our facilities recorded. The District is now in a position to take all the information and put it into a usable form. During the meeting staff was shown several GIS systems used by other municipalities and the features of the software the District will most probably use. Staff then brainstormed our options and the plan for implementation.

As part of the Ramey Pump Station Upgrade, construction supervision will be required. Staff will be responsible for the majority of this process but structural and electrical engineers will be required for certain points during construction. The Request for Proposals was prepared by staff and was mailed to various consulting firms in the region. This work was conducted in house saving the District money. The proposals will be due prior to the Board Meeting this month.

Annually, the Department of Water Resources requires the district to fill out a standard questionnaire detailing the quantities of water bought and sold, the number of connections; residential, commercial and industrial are emailed back to them. During this process staff is able to calculate the water loss the District experiences. In 2009 MCSD had 7% unaccounted for water. A distribution system with less than 15% water loss is considered acceptable.

Annually Humboldt County requires the District update our Hazardous Materials Business Plan. This plan lists all properties the District is responsible for and inventories the hazardous material and quantities stored at each site and lists the responsible personnel's contact information. This was completed in March.

McKINLEYVILLE COMMUNITY SERVICES DISTRICT
Board Agenda Background - Department Report
April 21, 2010

AGENDA ITEM: F.2.C.
PRESENTED TO: MCSD Board of Directors
FROM: Jason Sehon, Parks & Recreation Director
SUBJECT: Parks & Recreation Department Report

DOG PARK PROPOSAL:

At the December 8, 2010 Recreation Advisory Committee Meeting (RAC), the Committee considered the feasibility of building a dog park at Hiller Park. After much discussion and comments from the public, the RAC unanimously recommended that the MCSD Board of Directors direct staff to build a dog park at Hiller Park by using Quimby Coastal Park Dedication Funds in an amount not to exceed \$15,000.00.

The issue of allowing dogs to run off-leash at Hiller Park has been addressed several times over the course of the last ten years. The RAC's decision is not based on recent events, but rather it is based on multiple correspondences from Hiller Park users. The ultimate goal of the RAC is to make Hiller Park accessible and safe to all park users.

Fiscal Analysis/Cost estimate:

Hire contractor to purchase and install fencing:	\$20,100
Purchase fencing and utilize CCC Crew for installation:	\$11,000
Additional amenities, signage, etc:	\$2,000

NOTE: Fencing might be donated by McKinleyville Union School District.

Staff would recommend adding a 15% contingency on the budget.

As a next step, staff will the RAC will host a meeting on May 27, 2010 to gather public input for ideas on the construction of a dog park. After staff and the RAC consider ideas and suggestions, the item will be brought to the MCSD Board of Directors, probably at its June 16, 2010 meeting.

McKINLEYVILLE SKATE PARK:

Staff met with the McKinleyville Skate Park Committee to discuss our concerns of the recently submitted conceptual design. Committee will bring design back to Grindline and submit a new conceptual design so that the entire park is built in-ground by using a sump and pump system. This will also leave a smaller foot print, which will allow more space for future park development.

HILLER SPORTS COMPLEX:

Things are coming along well at Hiller Sports Complex. Working with McKinleyville Little League and Miller Farms, we have constructed an additional softball field in the outfield area of the existing softball field. This has helped McKinleyville Little League's (MLL) softball program as the demand for field use this year has increased.

There have been a few schedule conflicts between two of the youth organizations using the softball field. I have spoke to each league president and feel the issue has been resolved.

McKINLEYVILLE LIBRARY EXPANSION PROJECT:

Bid documents are ready and available to be picked up in the District Office for \$25.00. We have received several inquiries about the project. Bidding closes on Friday, April 30, 2010 at 10:00 am – at which time the bid opening will take place.

We held a bid walk-through on Friday, April 9, 2010 at the library where approximately fifteen (15) individuals attended.

CALIFORNIA CONSERVATION CORPS (CCC):

The CCC crew will be working at Hiller Sports Complex the week of April 12, 2010 in order to prep the fields and landscaping for the McKinleyville Little League Opening Ceremonies.

SWAP CREW:

The SWAP crew worked along Central Avenue OSMZ on Saturday, April 3, 2010.

HILLER PARK PLAYGROUND:

The new tot lot playground at Hiller Park has been very popular on days where the weather is nice.

MCSD OFFICE:

The landscaping and sidewalk replacement in front of the District Office has been completed. This was a great cooperative effort between the Parks department and the Operations Department. This was also a community effort as Miller Farms donated the design and discounted the plants, and North Coast Horticulture purchased the plants.

COMMUNITY SERVICE WORKERS:

Our Parks staff continues to utilize the Community Service Worker (CSW) program daily. This program helps us to maintain Pierson Park, Hiller Park, Hiller Sports Complex, Azalea Hall, the McKinleyville Activity Center, and several of our Open Space Maintenance Zones.

GRAFFITI UPDATE:

A door was vandalized at one of the dugouts at Hiller Sports Complex. Staff replaced hinges and door knob. Estimated cost for repairs is \$65.00.

WORK EXPERIENCE (Cal Works PROGRAM)

We now have four positions through the Cal Works program that are working with the Parks & Recreation Department.

This is a great program for the workers and for the MCSD. It gives the employees great on the job experience and it aids MCSD in its daily operations. The County pays all wages for a six-month period, and workers compensation is also under the Counties umbrella. If MCSD hires an employee from this program, the County will pay for half their wages for the first year of employment.

McKinleyville Community Services District

BOARD OF DIRECTORS

April 21, 2010

TYPE OF ITEM: **INFORMATION**

ITEM: F.2.D. General Manager's Report

PRESENTED BY: Norman Shopay

TYPE OF ACTION: None

1. Cost Savings Related to District Activities – While the Board remains fully informed and up-to-date on staff efforts, cost savings, and extra work done by the dedicated District staff members with their continued efforts to look for creative opportunities for cost and efficiency savings measures for the District, these activities may not be fully understood and realized by some members of the public. Therefore, I would like to acknowledge and recognize the efforts of staff.

- Successful negotiation with vendor to reduce the monthly computer software charge for water and sewer billing from \$1,000 per month to \$800 per month. Savings of \$3,600 per year.
- Replacement of sidewalk to meet ADA requirements. Savings of \$3,000 by using District staff.
- District office addition. \$100,000 savings by using District staff and HROP workers.
- Bocce Ball Court construction. Savings of approximately \$10,000 using District staff.

2. Library Expansion Project: Bid walk through conducted with approximately 15 individuals participating. Questions and answers were prepare and distributed to the bidders. The bid opening is scheduled for April 30, 2010 at 10:00 AM

3. Emergency Response Planning: The majority of staff has completed the initial emergency response training online. Northern California Safety Consortium has conducted additional emergency response training in April.

4. Web Site / Logo Update: Staff workgroup has entered all initial information into website. We are ready to provide a link on our old web site to the new draft working web site. The new Web Site will be accessible via a link from our existing Web Site so that the public can see the progress as it is being developed. This will allow an opportunity for input on the features as they are being developed. We will have this link operation in early May. We also plan to have a community Web workshop meeting to obtain input after the new draft website is operational for a period of time. We would like to schedule this meeting in conjunction with another meeting for efficiency. The final draft logo is completed and will be brought to the Board for discussion and approval in May. The draft Logo will be available on the new website for review.

- 5. Emergency Water Line Bridge Crossing** – Continued discussions with City of Arcata to evaluate potential connection points and developing a cooperative agreement to supply water to each agency in case of an emergency if needed.
- 6. NPDES Permit Compliance and 20-Year Facility Plan** – A successful public workshop was held on April 7, 2010 to obtain input from the public and stakeholders on various future Waste Water Management Facility treatment and discharge alternatives. We will be compiling the information and will present the results on the website as well as discussing in future meetings. We are considering scheduling our internal working meeting in the evening to provide an opportunity for the public and stakeholders to observe the process and be better informed on the progress and status.
- 7 Earthquake** – Office of Emergency Service (OES) was on site recently to inspect damage and verify our claim.
- 8 No Drugs down the drain** – We have finalized the paperwork for participation in the printing of the message of “no drugs down the drain” on the prescription bags with Limas Pharmacy.
- 9. Hazardous Waste Collection Day** - Humboldt Sanitation has contacted us to determine if we would be interested in participating with them on a Hazardous Waste Collection day in the summer. They are planning to have another event on July 17th at Pierson Park. Last year’s contribution totaled \$9,100.



March 31, 2010

R.W.Q.C.B. NORTH COAST REGION
5550 SKYLANE BLVD., SUITE A
SANTA ROSA, CA 95403

RE: MONTHLY MONITORING REPORT

Dear Lisa:

Enclosed is the monthly Monitoring Report for February 2010 for McKinleyville Community Services District Wastewater Management Facilities WDID NO. 1B82084OHUM.

The normal discharge of effluent was 27 days of discharge to the Mad River. The required monitoring and water quality constituents that were tested and were reported were in compliance except for monthly 4,4'-DDT test annual Chronic toxicity testing.

The requirement for BOD is 45 mg/L, a maximum of 441 pounds of BOD for the 30-day average, a minimum of 65% removal and a weekly average of 65 mg/L. With four weekly tests in February, that constitutes seven criteria. The BOD results for February are in compliance.

The requirement for NFR is 83 mg/L, a maximum of 931 pounds per-day and a minimum of 65% removal for the 30-day average. With four weekly tests in February, that constitutes three criteria. The NFR results for February are in compliance.

The requirement for Nitrate as Nitrogen in the effluent is a monthly average of 10mg/L. One test was conducted in February and was in compliance.

Total Coliform Organisms MPN/100 ml. The Monthly Median not to exceed MPN of 23 and the daily maximum not to exceed MPN of 230. The reported results for the month of February are as follows. Median was <2 and a Maximum of <2. Four samples were collected and all are in compliance.

The Requirement for Acute Toxicity testing is a minimum of 70% survival for any one test and median for all tests in one month of 90%. One test was conducted in February and is in compliance with 100% survival.

Pollutants of Concern testing was conducted in February and all were in compliance except 4,4'-DDT has an interim limitation of 0.031 µg/L and the result for February is 0.53 µg/L.

Monitoring of the Mad River, Storm Water Wetlands at Hiller and Backswamp Wetlands were conducted in February.

Annual Chronic Testing was conducted in February at M-001. The limitation of 1TUc was exceeded for the Flathead Minnow.

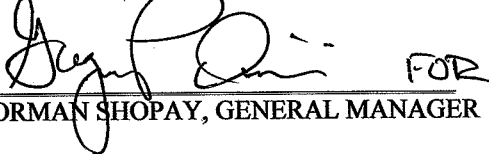
EXHIBITS:

- A. February 2010 Wastewater Management Facilities spreadsheet with the daily, weekly, monthly, and annual monitoring records for monitoring location M-001.
- B. Disposal Flows and Location Data Sheet.
- C. River CFS and Discharge Dilution work sheet

- D. BOD and TSS work sheet.
- E. River Monitoring work Sheet for R-001 and R-002
- F. Backswamp Wetlands work sheet for R-003
- G. Hiller Wetland Monitoring work sheet for R-004 and R-005
- H. Acute Toxicity lab report
- I. Chronic Toxicity lab report
- J. Pollutants of Concern lab report

"I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED, IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS."

If you have any questions, please contact this office.

 FOR
NORMAN SHOPAY, GENERAL MANAGER

ENCLOSURES
FILE

McKINLEYVILLE COMMUNITY SERVICES DISTRICT
WASTEWATER MANAGEMENT FACILITY
MONITORING DATA

MONTH: FEBRUARY

YEAR: 2010

					INFLUENT MONITORING				EFFLUENT MONITORING							3X5 TOTAL COLIFORM
DATE	INFLUENT FLOW M.G.D.	EFFLUENT FLOW M.G.D.	EFFLUENT MAXIMUM GPM	RIVER CFS	INFLUENT MONITORING		TEMP (C°)		B.O.D. mg/L	NFR mg/L	AMMONIA	CL ₂ RES.	RIVER CL ₂ RES	SETTLABLE SOLIDS		
					B.O.D. mg/L	N.F.R. mg/L										
1	1.112	1.638	1210	2450			7.0	11.7			30	2.6	0.0		<2	
2	1.166	1.564	1097	2420			6.8	11.9			30	1.6	0.0			
3	1.182	1.561	1095	2850			6.9	11.9			30	2.1	0.0			
4	1.157	1.337	1088	2930			6.8	11.9			28	1.6	0.0			
5	1.178	1.086	768	5200	320	220	6.9	11.4	23	39	30	3.2	0.0	<0.1		
6	1.232	1.357	1071	4260			6.8	12.6				3.4	0.0			
7	1.281	1.533	1072	4030			6.8	13.1				2.4	0.0			
8	1.163	0.966	1070	3200			6.9	11.8			28	2.1	0.0		<2	
9	1.130	0.000	0	2660			No Discharge Due to CCB Washdown									
10	1.121	1.068	1097	2210			7.2	11.4			32	1.4	0.0			
11	1.120	1.380	1100	2010			6.8	11.8			28	1.5	0.0			
12	1.135	1.171	822	2210	200	180	7.2	11	17	26	32	2.7	0.0	<0.1		
13	1.157	1.391	1101	2060			6.8	11.7				1.6	0.0			
14	0.710	1.569	1101	1970			6.8	12.9				1.2	0.0			
15	1.215	1.568	1121	2420			6.8	12.0			32	2.5	0.0		<2	
16	1.132	1.573	1106	2100			7.0	14.4			32	4.6	0.0			
17	1.107	1.578	1119	1930			7.1	12.9			32	0.1	0.0			
18	1.086	1.329	1109	1750			6.9	12.9			30	0.5	0.0			
19	1.074	1.139	802	1610	260	350	6.8	12.7	21	25	32	1.1	0.0	<0.1		
20	1.102	1.140	804	1470			6.5	12.2				2.4	0.0			
21	1.102	1.141	800	1360			6.8	12.0			38	1.7	0.0			
22	1.067	1.142	799	1260			6.6	12.0			28	2.2	0.0		<2	
23	1.105	1.140	800	1130			6.7	11.9			30	0.8	0.0			
24	1.134	1.133	797	200			6.7	12.5			30	1.9	0.0			
25	1.097	1.132	793	2360			6.7	12.9			30	2.6	0.0			
26	1.326	1.118	790	2180	240	120	6.8	13.7	32	23	32	1.9	0.0	<0.1		
27	1.297	1.388	1098	8520			6.9	12.1				2.8	0.0			
28	1.287	1.583	1112	5160			6.9	11.8				0.2	0.0			

SPLLS:

None to report

30 DAY AVERAGE	BOD mg/L	BOD LBS/DAY	BOD % Removal	NFR mg/L	NFR LBS/DAY	NFR % Removal
	23	218	91	28	265	85

ACUTE TOXICITY

DATE	% Survival
Rainbow Trout 2/3/2010	100%

CHRONIC TOXICITY

TESTED	SURVIVAL
Minnow	2
C. Dufia	1
Algae	1
TUC	

Total Coliform

Monthly	<2
Daily	<2
Maximum	<2

REMARKS: 2/9/2010 No Discharge Due to CCB Washdown

MONTHLY TESTS

DATE	TDS	AMMONIA	NITRATE	BORON
2/8/2010	93	25.0	ND	240

DATE	Copper	17
	Lead	ND
	Bis. phthalate	3
	alpt-BHC	ND
	4,4' -DDT	0.53
	2,3,7,8-TCDD	ND

SIGNATURE: 