

**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 4th, 2012
7:00 P.M.**

AGENDA

A. CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

B 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.

C. PUBLIC HEARINGS

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

**C.1 Final Reading-Ordinance Amending the Board Policy Manual to
Revise the Board of Directors Compensation Rate Pg. 4**

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 requests that an item be removed from the Consent Calendar, it shall be removed so that it may be acted upon separately. Public comments are invited.

- D.1 Consider approval of minutes of the Board of Directors' Regular
Meeting of March 7, 2012 Pg. 7**
- D.2 Consider approval of minutes of the Board of Directors' Special
Meeting of March 14, 2012 Pg. 12**
- D.3 Consider approval of February 2012 Treasurer's Report Pg. 16**
- D.4 DCV Violations this month. Pg. 34**

E. CONTINUED AND NEW BUSINESS

*Public comments are invited and an opportunity will be given to address the Board when each matter is considered. **Comments are limited to 3 minutes.** Letters should be used for complex issues.*

- E.1 Humboldt Local Agency Formation Commission (LAFCo) Ballot-for Special District Member Election **Pg. 35**
- E.2 Consider authorizing purchase of approximately 33 Acres of Real Property Parcel located at/near the junction of North Bank Road and Azalea Road (APN 507-141-017), approval of proposed purchase agreement and adoption of Resolution regarding purchase **Pg. 39**
- E.3 Consider acquisition of all or a portion of Real Property Parcel located at/near 2195 Hewitt Road (APN 509-021-045); Identify and appoint persons to serve as the McKinleyville Community Services District negotiators(s). Staff suggests the panel to include: Norman Shopay, General Manager; Russell Gans, District legal counsel. Identify persons with whom MCSD's appointed negotiator(s) may negotiate on behalf of Seller, staff suggests persons include: Doug Shaw, Janne Page **Pg. 85**
- E.4 Review and discussion of MCSD previous Goals and Objectives and request to appoint two Board members to work with staff to revised and update future Goals and Objectives **Pg. 86**
- E.5. Adopt Resolution 2012-12 for an Ordinance change to update the wastewater discharge limitations (local limits) in the Rules and Regulations **Pg. 97**
- E.6 Adopt Resolution 2012-13 to modify the Sewer Use Ordinance. **Pg. 115**
- E.7 Informational overview of Quimby Parkland Dedication Funds **Pg. 165**
- E.8 Consider approval of Parks & Recreation Master Plan **Pg. 173**
- E.9 Consider approval of letter to the Humboldt County Board of Supervisors **Pg. 174**

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. Employee Negotiations (Wennerholm, Edwards)
- g. Water Task Force ((Mayo, Corbett (alternate))
- h. AdHoc No Drugs & Toxics Down the Drain (Couch)

- i. Local and State Advisory Committee
(Edwards, Corbett (alternate))

F.2. STAFF REPORTS

- a. Support Services Department (Colleen Trask) Pg. 176
- b. Operations Department (Greg Orsini) Pg. 177
- c. Parks and Recreation Department (Jason Sehon) Pg. 180
- d. General Manager (Norman Shopay) Pg. 183

F.3. CHAIRMAN'S REPORT

F.4. BOARD MEMBERS' COMMENTS, ANNOUNCEMENTS, REPORTS AND
AGENDA ITEM REQUESTS

G. PUBLIC COMMENT AND WRITTEN COMMUNICATIONS

*Any person may address the Board at this time upon any subject within the jurisdiction of the McKinleyville Community Services District; however, any matter that requires action may be referred to staff for a report of action at a subsequent Committee or Board meeting. **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. Public comments are invited. **Comments are limited to 3 minutes.***

H.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS -

(Per Government Code Section 54956.8) Property: 2195 Hewitt Road (APN 509-021-045). Under Negotiation: Purchase of all or part of the above-referenced property. MCSD negotiators: Norman Shopay, General Manager; Russell Gans, District legal counsel. Parties with whom MCSD may negotiate: Doug Shaw, Janne Page. Instructions to negotiators include both price and terms of payment.

H.2 PUBLIC EMPLOYEE PERFORMANCE EVALUATION (California
Government Code § 54954.5 and 54957) Title: General Manager.

H.3 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION-
MCKINLEYVILLE COMMUNITY SERVICES DISTRICT v COUNTY OF HUMBOLDT,
BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT, CASE NO.
CV110632 LITIGATION, pursuant to subdivision (a) of Section 54956.9.

I. ADJOURNMENT

Posted 5:00 pm on March 30th, 2012

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: C.1. **Final Reading-Ordinance revising the Board of Directors Compensation Rate**

PRESENTED BY: **Norman Shopay**

TYPE OF ACTION: **Roll Call Vote**

Recommendation:

Staff recommends the Board approve the final reading of Ordinance 2012-01 amending the Board policy manual to increase the Directors' compensation rate to \$125 per noticed meeting day up to a maximum of \$750 per month (6 meetings) per Director with no compensation for committee and ceremonial meetings with future adjustments only upon Board action in compliance with California Government Code section 61047 and applicable law.

Discussion:

The Board approved the first reading of this Ordinance at last month's regular Board meeting and directed staff to bring this back for the final reading this month. If approved tonight the effective day for implementation would be June 5, 2012 in accord with California Water Code section 20204.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- The increase to \$125 per meeting day and compensating up to six (6) meetings per month would a potential maximum cost of \$33,000 per year IF we had 4 additional meetings per month X 5 Directors X 12 months. However it is very unlikely the Board would ever need to meet six times per month unless under an emergency situation.

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Ordinance 2012-01

ORDINANCE 2012-01

AN ORDINANCE OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT AMENDING THE BOARD POLICY MANUAL TO REVISE THE BOARD OF DIRECTORS COMPENSATION RATE

The Board of Directors of the McKinleyville Community Services District, having duly considered the above-captioned matter after duly noticed public hearing, declares as follows:

A. WHEREAS, the McKinleyville Community Services District (MCSD) is a community services district formed in accordance with California Government Code section 61000, et seq.;

B. WHEREAS, the MCSD Board of Directors desires to provide for reasonable compensation for Directors that is consistent with California Government Code section 61047 and California Water Code section 20202;

C. WHEREAS, the MCSD Board last set compensation for Director meeting attendance on February 13, 1986 at the rate of \$100 per day of service up to a maximum of \$200 per calendar month; and

D. WHEREAS, the MCSD Board has determined that an increase to \$125 per day of service, with a maximum compensation for six (6) meetings per month, is appropriate; and

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT DOES HEREBY AMEND THE BOARD POLICY MANUAL AS FOLLOWS:

PART 8—REMUNERATION, RULE 8-1: BOARD MEETING COMPENSATION-

“Directors would be compensated \$125 per noticed meeting attended up to a maximum of \$750 per month (6 meetings) per Director with no compensation for Committee Meetings or Ceremonial Meetings with future meeting fees to be adjusted only upon future Board action in compliance with California Government Code section 61047 and applicable law.”

1st reading March 7, 2012. Upon second reading on April 4, 2012 the foregoing Ordinance will be duly accepted for implementation effective sixty (60) days thereafter on June 5, 2012 in accord with California Water Code section 20204.

On the Motion of Director _____ and seconded by
Director _____ the foregoing Ordinance is accepted on second
reading of April 4, 2012 by the following polled vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dennis Mayo, Board President

**ATTEST: I Sharon L. Denison, Secretary to the Board of Directors of the MCSD
hereby certify that the foregoing is a full, true and correct copy of the Ordinance
duly adopted this April 4, 2012.**

Sharon L. Denison, Board Secretary

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: D.1 **Consider Approval of Minutes of the Board of Directors' Regular Meeting of March 7, 2012 and the Special Meeting of March 14, 2012**

PRESENTED BY: **Sharon Denison, Board Secretary**

TYPE OF ACTION: **Consent Calendar Item**

Recommendation:

Staff recommends that the Board approve the minutes of the March 2012 Board Meetings.

Discussion:

Draft Minutes of the two March Board Meetings are attached.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

Not applicable

Environmental Requirements:

Not applicable

Exhibits/Attachments

- D.1 Draft Minutes of March 7, 2012 Regular Board Meeting
- D.2 Draft Minutes of March 7, 2012 Special Board Meeting

EXHIBIT D.1

MINUTES OF THE REGULAR MEETING OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT HELD ON WEDNESDAY, MARCH 7, 2012 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:

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

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

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

AGENDA: At 7:00pm President Mayo called the meeting to order and asked Director Corbett to lead the pledge of allegiance. Director Edwards was absent. There were no additions to the agenda.

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, Wennerholm, Mayo

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM C1-ORDINANCE AMENDING THE BOARD POLICY MANUAL TO REVISE THE BOARD OF DIRECTORS' COMPENSATION RATE:

General Manager Shopay briefly reviewed the proposal and Secretary Sharon Denison reviewed the Ordinance. President Mayo opened public input and the following people addressed the Board:

1. David Elsebusch did not support the increase.
2. Penny Elsebusch was concerned with the legality of the increase.
3. Ron Coffman supported the increase.
4. Geoff Spenceley was concerned with a 25% raise.

MOTION: It was moved to approve the first reading of Ordinance 2012-01 to amend the Board Policy Manual to increase the Directors Compensation rate to \$125.00 per noticed meeting day up to a maximum of \$750.00 per month. Motion by Corbett; second by Wennerholm.

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

MOTION SUMMARY: Motion Passed-3 AYES; 1 NAY

AGENDA ITEM D-CONSENT CALENDAR:

1. Consider approval of minutes of the Regular Meeting of February 1, 2012
2. Consider approval of minutes of the February 2, 2012 Continued Meeting
3. Consider approval of minutes of the February 22, 2012 Special Meeting
4. Consider approval of January 2012 Treasurer's Report
5. No DCV Violations this month
6. Consider approval to declare Genie lift surplus

Director Corbett requested removal of consent calendar item D.4.

MOTION: It was removed to approve the balance of the consent calendar items. Motion by Corbett; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

CONSENT CALENDAR ITEM D.4-CONSIDER APPROVAL OF JANUARY 2012 TREASURER'S REPORT:

Director Corbett reported that he was having trouble relating the monthly report to the budget, had questions about the reserves and the reason for variances and was concerned with the proposed budget amendments and a method to track Management Performance. Scott Gordon, Jackson & Eklund accounting, reviewed some of the changes made to give a more in depth presentation and reported that the connection fee high estimate was the primary cause for the variance in the sewer budget. General Manager Shopay reported that staff continues to make modifications and improvements to the report and would be bringing an agenda item on reserve discussion to the Board next month.

MOTION: It was moved to approve consent calendar item D.4. Motion by Wennerholm; second by Corbett.

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM E.1-FISCAL YEAR ENDING JUNE 30, 2012 PROPOSED BUDGET AMENDMENT: Contract Accountant Scott Gordon reviewed the amendments proposed to the budget. Director Corbett again expressed his concern with budget amendments without a method of tracking those amendments. New Finance Director Trask felt limiting the amendments to one course correction per year would help.

MOTION: It was moved to approve the amended budget for FY 2011-12, with Director Corbett to work with the accounting staff to define a method for tracking budget changes in the future and to bring this back to the Board for future discussion. Motion by Wennerholm; second by Corbett.

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM E.2-WATER AND SEWER RATE EVALUATION AND PROPOSITION 218 PROCESS: General Manager Shopay briefly reviewed staff recommendations and introduced Pierce Rossum from Willdan here tonight to give a presentation. Mr. Rossum gave a summary of the proposed water and sewer rate analysis and financial plan. Two people addressed the Board to express concern with the rate changes.

MOTION: It was moved to authorize staff to proceed with the Proposition 218 majority protest notice to consider increasing water and sewer charges in accordance with the Willdan Water and Sewer Rate Analysis. Motion by Corbett; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM E.3-CONSIDER APPOINTING COMMUNITY MEMBER CHARLIE CALDWELL TO THE RECREATION ADVISORY COMMITTEE:

MOTION: It was moved to approve the appointment of Charlie Caldwell to the Recreation Advisory Committee. Motion by Corbett; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM E.4-CONSIDER ADOPTING RESOLUTION 2012-07 APPROVING THE FINAL ENGINEER'S REPORT FOR MEASURE B ASSESSMENT FY2012/2013 AND RESOLUTION 2012-08 ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS:

Park & Recreation Director Sehon briefly reviewed the timeline, fiscal analysis and staff recommendations. President Mayo opened the public hearing and closed with no public comments received.

1ST MOTION: It was moved to adopt Resolution 2012-07; Approving the Final Engineer's Annual Levy Report for the Measure B Maintenance Assessment District for FY 2012/2013. Motion by Corbett; second by Wennerholm.

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

2ND MOTION: It was moved to approve Resolution 2012-08; Ordering the levy and Collection of Assessments within the Measure B Maintenance Assessment District for FY 2012/2013. Motion by Corbett; second by Couch

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM E.5-APPROVE ADVANCED INDUSTRIAL SERVICES, INC. AS SUCCESSFUL BIDDER FOR NORTON TANK PAINTING RFP AND FISCAL YEAR 2011/2012 BUDGET ADJUSTMENT:

Operations Director Orsini noted that the bid amount in staff notes was incorrect and should read a total of \$333,069.00.

MOTION: It was moved to approve staff recommendations:

1. Award bid for preparation and painting to Advanced Industrial Services for \$333,069.00.
2. Award the contract for coating inspection to Bay Area Coating Consultants, Inc. for \$28,400.00.
3. Include a 10% project contingency of \$41,641.00.
4. Authorize staff to amend the existing Capital Improvement budget for a total of \$458,110.00 including \$55,000.00 for design and construction management.
5. Authorize the General Manager to sign the necessary documents to allow the award of the contract and the notice to proceed.

Motion by Corbett; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

AGENDA ITEM F-REPORTS:

F1a-RAC: Director Couch reported the RAC had met and discussion focused on the Skate Board Park. Director Mayo reported that he had attended the last Skate Board Park meeting.

F1b-AREA FUND: There was nothing to report.

F1c-RREDC: Director Wennerholm reported at the last meeting the discussion focused on the College of the Redwoods accreditation issues.

F1d-MCKINLEYVILLE SENIOR CENTER: No meeting was held per Director Wennerholm.

F1e-AUDIT: No meeting was held.

F1f-EMPLOYEE NEGOTIATIONS: No meeting was held.

F1g-WATER TASK FORCE: Director Mayo reported that the task force had met on March 5 for an optional tour of the Essex control center & treatment plant before the meeting. They covered the goals of the task force and progress on the top-tier water use options, and the CIP.

F1h-ADHOC NO DRUGS & TOXICS SOWN THE DRAIN: There was nothing to report.

F1i-LOCAL AND STATE ADVISORY COMMITTEE: There was nothing to report.

F2a-SUPPORT SERVICES DEPARTMENT: There was nothing to report.

F2b-OPERATIONS DEPARTMENT: Operations Director Orsini reported that a public meeting to review the Norton Tank Painting Project would be held at the District conference room tomorrow from 6-7:00pm.

F2c-PARKS & RECREATION DEPARTMENT: Park & Recreation Director Sehon reported that staff had received a commitment for a donation from Bayside Mortgage of \$700 to extend the water main at Hiller Park.

F2d-GENERAL MANAGER: General Manager Shopay had nothing to add to his written report.

F.3-PRESIDENT'S REPORT: President Mayo had nothing to report.

F.4-BOARD MEMBERS' COMMENTS, ANNOUNCEMENTS, REPORTS AND AGENDA ITEM REQUESTS: No announcements, comments or reports were made by the Board.

AGENDA ITEM G-PUBLIC COMMENT AND WRITTEN COMMUNICATIONS: David Elsebusch expressed his concern with Board and Management lack of communication.

AGENDA ITEM H-CLOSED SESSION DISCUSSION: No closed session scheduled

AGENDA ITEM I-ADJOURNMENT:

MOTION: It was moved to adjourn the meeting at 8:40PM. Motion by Corbett; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 0 NAYS

Respectfully Submitted,

Sharon L. Denison, Board Secretary

EXHIBIT D.2

MINUTES OF THE SPECIAL MEETING OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT HELD ON WEDNESDAY, MARCH 14, 2012 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:

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

Norman Shopay, General Manager
Gregory Orsini, Operations Director
Sharon Denison, Board Secretary
Jason Sehon, Park & Recreation Director
Russ Gans, Legal Counsel

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

AGENDA: At 7:00pm President Mayo called the meeting to order, roll call was taken with all Directors present and Director Edwards led the pledge of allegiance. There were no additions to the agenda.

AGENDA ITEM B-APPROVAL OF THE AGENDA:

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

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

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

AGENDA ITEM C- PUBLIC HEARING-NONE

AGENDA ITEM D-CONSENT CALENDAR: No Consent Calendar Items

AGENDA ITEM E.1-DRAFT FISCAL YEAR 2012/2013 CAPITAL IMPROVEMENT PROGRAM (CIP) FOR

PROJECTS THROUGH 2022: In compliance with the Board's designated funds policy, which includes a reserve for capital asset repair and replacement, Finance Director Trask provided information on a draft Capital Improvements Budget covering a 10 year time span. Larger projects were explained in greater detail by Parks & Recreation Director Sehon, Operations Director Orsini and General Manager Shopay. Director Corbett asked that more narrative on the large expenditures be included in future reports.

AGENDA ITEM E.2-PARKS & RECREATION MASTER PLAN UPDATE: Park & Recreation Director Sehon briefly reviewed the progress made on the plan update. He reported that staff had been working on the update for more than a year, had gathered and included public input and had posted the plan on the

(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".)

web site. He handed out the draft plan to the Board tonight and advised them he would bring the final plan to the Board next month. There were no Board or public comments.

AGENDA ITEM E.3-POTENTIAL BOYD ROAD ANNEXATION INTO MCSD'S SPHERE OF INFLUENCE AND CONTINUED SERVICE DISCUSSION:

Rebecca Crow from GHD, Inc. presented an overview of her investigation of the existing water services on Boyd Road and reviewed the four options the District could pursue. There was a lengthy discussion on the pros and cons of the options.

MOTION: It was moved to approve staff recommendation to prepare and submit an application to LAFCo to annex the Boyd Road Area for water service only. Motion by Edwards; second by Wennerholm

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

MOTION SUMMARY: Motion Passed-4 AYES; 1 ABSTENTION

AGENDA ITEM E.4-RESOLUTION REQUESTING MCSD BE CONSIDERED FOR MEMBERSHIP ON THE HUMBOLDT COUNTY ASSOCIATION OF GOVERNMENTS (HCAOG):

FIRST MOTION: It was moved to adopt Resolution 2012-11 to request HCAOG consider MCSD for inclusion in HCAOG and appointment of a MCSD representative to HCAOG's Board of Directors. Motion by Corbett; second by Edwards

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

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

AGENDA ITEM E.5-PUBLIC COMMENT: CONSIDER ACQUISITION OF ALL OR A PORTION OF REAL PROPERTY LOCATED AT/NEAR THE JUNCTION OF NORTH BANK ROAD AND AZALEA ROAD (APN507-141-017); APPOINTMENT OF MCSD NEGOTIATORS: NORMAN SHOPAY, GENERAL MANAGER; RUSSELL GANS, DISTRICT LEGAL COUNSEL AND DESIGNATION OF PARTIES WITH WHOM MCSD MAY NEGOTIATE: KEVIN MALLOY, GRANITE CONSTRUCTION CO:

General Manager Shopay identified the parcel and explained the proposal to be discussed by the Board in closed session at the end of the regular meeting tonight.

MOTION: It was moved to appoint Norman Shopay and Russell Gans as MCSD negotiators and Kevin Malloy of Granite Construction as the party whom MCSD may negotiate with. Motion by Corbett; second by Edwards

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

MOTION SUMMARY: Motion Passed- 5 AYES; 0 NAYS

President Mayo opened public input and 4 people addressed the Board, with two people supporting the purchase and two people expressing concern with the cost and need to charge non-residents a fee to use. President Mayo closed public input.

AGENDA ITEM E.6-CONSIDER APPROVAL OF A RESOLUTION IN SUPPORT OF PAUL HELLIKER OF ACWA REGION 1:

MOTION: It was moved to adopt Resolution 2012-10 in support of Paul Helliker as chair of ACWA Region 1. Motion by Edwards; second by Wennerholm

(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".)

MOTION VOTE: ROLL CALL VOTE: Ayes: Corbett, Couch, Edwards, Mayo, Wennerholm
MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

AGENDA ITEM F-REPORTS:

F1 ACTIVE COMMITTEE REPORTS-NO COMMITTEE REPORTS SCHEDULED

F2a-SUPPORT SERVICES DEPARTMENT: Finance Director Trask had nothing to add to her written reports.

F2b-OPERATIONS DEPARTMENT: Operations Director Orsini updated the Board on the Norton Tank Painting Project, answering Directors questions and concerns.

F2c-PARKS & RECREATION DEPARTMENT: Park & Recreation Director Sehon reported that staff would be interviewing candidates for the teen center architecture and planning services the last week of March. He added that the RAC was scheduled to meet Thursday night at 6:00pm at the District conference room.

F2d-GENERAL MANAGER: GM Shopay had nothing additional to report.

F3-CHAIRMAN'S REPORT: Chairman Mayo had nothing to report.

F4-BOARD MEMBERS COMMENTS, REPORTS AND AGENDA ITEM REQUESTS: Director Corbett asked staff to include correspondence from the public in future Board packets.

AGENDA ITEM G-PUBLIC COMMENT AND WRITTEN COMMUNICATIONS: President Mayo opened public input and David Elsebusch expressed concern with the multiple meetings planned and objected to an increase in Directors fee to \$125. Jeff Dunk asked staff to use a slide projector as reference on presentations like the CIP.

AGENDA ITEM H-CLOSED SESSION DISCUSSION:

President Mayo opened public comments on the closed session item and Penny Elsebusch expressed concern with the sale price/value of the property.

RECESS AND CONTINUE MEETING IN CLOSED SESSION: At 8:35PM President Mayo adjourned the regular meeting for a short recess after which the Board would go into closed session for discussion of:

H.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS -

(Per Government Code Section 54956.8) Property: APN 507-141-017, North Bank Road Under Negotiation: Purchase of the above-referenced property. MCSD negotiators: Norman Shopay, General Manager; Russell Gans, District legal counsel. Parties with whom MCSD may negotiate: Kevin Malloy, Granite Construction. Instructions to negotiators to include both price and terms of payment.

RECESS AND CONTINUE MEETING IN OPEN SESSION: At 8:55PM the Board adjourned out of closed session.

(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".)

REPORT OUT OF CLOSED SESSION: President Mayo announced that no reportable action was taken in closed session.

AGENDA ITEM I-ADJOURNMENT:

MOTION: A motion was made to adjourn the meeting at 9:00PM. Motion by Wennerholm; second by Couch.

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

MOTION SUMMARY: Motion Passed-5 AYES; 0 NAYS

Respectfully Submitted,

Sharon L. Denison,
Board Secretary

(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".)

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: D.3. Consider Approval of the February 2012 Treasurer's Report

PRESENTED BY: Colleen Trask, Finance Director

TYPE OF ACTION: Consent Calendar Item

Recommendation:

- Staff recommends that the Board accept the February 2012 Treasurer's Report as presented.

Discussion:

- The February 2012 Treasurer's Report is attached.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- See attached February 2012 Treasurer's Report

Environmental Requirements:

- Not applicable

Exhibits/Attachments

- February 2012 Treasurer's Report

**McKinleyville Community Services District
Treasurer's Report
February 2012**

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Page 13	Cash Disbursement Report

McKinleyville Community Services District
Investments & Cash Flow Report
As of February 29, 2012

Petty Cash & Change Funds	940.00
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Cash

Operating & Money Market - Beginning Balance		721,452.62
Cash Receipts:		
Utility Billings	247,044.90	
Money Market Account Interest	163.52	
Other Cash Receipts	45,482.55	
Total Cash Receipts		292,690.97
Cash Disbursements:		
Payroll Related Expenditures	(145,338.87)	
Debt Service	(4,644.48)	
Capital & Other Expenditures	(321,873.17)	
Total Cash Disbursements		(471,856.52)
Operating & Money Market - Ending Balance		542,287.07
Total Cash		543,227.07

Investments

LAIF - Beginning Balance	127,479.35	
Interest Income	-	
LAIF - Ending Balance		127,479.35
Humboldt Co. #2560 - Beginning Balance	526,071.31	
Property Taxes	-	
Measure B Assessments	-	
Interest Income	420.86	
Humboldt Co. #2560 - Ending Balance		526,492.17
Humboldt Co. #4240 - Beginning Balance	4,968,622.72	
Interest Income	3,450.56	
Humboldt Co. #4240 - Ending Balance		4,972,073.28
Humboldt Co. #9390 - Beginning Balance	111,019.03	
Interest Income	88.82	
Humboldt Co. #9390 - Ending Balance		111,107.85
USDA Bond Reserve Fund - Beginning Balance	143,470.20	
Bond Reserve Payment	8,145.83	
Debt Service Payment	(18,875.00)	
Interest Adjustment	(59.68)	
USDA Bond Reserve Fund - Ending Balance		132,681.35
Market Valuation Account		(220.00)
Total Investments		5,869,614.00
Total Cash & Investments - Current Month		6,412,841.07
Total Cash & Investments - Prior Month		6,598,825.23
Net Change to Cash & Investments This Month		(185,984.16)

Cash & Investment Summary

Cash & Cash Equivalents	5,527,480.18
Davis-Grunsky Loan Reserve	595,428.14
Waste Water Capital Reserve	97,251.40
USDA Bond Reserve	132,681.35
I-Bank Loan Reserve	60,000.00
Total Cash & Investments	6,412,841.07

McKinleyville Community Services District
Consolidated Balance Sheet by Fund
As of February 29, 2012

	Governmental Funds			Proprietary Funds		
	Parks & General	Measure B	Streightights	Water	Sewer	Total (Memorandum Only)
ASSETS						
Current Assets						
Unrestricted cash & cash equivalents	\$ 905,541.24	\$ 44,726.76	\$ (41,763.38)	\$ 1,424,348.88	\$ 3,194,626.68	\$ 5,527,480.18
Accounts receivable	2,132.80	-	3,067.55	144,863.28	102,234.35	252,297.98
Prepaid expenses & other current assets	9,209.65		870.01	83,641.54	50,279.52	144,000.72
Total Current Assets	916,883.69	44,726.76	(37,825.82)	1,652,853.70	3,347,140.55	5,923,778.88
Noncurrent Assets						
Restricted cash & cash equivalents	-	-	-	655,428.14	229,932.75	885,360.89
Other noncurrent assets	39,325.43	-	-	10,000.00	37,529.72	86,855.15
Capital assets (net)	-	-	-	6,449,767.10	11,684,365.28	18,134,132.38
Total Noncurrent Assets	39,325.43	-	-	7,115,195.24	11,951,827.75	19,106,348.42
TOTAL ASSETS	\$ 956,209.12	\$ 44,726.76	\$ (37,825.82)	\$ 8,768,048.94	\$ 15,298,968.30	\$ 25,030,127.30
LIABILITIES & FUND BALANCE/NET ASSETS						
Current Liabilities						
Accounts payable & other current liabilities	\$ 16,480.25	\$ 485.30	\$ 3,529.82	\$ 173,802.05	\$ 29,214.94	\$ 223,512.36
Accrued payroll & related liabilities	91,864.31	-	-	29,581.89	29,581.89	151,028.09
Total Current Liabilities	108,344.56	485.30	3,529.82	203,383.94	58,796.83	374,540.45
Noncurrent Liabilities						
Long-term debt	-	-	-	3,489,684.62	1,413,425.03	4,903,109.65
Other noncurrent liabilities	39,325.43	-	-	114,600.99	115,033.99	268,960.41
Total Noncurrent Liabilities	39,325.43	-	-	3,604,285.61	1,528,459.02	5,172,070.06
TOTAL LIABILITIES	147,669.99	485.30	3,529.82	3,807,669.55	1,587,255.85	5,546,610.51
Fund Balance/Net Assets						
Fund balance	808,539.13	44,241.46	(41,355.64)	-	-	811,424.95
Net assets	-	-	-	1,990,296.91	3,440,772.20	5,431,069.11
Investment in capital assets, net of related debt	-	-	-	2,970,082.48	10,270,940.25	13,241,022.73
Total Fund Balance/Net Assets	808,539.13	44,241.46	(41,355.64)	4,960,379.39	13,711,712.45	19,483,516.79
TOTAL LIABILITIES & FUND BALANCE/NET ASSETS	\$ 956,209.12	\$ 44,726.76	\$ (37,825.82)	\$ 8,768,048.94	\$ 15,298,968.30	\$ 25,030,127.30
Investment in General Capital Assets						
	\$ 3,225,541.13					
General Long-term Liabilities						
OP&EB Liability	60,788.00					
Accrued Compensated Absences	11,421.16					
TOTAL GENERAL LONG-TERM LIABILITIES	\$ 72,209.16					

McKinleyville Community Services District
Activity Summary by Fund
February 2012

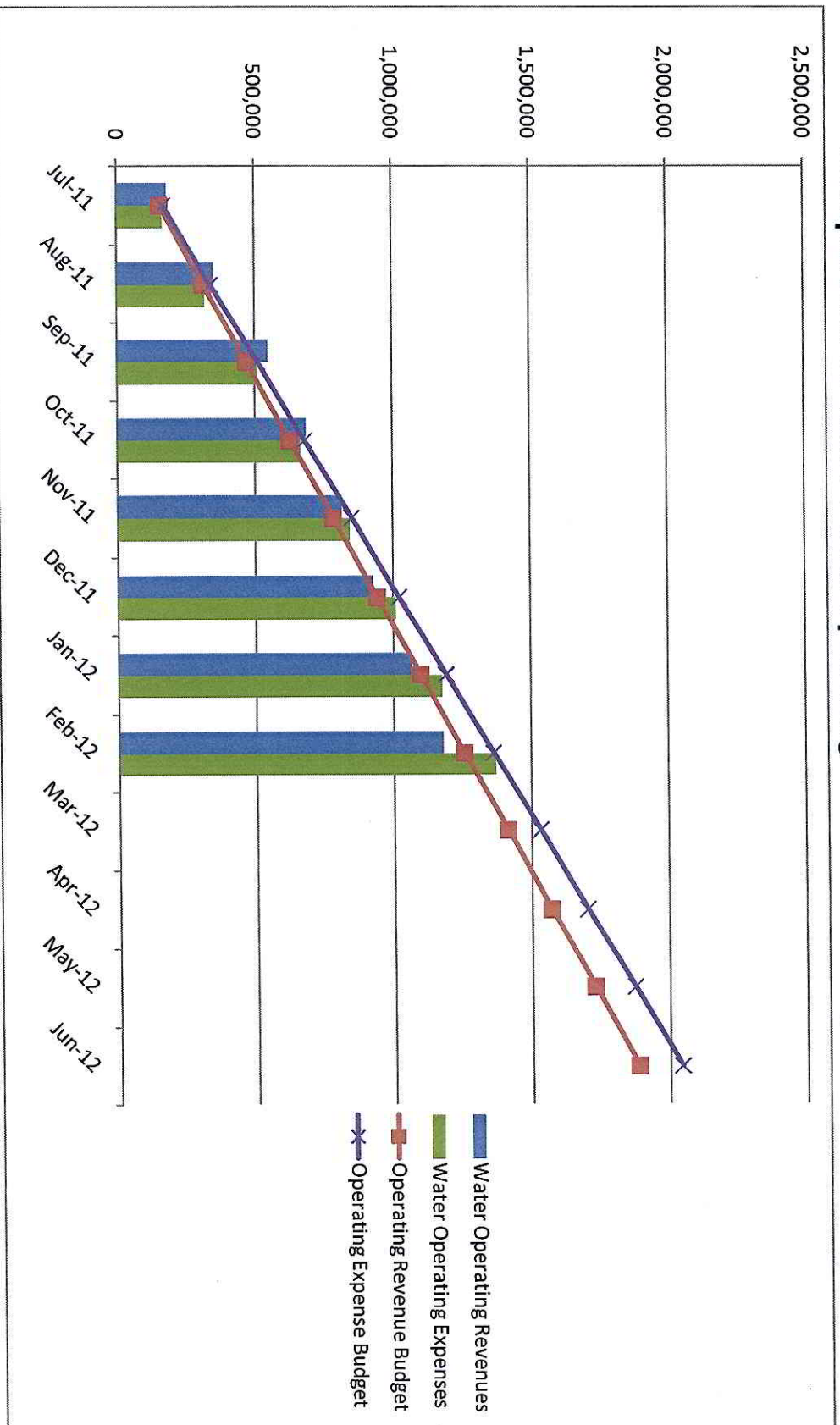
Department Summaries						
	February	YTD	YTD Budget	Over (Under) YTD Budget	Over (Under) YTD Budget %	Notes
Water						
Water Sales	103,993	1,076,721	1,138,519	(61,798)	-5.43%	Seasonal fluctuation of water consumption Connection fees lower than anticipated due to lack of new construction
Other Revenues	10,318	104,303	119,947	(15,644)	-13.04%	
Total Operating Revenues	114,311	1,181,024	1,258,466	(77,442)	-6.15%	
Salaries & Benefits	63,325	472,381	480,772	(8,391)	-1.75%	
Water Purchased	45,644	409,026	421,587	(12,561)	-2.98%	
Other Expenses	62,394	318,586	294,829	23,757	8.06%	
Depreciation	23,000	172,000	166,667	5,333	3.20%	
Total Operating Expenses	194,363	1,371,993	1,363,855	8,138	0.60%	
Net Operating Income	(80,052)	(190,969)	(105,389)	(69,304)		
Interest Income	1,727	12,630	15,333	(2,703)	-17.63%	
Interest Expense	(7,227)	(55,071)	(59,151)	(4,080)	6.90%	
Net Income (Loss)	(85,553)	(233,411)	(149,207)	(84,204)		
Sewer						
Sewer Service Charges	113,445	925,443	928,667	(3,224)	-0.35%	
Other Revenues	11,567	125,511	129,503	(3,992)	-3.08%	
Total Operating Revenues	125,012	1,050,954	1,058,170	(7,216)	-0.68%	
Salaries & Benefits	56,921	471,234	480,772	(9,538)	-1.98%	
Other Expenses	60,182	338,194	378,521	(40,327)	-10.65%	
Depreciation	38,000	292,000	272,000	20,000	7.35%	
Total Operating Expenses	155,103	1,101,428	1,131,293	(29,865)	-2.64%	
Net Operating Income	(30,091)	(50,474)	(73,123)	22,649		
Interest Income	2,285	22,054	20,000	2,054	10.27%	
Interest Expense	(4,742)	(39,257)	(39,524)	(267)	0.68%	
Net Income (Loss)	(32,547)	(67,676)	(92,647)	24,971		
Enterprise Funds Net Income (Loss)	(118,099)	(301,086)	(241,854)	(59,232)		

McKinleyville Community Services District
Activity Summary by Fund
February 2012

Department Summaries	February	YTD	YTD Budget	Over (Under) YTD Budget	Over (Under) YTD Budget %	Notes
<u>Parks & Recreation</u>						
Program Fees	22,597	184,359	206,933	(22,574)	-10.91%	Seasonal reduction in program participation
Rents & Related Fees	4,465	39,369	38,351	1,018	2.65%	
Property Taxes	-	262,095	353,333	(91,238)	-25.82%	2nd allocation by County not until April 2012
Other Revenues	7,931	55,190	188,373	(133,183)	-70.70%	Capital project funding has not been realized as projects have been postponed
Interest Income	525	2,800	8,000	(5,200)	-65.00%	
Total Revenues	35,518	543,813	794,990	(251,177)	-31.59%	
Salaries & Benefits	64,460	456,653	448,024	8,629	1.93%	
Other Expenditures	20,990	138,351	141,190	(2,839)	-2.01%	
Capital Expenditures	-	3,404	273,333	(269,929)	-98.75%	Postponement of capital projects until later in the year
Total Expenditures	85,450	598,408	862,547	(264,139)	-30.62%	
Excess (Deficit)	(49,932)	(54,595)	(67,557)	12,962		
<u>Measure B Assessment</u>						
Total Revenues	77	117,049	140,000	(22,951)	-16.39%	2nd allocation by County not until April 2012
Salaries & Benefits	6,729	63,950	92,667	(28,717)	-30.99%	Labor hours spent on Measure B projects less than anticipated
Other Expenditures	542	6,618	7,333	(715)	-9.74%	
Capital Expenditures	-	2,240	40,000	(37,760)	-94.40%	Postponement of capital projects until later in the year
Total Expenditures	7,271	72,808	140,000	(67,192)	-47.99%	
Excess (Deficit)	(7,194)	44,241	-	44,241		
<u>Street Lights</u>						
Total Revenues	7,045	54,678	54,667	11	0.02%	
Salaries & Benefits	3,086	21,148	23,040	(1,892)	-8.21%	
Other Expenditures	7,182	33,746	30,759	2,987	9.71%	
Capital Expenditures	-	8,043	16,667	(8,624)	-51.74%	
Total Expenditures	10,268	62,937	70,466	(7,529)	-10.68%	
Excess (Deficit)	(3,223)	(8,259)	(15,799)	(7,540)		
<u>Governmental Funds Excess (Deficit)</u>	(60,348)	(18,612)	(83,356)	64,744		

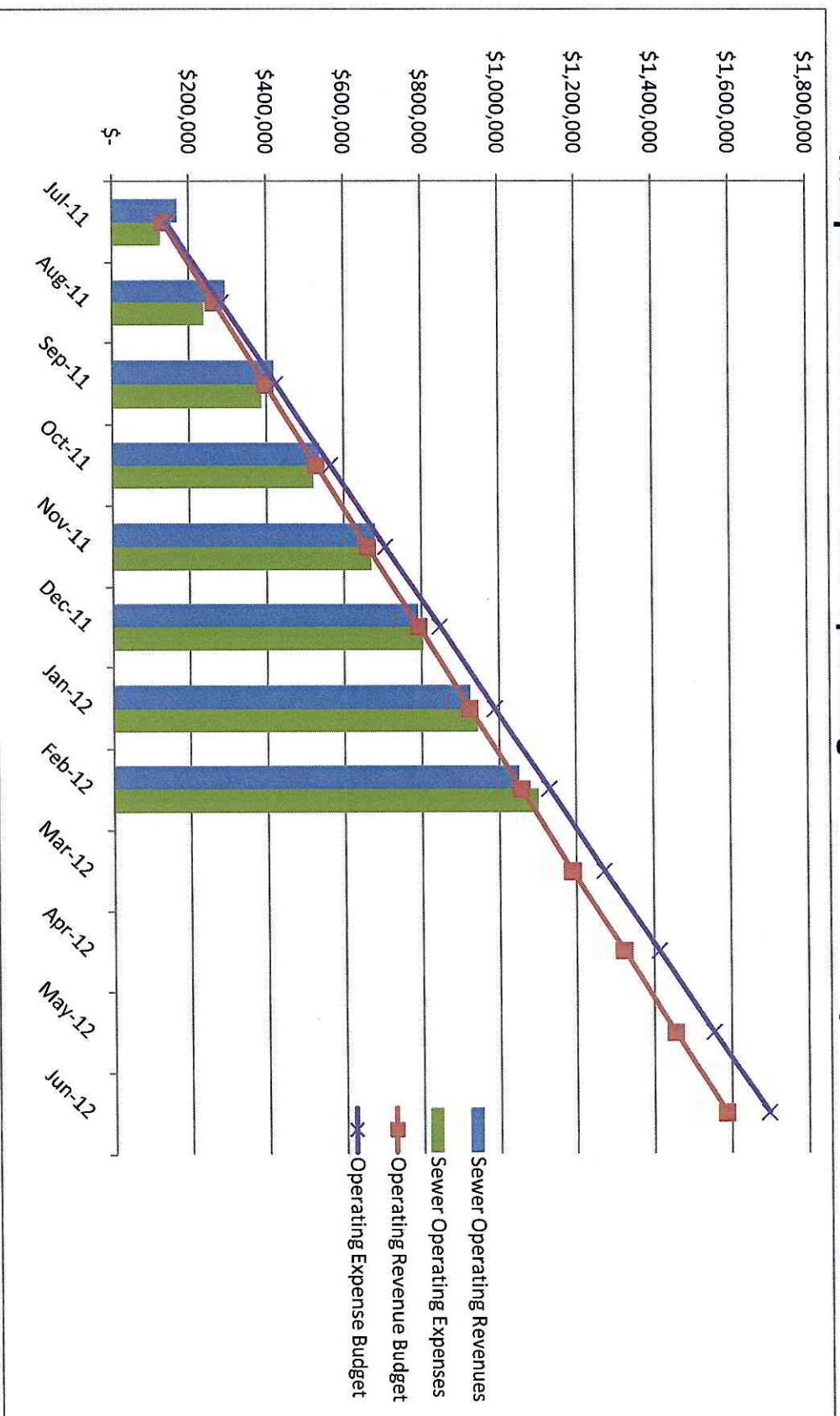
McKinleyville Community Services District February 2012

Comparison of Water Fund Operating Revenues & Expenses to Budget



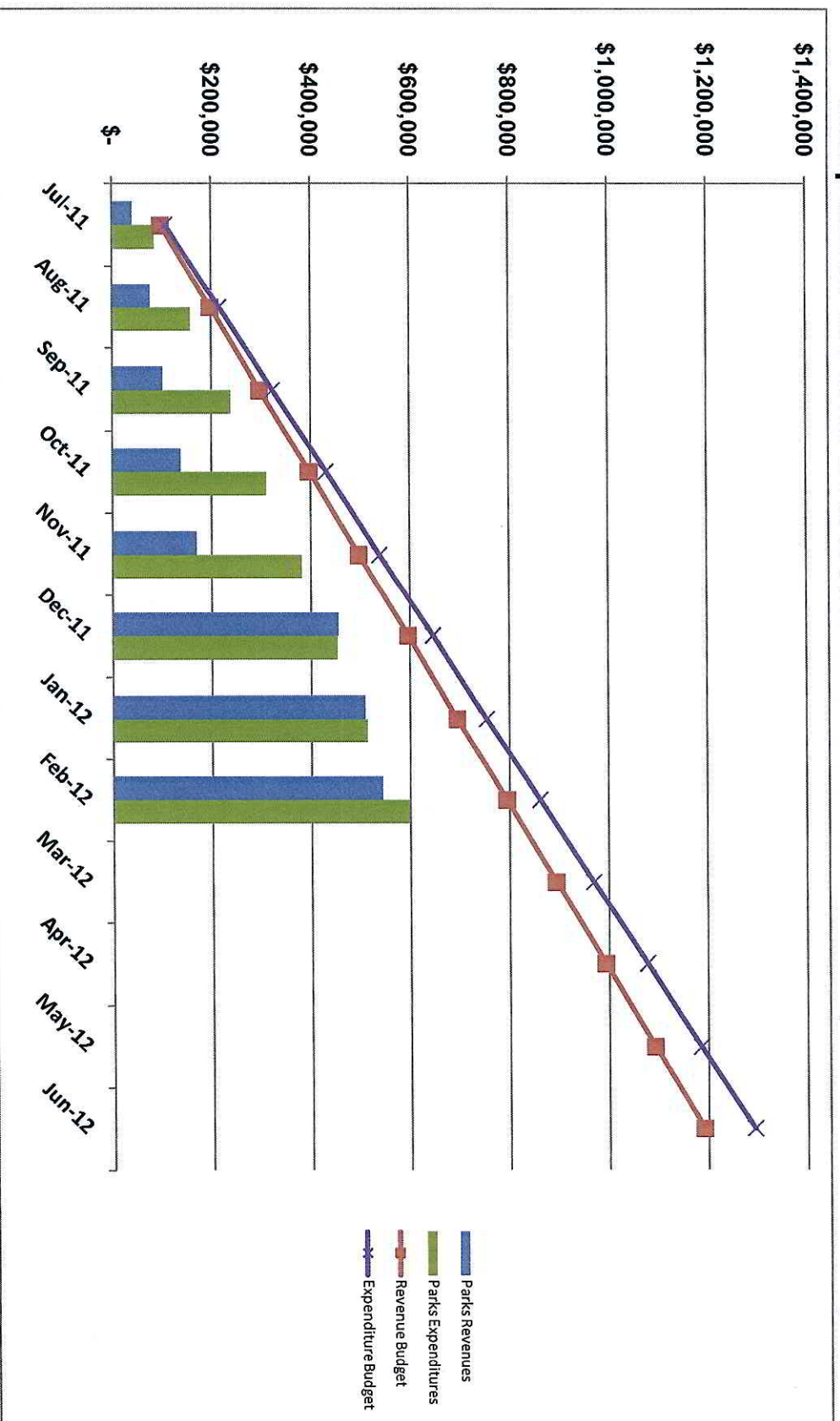
McKinleyville Community Services District February 2012

Comparison of Sewer Fund Operating Revenues & Expenses to Budget



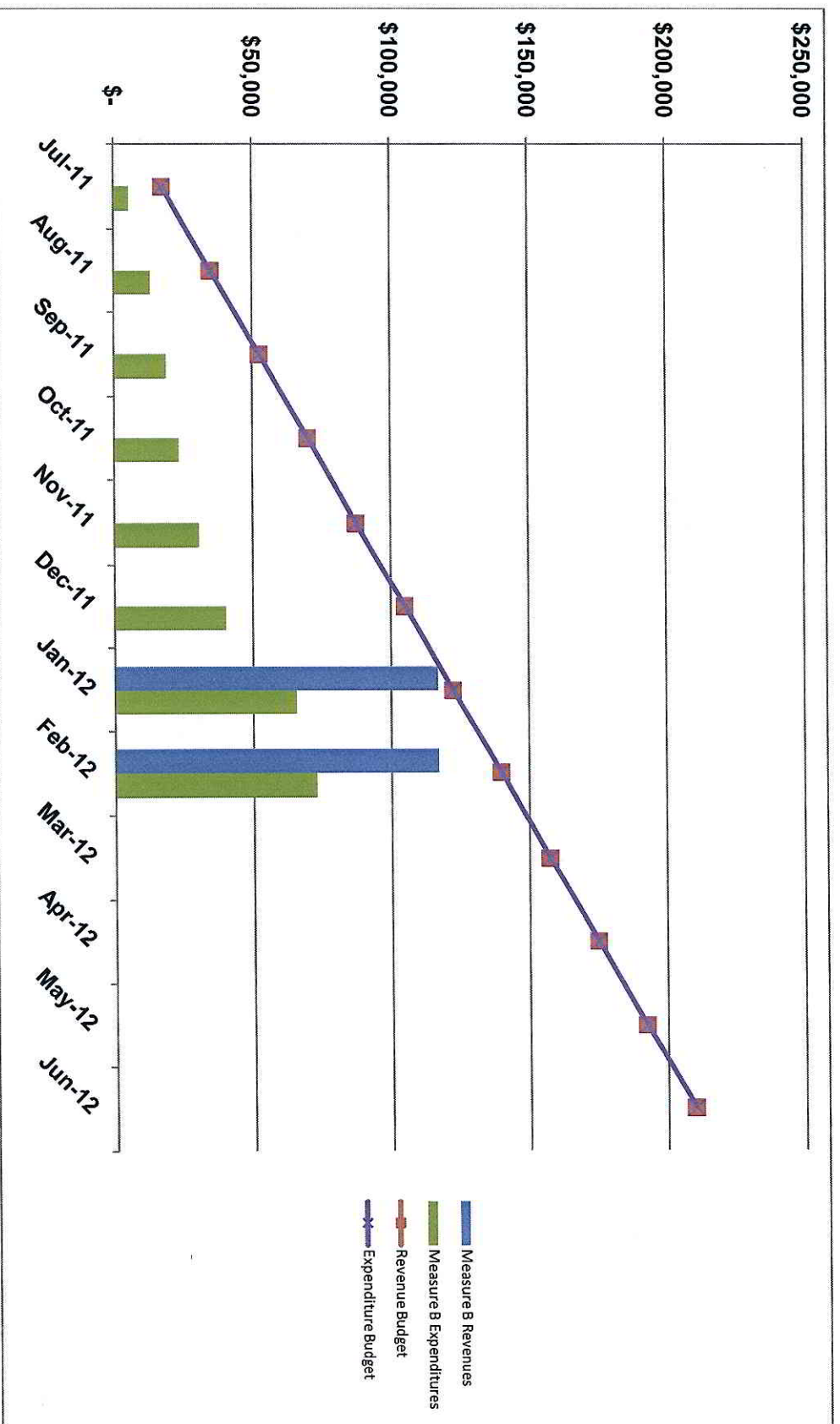
McKinleyville Community Services District February 2012

Comparison of Parks & Recreation Total Revenues & Expenditures to Budget



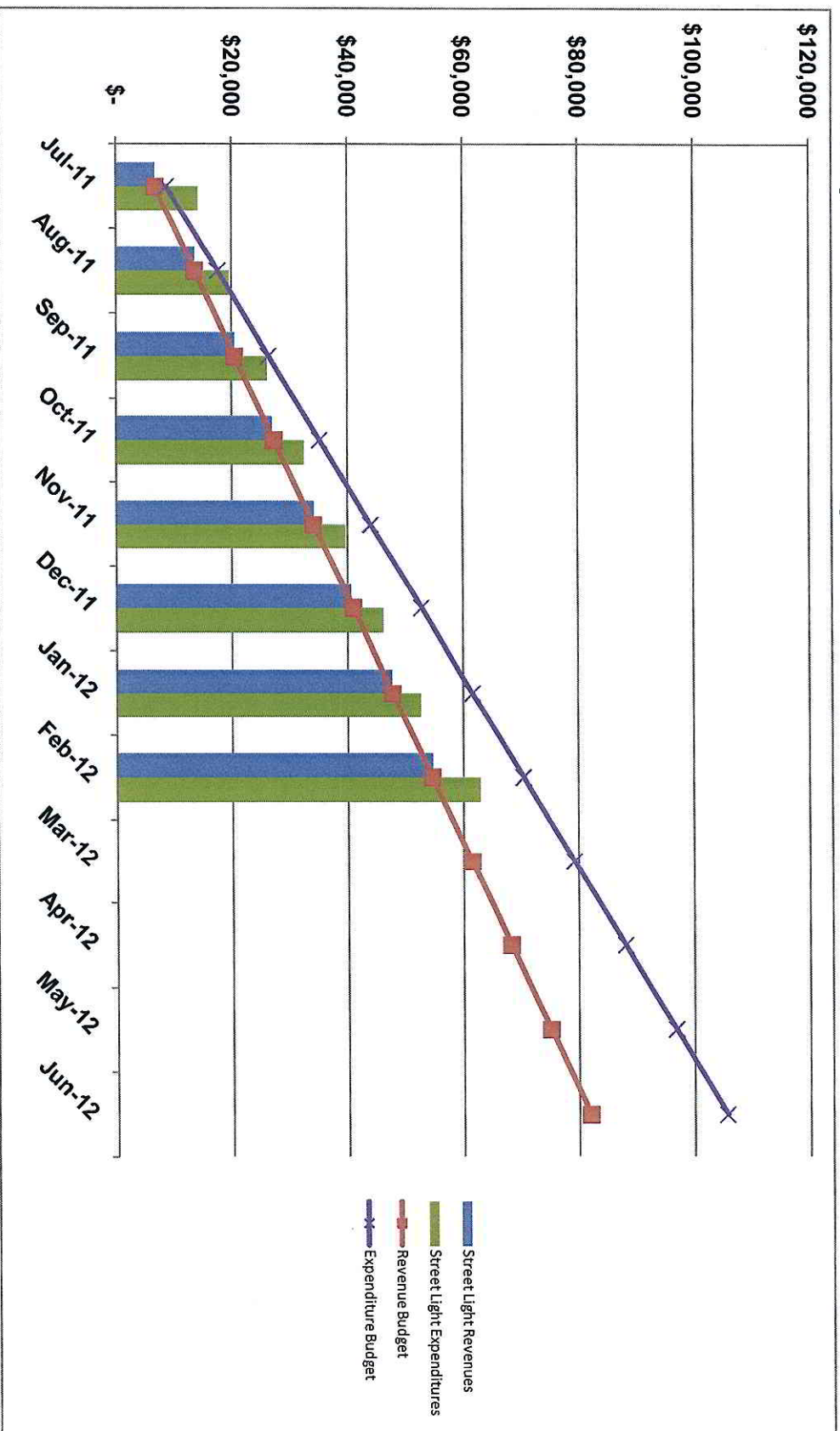
McKinleyville Community Services District February 2012

Comparison of Measure B Fund Total Revenues & Expenditures to Budget



McKinleyville Community Services District February 2012

Comparison of Street Light Fund Total Revenues & Expenditures to Budget



McKinleyville Community Services District
Capital Expenditure Report
As of February 29, 2012

	February	YTD Total	FY 12 Budget	Remaining		Notes
				Budget \$	Budget %	
<u>Water Department</u>						
Ramey Pump Upgrades		28,203	5,000	(23,203)	-464%	Ramey Pump Upgrades: Although recorded in current year, capital expenditure was incurred and budgeted in FY 2010-11.
Emergency Water Line River Crossing	20,494	54,471	280,000	225,529	81%	
Water Tank Upgrade	(18,737)	12,039	175,000	162,961	93%	
Murray Road Tank	7,893	16,228	150,000	133,772	89%	
Meter Replacements		-	20,000	20,000	100%	
Emergency Water Supply		-	50,000	50,000	100%	Water Tank Upgrade: Capital expenditure was reclassified from Water Tank Upgrade to Water Line River Crossing (\$20,494).
Fire Hydrant System Upgrade		-	13,000	13,000	100%	
Radio Telemetry Upgrade		-	25,000	25,000	100%	
Tank Seismic Actuators		-	7,000	7,000	100%	
Water Main Replacement		21,875	40,000	18,125	45%	
Subtotal	9,650	132,817	765,000	632,183	83%	
<u>Sewer Department</u>						
WWMF SO2/Chlorine Shut Off		31,780	32,000	220	1%	
WWMF Security Upgrades		-	6,000	6,000	100%	
WWMF Fencing & Gate		-	2,000	2,000	100%	
WWMF Grinder Maintenance		-	1,000	1,000	100%	
WWMF Sludge Maintenance		-	30,000	30,000	100%	
WWMF Building Maintenance		-	10,000	10,000	100%	
WWMF Upgrade/CEQA/Permitting	6,264	20,288	150,000	129,712	86%	
NPDES Permit	5,288	38,334	75,000	36,667	49%	
Radio Telemetry Upgrade		-	25,000	25,000	100%	
Industrial Discharge Permit		-	20,000	20,000	100%	
Lift Station Pump Upgrade		-	20,000	20,000	100%	
Property Purchases & Improvements		-	500,000	500,000	100%	
Generator Upgrade		-	2,000	2,000	100%	
Subtotal	11,551	90,402	873,000	782,598	90%	
<u>Water & Sewer Operations</u>						
Heavy Equipment		-	55,000	55,000	100%	
Utility Vehicles		78,418	103,117	24,699	24%	
Office, Corporate Yard & Shops		5,565	12,000	6,435	54%	
Computers & Software		13,032	32,000	18,968	59%	
Small Equipment & Other		-	44,000	44,000	100%	
Subtotal	-	97,015	246,117	149,102	61%	
Enterprise Funds Total	21,201	320,233	1,884,117	1,563,884	83%	
<u>Parks & Recreation Department</u>						
Hiller Park & Sports Complex		1,324	6,000	4,676	78%	
Pierson Park Upgrades		463	2,000	1,537	77%	
Azalea Hall Upgrades		-	25,000	6,213	25%	
McKinleyville Activity Center Upgrades		-	33,000	33,000	100%	
Law Enforcement Facility Improvements		-	6,000	6,000	100%	
Projects Funded by Quimby/Other Funds	200	200	195,000	194,800	100%	
Projects Funded by Measure B Renewal	2,240	2,240	60,000	57,760	96%	
Other Parks Projects & Equipment		1,417	15,000	15,000	100%	
Subtotal	-	5,644	342,000	318,986	93%	
<u>Streetlights</u>						
Pole Replacement		8,043	25,000	16,957	68%	
Governmental Funds Total	-	13,687	367,000	335,943	92%	
All Funds Total	21,201	333,920	2,251,117	1,899,827	84%	

McKinleyville Community Services District
Summary of Long-Term Debt Report
As of February 29, 2012

		Principal Maturities and Scheduled Interest							
	Maturity Date	Balance -		Remaining for FY-12	FY-13	FY-14	FY-15	FY-16	Thereafter
		Balance - July 1, 2011	February 29, 2012						
Water Fund:									
I-Bank Interest	8/1/30	-	956,034.00	-	36,731.29	37,969.13	39,248.69	40,571.37	801,513.53
	3.37%			-	31,599.42	30,340.72	29,039.60	27,694.63	219,225.52
State of CA Energy Commission (ARRA) Interest	12/22/26	148,590.00	166,100.00	-	8,239.38	10,909.36	11,018.72	11,125.84	123,806.70
	1.0%			-	4,211.46	1,541.48	1,432.12	1,325.20	6,926.83
State of CA (Davis Grunsky) Deferred Interest	1/1/33	2,082,986.88	2,010,818.45	-	73,972.64	75,821.96	77,717.50	79,660.44	1,703,645.91
	2.5%	374,767.29	357,732.17	-	17,035.12	17,035.12	17,035.12	17,035.12	289,591.69
				-	50,270.46	48,421.14	46,525.60	44,582.66	408,466.72
Total Water Fund-Principal		2,606,344.17	3,489,684.62	-	135,978.43	141,735.57	145,020.03	148,392.77	2,918,557.83
Total Water Fund-Interest				-	86,081.34	80,303.34	76,997.32	73,602.49	634,639.07
Total Water Fund		2,606,344.17	3,489,684.62	-	222,059.77	222,038.91	222,017.35	221,995.26	3,553,196.90
Sewer Fund:									
State of CA WRCB (SCEP I) Interest	4/15/16	204,600.50	204,600.50	40,920.10	40,920.10	40,920.10	40,920.10	40,920.10	-
	0.0%			-	-	-	-	-	-
State of CA WRCB (SCEP II) Interest	3/27/18	176,496.09	176,496.09	23,317.45	23,923.71	24,545.72	25,183.91	25,838.70	53,666.60
	2.6%			4,588.89	3,982.63	3,360.62	2,722.43	2,067.64	2,102.41
Umpqua Bank Interest	12/4/17	303,824.30	277,328.44	16,780.06	42,282.10	44,667.13	47,186.72	49,848.42	79,721.79
	5.5%			6,445.46	13,451.66	11,066.63	8,547.04	5,885.34	3,506.57
USDA (Sewer Bond) Interest	8/1/22	805,000.00	755,000.00	-	60,000.00	60,000.00	60,000.00	60,000.00	515,000.00
	5.0%			-	36,250.00	33,250.00	30,250.00	27,250.00	90,875.00
Total Sewer Fund-Principal		1,489,920.89	1,413,425.03	81,017.61	167,125.91	170,132.95	173,290.73	176,607.22	648,408.39
Total Sewer Fund-Interest				11,034.35	53,684.29	47,677.25	41,519.47	35,202.98	96,483.98
Total Sewer Fund		1,489,920.89	1,413,425.03	92,051.96	220,810.20	217,810.20	214,810.20	211,810.20	744,892.37
Total Principal		4,096,265.06	4,903,109.65	81,017.61	303,104.34	311,868.52	318,310.76	324,999.99	3,566,966.22
Total Interest				11,034.35	139,765.63	127,980.59	118,516.79	108,805.47	731,123.05
Total		4,096,265.06	4,903,109.65	92,051.96	442,869.97	439,849.11	436,827.55	433,805.46	4,298,089.27

**MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
CASH DISBURSEMENT REPORT
FOR THE PERIOD 2/01/12 TO 2/29/12**

Check Number	Check Date	Vendor Number	Name	Amount	Invoice #	Description
Accounts Payable Disbursements						
22207	2/13/2012	*0029	COUNTY OF HUMBOLDT	(80.00)	B00916u	Ck# 022207 Reversed
24334	2/8/2012	*0004	SHANNON MEDEIROS	39.50	B20131	REPLACEMENT CHECK
24335	2/8/2012	*0012	DEDE GILMER	100.00	B20202	AZALEA HALL DEPOSIT REFUND
24336	2/8/2012	*0013	MARIA TRIPP	100.00	B20202	AZALEA HALL DEPOSIT REFUND
24337	2/8/2012	*0014	UNITED METHODIST CHURCH	47.00	B20202	AZALEA HALL DEPOSIT REFUND
24338	2/8/2012	ACW01	ACWA HEALTH BENEFITS AUTHORITY	45,018.48	FEB 2012	EMPLOYEE HEALTH INSURANCE
24339	2/8/2012	ADA03	DANIEL ADAMSKI	60.00	B20202	CONTRACTED REFEREE
24340	2/8/2012	ANS02	BRIAN ANSPACH	1,280.00	18	PROFESSIONAL SERVICES
24341	2/8/2012	BAS01	BASIC LABORATORY INC.	181.00	1200709	LAB TESTING
24342	2/8/2012	BAY02	BAY WEST SUPPLY, INC.	862.62	B20127	JANITORIAL SUPPLIES
24343	2/8/2012	BOR01	BORGES & MAHONEY CO.	763.45	132186	REPAIR/SUPPLIES
24344	2/8/2012	CAM01	CAMPTON ELECTRIC SUPPLY	87.43	1087344	SUPPLIES
24345	2/8/2012	CAS01	CASH	206.15	B20202	PETTY CASH FOR JAN 2012
24346	2/8/2012	COM01	COMMERCIAL RADIO & ELECTRONICS	151.92	54832	REPAIRS
24347	2/8/2012	COR01	CORBIN WILLITS SYSTEMS	833.42	B20115	SOFTWARE SUPPORT
24348	2/8/2012	COR07	JOHN W. CORBETT	192.95 200.00	B20130 B20202	REIMBURSEMENT FOR TRAVEL DIRECTORS FEES
			Check Total:	392.95		
24349	2/8/2012	COS03	COSTCO WHOLESALE	334.92	B20202	SUPPLIES
24350	2/8/2012	COU09	DAVID R. COUCH	200.00	B20202	DIRECTORS FEES
24351	2/8/2012	CRO03	CROWN TROPHY PETALUMA	115.17	15325	AWARD
24352	2/8/2012	DOW01	DOWNEY BRAND ATTORNEYS LLC	122.00	425712	LEGAL SERVICES
24353	2/8/2012	EUR06	EUREKA READY MIX	1,232.37	A7468	SUPPLIES FOR REPAIRS
24354	2/8/2012	FED01	FedEx Office	91.32	10026/27	SHIPPING
24355	2/8/2012	GFO01	GOVERNMENT FINANCE OFFICE	370.00 72.50	B20202 B20203	CAFR REVIEW MEMBERSHIP RENEWAL
			Check Total:	442.50		
24356	2/8/2012	GIR02	MITCH GIRARD	15.00	B20202	CONTRACTED REFEREE
24357	2/8/2012	GOL05	GOLDEN STATE BRIDGE, INC.	20,493.65	5	WATER TANK UPGRADE PROJECT
24358	2/8/2012	GUA01	GUARDIAN - APPLETON	3,851.92	B20127	EMPLOYEE DENTAL INSURANCE
24359	2/8/2012	HAR03	HARVEY M. HARPER CO.	1,106.49	714227	VEHICLE MAINTENANCE
24360	2/8/2012	HEN02	SCOTT HENDRICKSON	60.00	B20202	CONTRACTED REFEREE
24361	2/8/2012	HUM01	HUMBOLDT BAY MUNICIPAL WATER	47,193.95	B20202	PURCHASED WATER
24362	2/8/2012	HUM08	HUMBOLDT SANITATION	1,524.40	B20202	TRASH SERVICE
24363	2/8/2012	HUM17	HUMBOLDT COUNTY	305.00	IN0004344	HAZARDOUS MATERIALS FEE
24364	2/8/2012	HUM42	HUMBOLDT OUTFITTERS	82.08	7008	REC PROGRAM SUPPLIES
24365	2/8/2012	KER01	KERNEN CONSTRUCTION	310.81	41877	REPAIRS

**MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
CASH DISBURSEMENT REPORT
FOR THE PERIOD 2/01/12 TO 2/29/12**

Check Number	Check Date	Vendor Number	Name	Amount	Invoice #	Description
24366	2/8/2012	LES01	LES SCHWAB TIRE CENTER	16.25	345631	REPAIRS
24367	2/8/2012	MAY02	DENNIS MAYO	200.00	B20202	DIRECTORS FEES
24368	2/8/2012	MCK03	MCKINLEYVILLE OFFICE SUPPLY	3.13	43977	SUPPLIES
24369	2/8/2012	MCK04	MCK ACE HARDWARE	870.20	B20206	SECURITY SYSTEM
24370	2/8/2012	MCK11	MCKINLEYVILLE SENIOR CENTER	19.95	B20203	P/R PORTION OF INTERNET
24371	2/8/2012	MIL01	Miller Farms Nursery	157.33	B20206	REPAIRS/SUPPLY
24372	2/8/2012	MIL03	THE MILL YARD	204.23	239634	REPAIRS/SUPPLIES
24373	2/8/2012	MUN01	Munnell & Sherrill, Inc.	5.88	998211	REPAIRS/SUPPLIES
24374	2/8/2012	MYR02	MYRTLETOWN LUMBER	644.51	237571	REPAIRS
24375	2/8/2012	NEC01	NEC FINANCIAL SERVICES, LLC	285.95	B20202	PHONE
24376	2/8/2012	NIL03	NILSEN REAL ESTATE APPRAISAL	3,650.00	1759	MURRAY ROAD TANK PROJECT
24377	2/8/2012	NOR01	NORTH COAST LABORATORIES	3,421.00	B20203	LAB TESTS
24378	2/8/2012	NOR13	NORTHERN CALIFORNIA SAFETY	80.00 872.00	18389 B20130	MONTHLY SUBSCRIPTION TRAINING
			Check Total:	952.00		
24379	2/8/2012	NOR37	NORTH COAST UNIFIED AIR QUALITY DISTRICT	45.39	B20130	PERMIT TO OPERATE
24380	2/8/2012	NYL01	NYLEX.NET	630.00 315.00	71540 71598	COMPUTER MAINTENANCE COMPUTER MAINTENANCE
			Check Total:	945.00		
24381	2/8/2012	OCC01	OCCUPATIONAL HEALTH	265.00	523*01-12	PHYSICALS/ DRUG TEST
24382	2/8/2012	OSC01	OSCAR LARSON & ASSOCIATES	4,842.02	3151	WATER TANK UPGRADE PROJECT
24383	2/8/2012	PRE08	PRECISION INTERMEDIA	30.00	15994	WEBSITE COSTS
24383	2/8/2012	PRE08	PRECISION INTERMEDIA	71.25	15994	WEBSITE COSTS
			Check Total:	101.25		
24384	2/8/2012	PRY01	FRED PRYOR SEMINARS	28.32	437825	SUPPLIES
24385	2/8/2012	REN01	RENNER PETROLEUM	5,388.01	B20202	FUEL
24386	2/8/2012	SAM04	SAMARA RESTORATION	182.33	1108	BLACK COTTONWOOD TREES
24387	2/8/2012	SHN01	SHN ENGINEERING	2,905.00	75975	WWMF UPGRADE PROJECT
24388	2/8/2012	SIE01	SIERRA FOOTHILL LAB, INC.	865.00	105672	LAB TESTING
24389	2/8/2012	SIE02	SIERRA CHEMICAL CO.	4,500.48	B20206	CHLORINE & CONTAINER DEPOSIT
24390	2/8/2012	SUD01	SUDDENLINK	173.95	B20130	INTERNET SERVICE
24391	2/8/2012	TER01	TEREX UTILITIES INC.	78,417.99	16508	PURCHASE OF BOOM LIFT TRUCK
24392	2/8/2012	THO02	Thomas Home Center	762.75	B20206	REPAIRS/SUPPLIES
24393	2/8/2012	THR01	THRIFTY SUPPLY COMPANY	2,614.74	1314217	REPAIRS/SUPPLIES
24394	2/8/2012	TRI02	TRINITY DIESEL INC.	194.14	37782	REPAIRS/SUPPLIES
24395	2/8/2012	UPS01	UPS	177.31	Y6R493042	LAB TEST SHIPMENT
24396	2/8/2012	USB01	U.S. BANK TRUST N.A.	8,145.83	B20203	DEBT SERVICE PAYMENT
24397	2/8/2012	VER01	VERISON WIRELESS	146.36	B20202	CELL PHONES

**MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
CASH DISBURSEMENT REPORT
FOR THE PERIOD 2/01/12 TO 2/29/12**

Check Number	Check Date	Vendor Number	Name	Amount	Invoice #	Description
24398	2/8/2012	WBC01	WBCO ELECTRIC SERVICE CO.	474.82	84052	REPAIRS/SUPPLIES
24399	2/8/2012	WEN01	WILLIAM WENNERHOLM, DC	200.00	B20202	DIRECTORS FEES
24400	2/8/2012	VA015	AVELAR, HENRY	21.54	000B20201	MQ CUSTOMER REFUND
24401	2/8/2012	VB016	BAGWELL, HAZEL	55.13	000B20201	MQ CUSTOMER REFUND
24402	2/8/2012	VC007	CAMPOS, CARLOS	2.14	000B20201	MQ CUSTOMER REFUND
24403	2/8/2012	VC023	CROOK, SETH	48.48	000B20201	MQ CUSTOMER REFUND
24404	2/8/2012	VD016	DYER, JACQUELYN	50.55	000B20201	MQ CUSTOMER REFUND
24405	2/8/2012	VF011	FLIPPO, AMY	76.00	000B20201	MQ CUSTOMER REFUND
24406	2/8/2012	VH024	HERBST, JEANA	57.70	000B20201	MQ CUSTOMER REFUND
24407	2/8/2012	VH025	HUMPHREYS, TYNEL	24.74	000B20201	MQ CUSTOMER REFUND
24408	2/8/2012	VH026	HUMBOLDT PROPERTY MGMT	7.49	000B20201	MQ CUSTOMER REFUND
24409	2/8/2012	VJ001	JLF CONSTRUCTION	26.08	000B20201	MQ CUSTOMER REFUND
24410	2/8/2012	VL002	LONG, JUSTIN	26.33	000B20201	MQ CUSTOMER REFUND
24411	2/8/2012	VM030	MCCANN, BOB	80.00	000B20201	MQ CUSTOMER REFUND
24412	2/8/2012	VR017	REYES, KATHY	45.82	000B20201	MQ CUSTOMER REFUND
24413	2/8/2012	VS008	SHELTON, PHUONG	49.30	000B20201	MQ CUSTOMER REFUND
24414	2/8/2012	W022	WAHLUND CONSTRUCTION	486.05	000B20201	MQ CUSTOMER REFUND
24415	2/8/2012	BRU04	REBECCA J. BRUINEKOOL	1,794.00	B20207	CONTRACTED INSTRUCTOR
24416	2/8/2012	CPS01	CPS HUMAN RESOURCE SERVICES	524.00	337221	PROFESSIONAL SERVICES
24417	2/8/2012	EIC01	JENNIFER EICHSTEDT	487.50	B20207	CONTRACTED INSTRUCTOR
24418	2/14/2012	USP02	USPS: ARCATA BMEU	1,650.94	B20214	BULK MAIL
24419	2/21/2012	*0015	MCK BAPTIST CHURCH	100.00	B20215	AZALEA HALL DEPOSIT REFUND
24420	2/21/2012	*0016	MARY GLENN	13.00	B20217	BREAKOUT CAMP REFUND
24421	2/21/2012	*0029	COUNTY OF HUMBOLDT	80.00 (80.00)	B20213 B20213u	REISSUE OF LOST CHECK Ck# 024421 Reversed
Check Total:				-		
24422	2/21/2012	ATT01	AT&T	1,458.78	B20215	PHONES
24423	2/21/2012	CON09	CONSTANT CONTACT	126.00	B20215	MEMBERSHIP RENEWAL
24424	2/21/2012	CSD01	CSDA	500.00	B20217	CONFERENCE
24425	2/21/2012	DEP05	DEPARTMENT OF JUSTICE	192.00	B20213	FINGERPRINTING REC PROGRAM
24426	2/21/2012	ESR01	E.S.R.I. INC.	725.38	B20221	SUBSCRIPTION
24427	2/21/2012	FRE02	MICHAEL FREEMAN	73.98	B20213	SAFETY SUPPLIES

**MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
CASH DISBURSEMENT REPORT
FOR THE PERIOD 2/01/12 TO 2/29/12**

Check Number	Check Date	Vendor Number	Name	Amount	Invoice #	Description
24428	2/21/2012	GAY01	GAYNOR TELESYSTEMS, INC	90.00	20023	PHONE SYSTEM MAINTENANCE
24429	2/21/2012	HAR13	The Hartford - Priority A	624.18	B20221	LIFE INSURANCE
24430	2/21/2012	HUM05	HUMBOLDT COUNTY	50.00	B20217	WWMF UPGRADE PROJECT
24431	2/21/2012	JAC04	JACKSON & EKLUND	8,710.00	170690	PROFESSIONAL SERVICES
24432	2/21/2012	JON05	CHRISTOPHER G. JONES	232.48	B20215	SAFETY SUPPLIES
24433	2/21/2012	KEY01	KEY EQUIPMENT FINANCE	311.67	1203	EQUIPMENT LEASE
24434	2/21/2012	MCK03	MCKINLEYVILLE OFFICE SUPPLY	120.29	44053	PRINTING & REPRODUCTION
24435	2/21/2012	MIT01	Mitchell, Brisso, Delaney	2,689.06	30128	LEGAL SERVICES
24436	2/21/2012	NOR35	NORTHERN HUMBOLDT	467.99	ES12-0134	REPAIRS/SUPPLIES
24437	2/21/2012	NYL01	NYLEX.NET	180.00	71668	COMPUTER MAINTENANCE
24438	2/21/2012	PGE01	PG & E (Office & Field)	13,769.47	B20213	GAS & ELECTRIC
24439	2/21/2012	REM01	REMY, MOOSE AND MANLEY, LLC	4,240.75	23358	PROFESSIONAL SERVICES
24440	2/21/2012	S&S02	S & S WORLDWIDE, INC.	133.03	7221944	REC PROGRAM SUPPLIES
24441	2/21/2012	SEQ01	Sequoia Gas Co.	102.34	28177	FUEL
24442	2/21/2012	SHN01	SHN ENGINEERING	5,287.50	76380	PROFESSIONAL SERVICES
24443	2/21/2012	SIE03	SIERRA DISPLAY, INC.	385.48	16264	BANNER SUPPLIES
24444	2/21/2012	STA11	STAPLES	707.38	B20217	OFFICE SUPPLIES
24445	2/21/2012	TIM01	TIMES-STANDARD	195.00	4304067	ADVERTISING
24446	2/21/2012	UNI08	UNITED DISTRIBUTING COMPANY	299.23	200829	SUPPLIES
24447	2/21/2012	UPS01	UPS	29.78	B20217	LAB SHIPMENT
				199.17	Y6R493062	LAB SHIPMENT
			Check Total:	228.95		
24448	2/22/2012	*0017	ALEXI WAGNER	124.03	B20222	REC PROGRAM SUPPLIES
24449	2/22/2012	*0018	LINDA METHENY	100.00	B20222	AZALEA HALL DEPOSIT REFUND
24450	2/22/2012	*0029	DEBROAH KETELSEN	80.00	B20221	REISSUE OF CHECK
24451	2/22/2012	CPS01	CPS HUMAN RESOURCE SERVICES	420.15	B20222	PROFESSIONAL SERVICES
24452	2/22/2012	GUA01	GUARDIAN - APPLETON	3,851.92	B20222	EMPLOYEE DENTAL INSURANCE
24453	2/22/2012	IND01	INDEPENDENT BUS. FORMS	81.50	477500	BUSINESS CARDS
24454	2/22/2012	NOR02	NORTH COAST JOURNAL, INC.	11.62	0203-12-0	ADVERTISEMENT
24455	2/22/2012	NOR36	NORTH COAST PARTS & SUPPLY	35.37	B20221	SUPPLIES
24456	2/22/2012	PGE02	PACIFIC GAS & ELECTRIC	2,454.59	B20222	ELECTRICITY FOR STREETLIGHTS
24457	2/22/2012	SHO02	NORMAN SHOPAY	15.50	B20221	TRAINING
24458	2/22/2012	UMP02	UMPQUA BANK	4,243.47	B20221	SUPPLIES
24459	2/22/2012	USP02	USPS: ARCATA BMEU	1,500.00	B20222	BULK POSTAGE
24460	2/22/2012	WES09	WEST COAST PLUMBING	57.19	174435	REPAIRS
24461	2/22/2012	WIL09	WILLDAN FINANCIAL SERVICE	11,360.00	010-16756	PROFESSIONAL SERVICES
			Total Accounts Payable Disbursements	321,194.69		

**MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
CASH DISBURSEMENT REPORT
FOR THE PERIOD 2/01/12 TO 2/29/12**

Check Number	Check Date	Vendor Number	Name	Amount	Invoice #	Description
Payroll Related Disbursements						
9886 - 9924	2/8/2012	-	VARIOUS EMPLOYEES	17,057.88	-	EMPLOYEE CHECKS
9925	2/8/2012	DIR01	DIRECT DEPOSIT VENDOR- US	27,057.12	B20208	Direct Deposit
9926	2/8/2012	DOW02	MICHAEL T. DOWNEY, SHERIFF	300.00	B20208	MISC DEDUCTION
9927	2/8/2012	EMP01	Employment Development	300.00	B20130	STATE INCOME TAX
				1,597.60	B20208	STATE INCOME TAX
			Check Total:	1,897.60		
9928	2/8/2012	FRA05	FRANCHISE TAX BOARD	47.74	B20208	FRANCHISE TAX BOARD
9929	2/8/2012	HUM29	UMPQUA BANK-PAYROLL DEPT	2.18	B20120	FEDERAL INCOME TAX
				900.00	B20130	FEDERAL INCOME TAX
				5,663.96	B20208	FEDERAL INCOME TAX
				11.58	1B20120	FICA
				106.04	1B20125	FICA
				433.16	1B20130	FICA
				6,017.99	1B20208	FICA
				3.22	2B20120	MEDICARE
				29.56	2B20125	MEDICARE
				120.78	2B20130	MEDICARE
				1,678.04	2B20208	MEDICARE
			Check Total:	14,966.51		
9930	2/8/2012	PER02	CalPERS	2,949.35	B20208	RETIREMENT
9931	2/8/2012	STA17	CA STATE DISBURSEMNT UNIT	231.50	B20208	CHILD SUPPORT
9932	2/8/2012	AFL01	AFLAC	43.30	B20131	AFLAC BENEFITS
9933	2/8/2012	PUB01	Public Employees PERS	14,970.86	B20131	PERS PAYROLL REMITTANCE
				154.66	1B20131	PERS CONTRIBUTION
			Check Total:	15,125.52		
9934-9974, 9981-9982	2/23/2012	-	VARIOUS EMPLOYEES	22,993.21	-	EMPLOYEE CHECKS
9975	2/23/2012	DIR01	DIRECT DEPOSIT VENDOR- US	25,473.40	B20223	Direct Deposit
9976	2/23/2012	EMP01	Employment Development	1,396.49	B20223	STATE INCOME TAX
9977	2/23/2012	FRA05	FRANCHISE TAX BOARD	47.74	B20223	FRANCHISE TAX BOARD
9978	2/23/2012	HUM29	UMPQUA BANK-PAYROLL DEPT	5,241.03	B20223	FEDERAL INCOME TAX
				5,751.24	1B20223	FICA
				1,603.62	2B20223	MEDICARE
			Check Total:	12,595.89		
9979	2/23/2012	PER02	CalPERS	2,924.12	B20223	RETIREMENT
9980	2/23/2012	STA17	CA STATE DISBURSEMNT UNIT	231.50	B20223	CHILD SUPPORT
			Total Payroll Disbursements	145,338.87		
			Total Cash Disbursements	466,533.56		

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **Consent Calendar Item**

ITEM: D.4. Compliance with State Double Check Valve Law

PRESENTED BY: Gregory Orsini, Operations Director

TYPE OF ACTION: Consent Calendar

Recommendation:

Staff Recommends the Board authorize 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.

Discussion:

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

1st Notice	February 27, 2012
10 Day Notice	March 21, 2012
Board Meeting	April 4, 2012
Lock	May 7, 2012
ROUTE 1	

Account #	Address	Model of DCV	Date s/o out
1-289-000	1289 Azalea	Watts	
1-615-000	1336 Underhill	Watts	
1-725-000	2232 Cochran	Watts	
1-894-000	2366 Hewitt	Febco	
1-905-000	2400 Hewitt	Wilkins	

Updated: 3/22/12

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.1. Discuss and Vote to fill vacancy for Special District seat on Humboldt Local Agency Formation Commission

PRESENTED BY: Norman Shopay

TYPE OF ACTION: Voice Vote

Recommendation:

Staff recommends the Board discuss and choose a candidate to fill the vacant Special District seat on LAFCo

Discussion:

At the February 1, 2012 Board meeting the Board moved to nominate Director Helen Edwards to apply for the vacant Special District seat on LAFCo. We have since received a ballot from them and instructions requesting Board action to select and vote for one candidate for the commission. The ballot needs to be returned on or before 5:00PM, Friday, May 4, 2012, with the new representative to be seated on May 16, 2012. This is for a four year term.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- Not applicable

Environmental Requirements:

- Not applicable

Exhibits/Attachments

- Informational letter and ballot



SPECIAL DISTRICT ELECTION

DATE: March 23, 2012
TO: Independent Special Districts of Humboldt County
FROM: George Williamson AICP, Executive Officer
SUBJECT: Humboldt LAFCo Special District Member Election for 2012-2016

The term of one of the special district seats on the Humboldt Local Agency Formation Commission (Humboldt LAFCo), which is currently held by Commissioner Jeff Pauli of the Humboldt No.1 Fire Protection District, will be expiring in May, 2012. Your input is valuable in electing a new special district member that will serve as a "voting member" on the commission for the next four-year term, 2012-2016.

In January 2012, each special district received a "Request for Nominations" from Humboldt LAFCo with information regarding the board nomination process. We received three nominations. Nominee qualifications for each candidate are summarized below.

Humboldt LAFCo requests board action by all special districts to select and vote for one candidate for the Commission. A ballot form is attached. All ballots must be sealed and received by mail or hand delivery to Humboldt LAFCo, 1126 16th Street, Suite 202, Arcata, CA 95521, on or before 5:00 p.m., Friday, May 4, 2012. Faxes or electronic transmissions are not acceptable. For additional information or questions, please call our office at (707) 445-7508.

Election Completion Schedule:

- May 4 – Ballots from special districts due back to Humboldt LAFCo
- May 9 – Candidate receiving the most qualified votes is notified
- May 16 – New special district representative seated at LAFCo's regularly scheduled meeting

Summary of Nominee Qualifications: (in alphabetical order)

1. Helen Edwards, McKinleyville Community Services District

Occupation: Retired Certified Public Accountant.

Summary of qualifications: Director of McKinleyville Community Services District.

Reasons for applying: To provide better relationships and strengthen communications with cities and the county; to provide district's voice in important decisions being made that can impact service delivery to constituents; and to provide a district perspective to LAFCo that is distinct from general purpose entities, considering LAFCo is the only venue where districts can be equal partners with cities and the county.

Organization memberships: California Special District Association; and Special District Risk Management Authority.

2. Jeff Pauli (incumbent), Humboldt No. 1 Fire Protection District

Occupation: Insurance Broker, Pauli-Harbour Insurance Services, Inc.

Summary of qualifications: Owner of insurance agency; Board Chairman on the Humboldt No. 1 Fire Protection District from 2005-present; LAFCo Commissioner from 2008-present.

Reasons for applying: To ensure fire protection district representation on the commission considering there are 15 fire districts in the county. Equally important is to have a private sector view point on the commission.

Organization memberships: Member, Old Town Rotary; Member, Eureka Chamber of Commerce; and Member, Trinity Lake Houseboat Owners Association.

3. J. Bruce Rupp, Humboldt Bay Municipal Water District

Occupation: Retired Real Estate broker and owner of Rupp and Associates Realty. Previous experience includes ten (10) years as a city manager in the Bay Area and four (4) years as Humboldt County Administrator.

Summary of qualifications: Current director of Humboldt Bay Municipal Water District for sixteen (16) years and past board president; Principal executive in several public jurisdictions and involved in land use planning; and Owner of a real estate business and involved in the development of two local projects.

Reasons for applying: To represent the Water District and community, and to continue to contribute and serve them both.

Organization memberships: Thirty two (32) year member and twice-elect club president, Rotary; Member and past chair, Redwood Region Economic Development Commission; Vice Chair, City of Eureka Finance Advisory Committee; Member, Eureka Elks Lodge; Past President, Humboldt Association of Realtors; Former State Governor Appointment, North Coast Regional Water Control Board; Boardmember, KEET.

OFFICIAL 2012 ELECTION BALLOT
SPECIAL DISTRICT MEMBER
HUMBOLDT LOCAL AGENCY FORMATION COMMISSION

Mark selection directly onto the ballot, voting for no more than one (1) candidate. All ballots must be sealed and received by mail or hand delivery to Humboldt LAFCo, 1126 16th Street, Suite 202, Arcata, CA 95521, on or before 5:00 p.m., Friday, May 4, 2012. Faxes or electronic transmissions are not acceptable.

- ☐ **Helen Edwards**
McKinleyville Community Services District

- ☐ **Jeff Pauli (incumbent)**
Humboldt No. 1 Fire Protection District

- ☐ **J. Bruce Rupp**
Humboldt Bay Municipal Water District

The _____ Board hereby selects the above candidate to serve as the special district member on the Humboldt Local Agency Formation Commission.

Board action taken on the _____ day of _____, 2012, by the following vote:

AYES:

NOSE:

ABSENT:

ABSTAIN:

Board President

Attest:

District Manager

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.2 **Consider Resolution Authorizing purchase of approximately 33 Acres of Real Property Parcel located at/near the junction of North Bank Road and Azalea Road (APN 507-141-017)**

PRESENTED BY: **Norman Shopay**

TYPE OF ACTION: **Voice Vote**

Recommendation:

1. Approve Resolution 2012-14 Authorizing the Board President to sign purchase agreement;
2. Execute the purchase agreement with Escrow instructions to purchase approximately 33 acres of property from Granite Construction for \$37,000, with the purchase cost to be paid by the Parks and Recreation Department;
3. Proceed to conduct a Phase 1 Preliminary Site Assessment (\$3,000) and/or other inspections/surveying (\$5,000) during the evaluation/inspection period;
4. Generate a preliminary parcel map with identified existing easements and contact the County to apply for a new easement across County property to allow vehicle access and parking to the property;
5. Refer this to the Recreation Advisory Committee (RAC) to identify and develop a conceptual plan for the use of this property and bring a recommendation back to the Board when completed.

Discussion:

Staff has identified the above reference parcel as potentially benefiting the District Water Department as a potential location for standby emergency water wells and the property would also significantly serve the Parks and Recreation Department providing direct recreational access to the Mad River.

Staff has conducted an initial appraisal of the property and negotiated with Granite Construction. Granite Construction has agreed to sell the property to MCSD for the appraised value.

The form of the Purchase Sale Agreement has been reviewed and approved by MCSD District legal counsel.

A copy of the Purchase Sale Agreement and appraisal is attached

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- The purchase price of the Parcel and inspections would be funded 100 % by the Parks and Recreation Department. If the property is determined to be suitable for water wells a portion of the property can be sold to the Water Department

Environmental Requirements:

- Unknown at this time

Exhibits/Attachments:

- Purchase Agreement
- Appraisal
- Resolution 2012-14

REAL ESTATE PURCHASE AGREEMENT
WITH
ESCROW INSTRUCTIONS

THIS REAL ESTATE PURCHASE AGREEMENT WITH ESCROW INSTRUCTIONS (the "**Agreement**") is made this ____ Day of _____, 2012 (the "**Effective Date**") by and between Granite Construction Company, a California corporation ("**Seller**") and McKinleyville Community Services District ("**Buyer**"), in acknowledgment of the recitals and in order to confirm the covenants set forth below.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Sale.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms, covenants and conditions set forth herein, the following property:

1.1 Fee simple title to that certain real property located in the County of Humboldt, State of California, including all of assessor parcel number 507-141-017, as depicted and more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (the "**Real Property**").

1.2 All of Seller's right, title and interest, if any, in and to all rights, benefits, privileges, easements, tenements, hereditaments, rights-of-way and other appurtenances thereon or in any way appertaining to the Real Property.

1.3 Any personal property now or hereafter owned by Seller and situated on, in or under the Real Property, if any (the "**Personal Property**"), and together with the Real Property referred to herein as the "**Property**").

2. **Purchase Price.** The total "**Purchase Price**" to be paid by Buyer to Seller for the Property shall be Thirty Seven Thousand Dollars (\$37,000.00).

3. **Payment of Purchase Price.** The Purchase Price shall be payable as follows:

3.1 **Deposit.** On the Effective Date, Buyer shall deliver to Fidelity National Title, 404 H Street, Eureka, CA 95501, Attention: Jennie Simpson or other, Telephone: 707-442-5785, Facsimile: 707-445-2656 (referred to herein as "**Escrow Agent**" or "**Title Company**"), in cash, wire transfer of funds or other good and immediately available funds, the amount of **Two Thousand and no/100 Dollars (2,000.00)** (the "**Deposit**").

3.2 **Cash Balance.** On or before the Closing Date (as hereinafter defined), Buyer shall deposit with Escrow Agent cash, wire transfer of funds or other good and immediately available funds in the amount of the balance of the Purchase Price, plus Buyer's share of expenses and plus or minus prorations as specified in this Agreement.

3.3 Refund. The Deposit shall remain immediately refundable to Buyer if the escrow and this transaction are terminated prior to the Contingency Expiration Date; provided however, if Buyer terminates the escrow and/or this transaction for any reason other than a material breach by Seller, Buyer shall forfeit an amount equal to the costs and expenses reasonably incurred by Seller prior to such termination and such Seller Costs shall be promptly paid to Seller upon termination of the escrow or this transaction. After the Contingency Expiration Date, the Deposit shall become nonrefundable, but applicable to the Purchase Price. The Deposit shall be credited toward the payment of the Purchase Price upon the Close of Escrow (as hereinafter defined).

4. Escrow. Within one business (1) day after execution of this Agreement by Buyer and Seller, an executed copy of this Agreement shall be delivered to the Escrow Agent, and upon the Escrow Agent's acknowledgment of receipt, this Agreement shall, thereupon, constitute escrow instructions.

5. Conditions Precedent to Buyer's Obligations. The Close of Escrow and Buyer's obligations with respect to the transaction contemplated by this Agreement are subject to the satisfaction, on or before the date specified herein, but not later than the Closing Date of the following conditions, and the obligations of the parties with respect to such conditions are as follows:

5.1 Survey. Within seven business days after the Effective Date, Seller shall, to the extent within Seller's possession, deliver to Buyer a copy of any existing survey of the Real Property (the "**Existing Survey**"). Buyer, may at Buyer's sole cost and expense, cause a new survey, or an update of the Existing Survey, to be prepared by a surveyor licensed in the State of California (in either case, the "**Updated Survey**"), which Updated Survey shall be in form and substance acceptable to Buyer and Seller. Buyer shall promptly deliver to Seller a copy of any Updated Survey obtained by Buyer.

5.2 Title. Within seven (7) days after the Effective Date, the Title Company shall issue a Preliminary Title Report and deliver it to the Seller and Buyer. Within five (5) days following the receipt by Buyer of the Preliminary Title Report, Buyer shall notify Seller in writing (the "**Buyer's Title Notice**") as to which items, if any, disclosed in the Preliminary Title Report are not acceptable to Buyer. Within five (5) days following Seller's receipt of the Buyer's Title Notice, Seller shall notify Buyer ("**Seller's Title Notice**") that either: (i) it shall take such actions as may be reasonably necessary to eliminate the matters identified in the Buyer's Title Notice; or (ii) it shall not cure all of the actions identified in the Buyer's Title Notice. If Seller fails to deliver Seller's Title Notice within such five (5) day period, then Seller shall be deemed to have elected clause (ii) above. Buyer shall then have until the Contingency Expiration Date, to elect to either proceed pursuant to the terms of this Agreement notwithstanding its objection, or terminate this Agreement, in which latter case, this Agreement shall terminate, the Deposit shall be promptly refunded to Buyer (less the Seller Costs, as applicable, which shall be paid to Seller) and neither party shall have any further liability to the other under this Agreement except for those obligations that expressly survive termination of this Agreement. If Seller elects to proceed in accordance with clause (i) above, then at Closing, title to the Property shall be as described in the Preliminary Title Report as modified by Seller's Title Notice. Those items or matters revealed by the Preliminary Title Report which are not timely objected to or which are timely objected to but subsequently

waived by Buyer shall be referred to herein as a "**Permitted Exception**" and collectively, as the "**Permitted Exceptions**."

5.3 Buyer's Inspection Rights. Buyer is hereby given until 5:00 pm (Pacific Standard Time) on the day that is sixty (60) days after the Effective Date ("**Contingency Expiration Date**") to raise any objections relating to its inspection and examination of the Property, as well as all conditions relating thereto. On or before the Contingency Expiration Date, Buyer may terminate this Agreement by providing Seller and Escrow Agent with written notice thereof, in which event the Escrow Agent shall refund Buyer's Deposit to Buyer (less the Seller Costs, as applicable, which shall be paid to Seller), and this Agreement shall be deemed canceled and of no further force or effect, except for those obligations that expressly survive termination of this Agreement. If Buyer shall fail to provide Seller and Escrow Agent with written notice of termination on or before the Contingency Expiration Date, then Buyer shall be deemed to have affirmatively and expressly approved and accepted the Property and all conditions, elements and matters pertinent thereto including, without limitation, the Property Files. The Seller shall deliver the Property Files to the Buyer within seven (7) business days after the Effective Date. To the extent Seller currently possesses the same, the "**Property Files**" are defined as any Existing Survey (if any), and surveys of the boundaries of the Property, any topographical report, any site plan, plat map, soils reports, or engineering reports; provided, however, Seller shall not be obligated to update, prepare, or cause to be prepared any of the above-referenced items which may or may not be contained in the Property Files..

Buyer may perform such studies and investigations of the Property, including investigation of environmental conditions, as Buyer deems necessary or desirable, provided Buyer gives Seller at least 24 hours notice and Seller has the right to be present for any invasive testing performed on the Property. If Buyer plans to undertake any studies on or about the Property which involve intrusion to the surface of the Property or the use of any testing, monitoring or other equipment, then Buyer must (a) give Seller advance written notice describing the scope and schedule of the work or activities involved in the studies and the identity of the contractor, (b) prior to any entry on to the Property, deliver to Seller proof of commercial general liability insurance of at least \$1,000,000 covering any and all parties entering the Property to perform such intrusive studies and listing Seller as additional insured, which insurance shall be primary and noncontributing with any insurance carried by Seller and issued on an occurrence basis, and (c) promptly after the completion of the work or studies, restore the Property to its original condition. Buyer hereby agrees to indemnify and hold Seller harmless from and against any costs, expenses, damages and liabilities of any kind or nature which Seller may suffer or incur by reason of any entry or other action taken by Buyer prior to the Closing in connection with Buyer's inspection and examination of the Property. Buyer's obligations and indemnity set forth in this paragraph shall survive Closing or the termination of this Agreement.

All materials delivered by Seller to Buyer pursuant to this Agreement are delivered "**AS-IS**" "**WHERE-IS**" with no representation or warranty of any kind, whether express or implied, except as set forth in this Agreement. Buyer expressly agrees that (a) any documents and information furnished by Seller to Buyer are for informational purposes only and without representation or warranty as to their accuracy or the completeness of their contents; and (b) Buyer will not rely on such documents and information and will

conduct its own inspections and due diligence relating to the Property. If the parties fail to consummate the transaction described herein for any reason other than the Seller's default, Buyer shall, as a condition to the release of the Deposit (less the Seller Costs, which shall be paid to Seller) (if lawfully due to Buyer), promptly return to Seller all Property Files.

5.4 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer, as of the date of execution of this Agreement and again as of the Closing Date, as follows:

(a) Seller has all requisite power and authority to execute and deliver this Agreement and to carry out the transaction contemplated hereby. This Agreement has been duly authorized by all requisite action of Seller and does not require the consent of any third party or governmental agency, and constitutes a legal, valid and binding obligation of Seller enforceable in accordance with its terms.

(b) There is no pending, or, to Seller's current, actual knowledge, threatened, judicial, municipal or administrative proceedings with respect to, or in any manner affecting the Property or any portion thereof.

(c) To Seller's current, actual knowledge, Seller has not been served (by means of formal, legal service of process as required by law) or formally notified in writing by any governmental or quasi-governmental authority (i) that the Property contains or may contain any "Hazardous Materials" in violation of any "Environmental Regulations" (as those terms are defined in this Paragraph 5.1.3, below); or (ii) that the Seller has stored, used or maintained Hazardous Materials or suffered, permitted, allowed or acquiesced in any storage, use or maintenance of Hazardous Materials on, in or under the Property in violation of any Environmental Regulations. As used in this Agreement, the terms "Environmental Regulations" and "Hazardous Materials" shall have the following meanings:

(i) "Environmental Regulations" shall mean all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, and similar items, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial and administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation: (i) all requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials, whether solid, liquid or gaseous in nature, into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, whether solid, liquid or gaseous in nature; and (ii) all requirements pertaining to the protection of the health and safety of employees or the public.

(ii) "Hazardous Materials" shall mean (i) any flammables, explosive or radioactive materials, hazardous wastes, toxic substances or related materials including, without limitation, substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "solid waste" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, [42 U.S.C. Sec. 9601, et seq.](#); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Toxic Substances Control Act, [15 U.S.C., Section 2601 et seq.](#); the Resource Conservation and Recovery Act of 1976, [42 U.S.C. Section 6901 et seq.](#); and in the regulations adopted and publications promulgated pursuant to said laws; (ii) those substances listed in the United States Department of Transportation Table ([49 C.F.R. 172.101](#) and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto); (iii) those substances defined as "hazardous wastes," "hazardous substances" or "toxic substances" in any similar federal, state or local laws or in the regulations adopted and publications promulgated pursuant to any of the foregoing laws or which otherwise are regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States of America, the State of California or any political subdivision thereof, (iv) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended; (v) petroleum or any by-products thereof; (vi) any radioactive material, including any source, special nuclear or by-product material as defined at [42 U.S.C. Sections 2011 et seq.](#), as amended, and in the regulations adopted and publications promulgated pursuant to said law; (vii) asbestos in any form or condition; and (viii) polychlorinated biphenyls.

For purposes of this Agreement, the term "**Seller's current, actual knowledge**" means the current actual knowledge, without duty of inquiry or independent investigation, of Seller's employees, with no constructive or imputed knowledge.

The representations and warranties of Seller contained herein shall survive the Closing.

6. Conditions to the Close of Escrow.

6.1 Conditions Precedent to Buyer's Obligations. The obligations of Buyer under this Agreement to acquire the Property and accept title from Seller are subject to satisfaction of all of the conditions set forth in this **Paragraph 6.1**. Buyer may waive any or all of such conditions in whole or in part but any such waiver shall be effective only if made in writing. If any condition set forth in this **Paragraph 6.1** is not fully satisfied or waived in writing by Buyer, then Buyer shall be released from all obligations to Seller under this Agreement. If Buyer fails to notify Seller of Buyer's disapproval of any items

requiring Buyer's approval within the time period specified below, then Buyer shall be deemed to have approved such items.

(a) Delivery of Items. Seller shall have delivered the items described in **Paragraph 7** hereof not later than the Closing Date (unless otherwise provided).

(b) Title Policy. At the Closing, the Title Company shall issue to Buyer a California Land Title Association (CLTA) Policy of title insurance (or, at Buyer's election, an American Land Title Association (ALTA) policy of title insurance, the incremental additional cost of which shall be borne by Buyer) (the "**Title Policy**"), naming Buyer as the insured, with liability in an amount equal to the Purchase Price, insuring Buyer that fee simple title to the Property is vested in Buyer subject to (1) the real property taxes and assessments not yet due or payable; (2) matters ascertainable by a reasonable inspection and survey of the Property; (3) matters of public record; (4) the Permitted Exceptions; (5) standard printed exceptions usual to such policies; and (6) any additional off-record matters approved by Buyer in writing.

(c) No Contest. On the Closing Date, no suit, action, investigation, inquiry or other proceeding by any governmental body or other person (other than Buyer) or any legal or administrative proceeding shall have been instituted or threatened against Buyer, Seller or the Property or any part thereof which challenges the validity or legality of the transactions contemplated by this Agreement.

(d) No Default. On the Closing Date, Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement.

(e) Representations and Warranties True and Correct. On the Closing Date, all representations and warranties made by Seller in this Agreement shall be true and correct as if made on and as of the Closing Date, without exceptions. Notwithstanding the foregoing, if prior to the Closing Date Buyer discovers that any representation or warranty made by Seller in this Agreement was not true when made or is not true as of the Closing Date, and if Buyer nevertheless elects to close its acquisition of the Property as set forth herein, then Buyer shall be deemed to have irrevocably waived any claim against Seller relating to said representation or warranty and to release Seller from any liability, breach or claim relating thereto.

(f) Satisfaction of Conditions Precedent to Buyer's Obligations. Each of the conditions precedent to Buyer's Obligations stated in Paragraphs 5, 5.1, 5.2 and 5.3 of this Agreement, above, shall be satisfied to Buyer's satisfaction.

6.2 Conditions Precedent to Seller's Obligations. The obligations of Seller under this Agreement to close the transfer and convey the Property to Buyer are subject to satisfaction of all of the conditions set forth in this **Paragraph 6.2**. Seller may waive any or all of such conditions in whole or in part but any such waiver shall be effective only if made in writing. If any condition set forth in this **Paragraph 6.2** is not fully satisfied or waived in writing by Seller within the time indicated, then Seller shall be released from all obligations to Buyer under this Agreement. If Seller fails to notify Buyer of Seller's

disapproval of any items requiring Seller's approval within the time period specified below, then Seller shall be deemed to have approved such items.

(a) No Default. On the Closing Date, Buyer shall not be in default in the performance of any covenant or agreement to be performed by Buyer under this Agreement.

(b) Representations and Warranties True and Correct. On the Closing Date, all representations and warranties made by Buyer in this Agreement shall be true and correct as if made on and as of the Closing Date, without exceptions.

(c) No Contest. On the Closing Date, no suit, action, investigation, inquiry or other proceeding by any governmental body or other person or any legal or administrative proceeding shall have been instituted against Buyer or Seller which challenges the validity or legality of the transactions contemplated by this Agreement.

6.3 Default by Seller. In the event that Seller shall be in default in any of the agreements or obligations contained herein which are to be performed by Seller, and Buyer shall not then be in default of its obligations hereunder, then Buyer may as Buyer's sole and exclusive remedy (the Buyer having hereby waived any and all rights to any other rights or remedies at law or in equity) terminate this Agreement by giving written notice of termination to Seller and the Title Company and receive a full and immediate refund and/or return, as is appropriate, of the Deposit previously deposited, provided Buyer has otherwise complied with the obligations of Buyer under this Agreement that expressly survive termination.

6.4 Default by Buyer; Liquidated Damages. In the event that Buyer shall be in default of any of the obligations or agreements contained herein which are to be performed by Buyer, and Seller shall not then be in default of its obligations hereunder, Seller shall be entitled to terminate this Agreement by giving written notice of termination to the Buyer and the Title Company. In addition, BUYER AND SELLER AGREE THAT SHOULD BUYER FAIL TO COMPLETE THE PURCHASE OF THE PROPERTY, AS HEREIN PROVIDED, BY REASON OF A DEFAULT OF THIS AGREEMENT BY BUYER, THE PARTIES HERETO, BY INITIALING AT THE END OF THIS PARAGRAPH, AGREE THAT IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES IN CASE OF BUYER'S FAILURE TO COMPLETE SUCH PURCHASE DUE TO A DEFAULT BY BUYER, THAT THE AMOUNT OF THE DEPOSIT TO BE HELD IN ESCROW, OR RELEASED TO SELLER, PURSUANT TO THE TERMS OF THIS AGREEMENT PENDING THE CLOSE OF ESCROW, TOGETHER WITH ANY INTEREST EARNED THEREON, IS A REASONABLE ESTIMATE OF SELLER'S DAMAGES, AND THAT, AS SELLER'S SOLE REMEDY FOR BUYER'S BREACH OF THIS AGREEMENT, IN LAW OR IN EQUITY, SELLER SHALL RETAIN SAID DEPOSIT, TOGETHER WITH ANY INTEREST, THEREON, AS LIQUIDATED DAMAGES FOR SUCH BREACH.

Buyer's Initials _____

Seller's Initials SDW

7. Deliveries to Buyer and Escrow Agent.

7.1 Seller's Deliveries to Escrow Agent. Seller hereby covenants and agrees to deliver or cause to be delivered to Escrow Agent on or prior to the Closing Date the following instruments and documents, the delivery of each of which shall be a condition to the Close of Escrow:

(a) Deed. A duly executed and acknowledged Deed (the "**Deed**") substantially in the form of **Exhibit B** attached hereto, reciting that title is subject to: (1) the real property taxes and assessments not yet due or payable; (2) matters ascertainable by a reasonable inspection and survey of the Property; (3) matters of public record; (4) the Permitted Exceptions; (5) standard printed exceptions usual to such policies; and (6) any additional off-record matters approved by Buyer in writing.

(b) Proof of Authority. Such proof of Seller's authority and authorization to enter into the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Seller to act for and bind Seller as reasonably may be required by Title Company.

(c) Costs. Seller's share of costs and expenses as provided herein.

(d) Additional Deliveries. Seller shall deposit into escrow such other instruments and items as are reasonably required by the Title Company or otherwise required to close the escrow and to consummate the transactions contemplated by this Agreement.

7.3 Buyer's Deliveries to Escrow Agent. Buyer hereby covenants and agrees to deliver or cause to be delivered to Escrow Agent on or prior to the Closing Date the following instruments and documents, the delivery of each of which shall be condition to the Close of Escrow:

(a) Purchase Price. The entire Purchase Price in accordance with the provisions of **Paragraph 3 (Purchase Price)** as adjusted in accordance with **Paragraph 8 (Costs and Prorations)** below. The Purchase Price shall be deposited with the Title Company and disbursed to the Seller in accordance with the executed closing statements prepared by Title Company and approved by Seller and Buyer.

(b) Costs. Buyer's share of costs and expenses as adjusted by the net prorations hereunder.

(c) Proof of Authority. Such proof of Buyer's authority and authorization to enter into this Agreement and the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Buyer to act for and bind Buyer as reasonably may be required by Title Company.

(d) Additional Deliveries. Buyer shall deposit into escrow such other instruments and items as are reasonably required by the Title Company or otherwise required to close the escrow and to consummate the transactions contemplated by this Agreement.

7.4 Required Documents. Buyer and Seller agree to execute such instruments and documents as may be reasonably required in order to consummate the transactions contemplated herein.

7.5 Possession of Property. Buyer shall be entitled to full possession of the Property at Closing, subject to all matters of record, the Deed Reservations, the Permitted Exceptions, AND any additional off-record matters approved by Buyer in writing.

8. Costs and Prorations. At Closing:

8.1 Seller shall pay (1) fifty percent (50%) of the escrow fees charged by the Title Company; and (2) fifty percent (50%) of the Title Policy.

8.2 Buyer shall pay (1) all city, county and other documentary transfer taxes and conveyance taxes in respect of the conveyance of the Property; (2) the recording fees; (3) any document prep, notary and delivery fees; (4) fifty percent (50%) of the Title Policy; (5) one hundred percent (100%) of the premium for the ALTA Title Policy (if Buyer so elects) and any endorsements thereto; and (6) fifty percent (50%) of the escrow fees charged by the Title Company.

8.3 Any miscellaneous costs shall be borne by the Parties according to custom in Humboldt County, California.

8.4 The costs of any escrow cancellation shall be borne by Buyer unless such cancellation results from a default by Seller hereunder, in which event the defaulting party shall pay all escrow fees.

8.5 All current taxes and assessments or other current expenses and all income (including rental income) relating to the Property shall be prorated between Seller and Buyer at the Closing as of the Closing Date on the basis of a thirty (30) day month, three hundred sixty (360) day year, actual days elapsed. Such prorations shall be adjusted, if necessary, and completed after the Closing as soon as final information becomes available. Income and expenses, determined using the accrual method of accounting, for the period prior to the Closing Date shall be for the account of Seller and such income and expenses for the period on and after the Closing Date shall be for the account of Buyer.

This **Paragraph 8** shall survive the Closing.

9. Disbursements and Other Actions by Escrow Agent. At the Closing, Escrow Agent shall promptly undertake all of the following in the manner herein below indicated:

9.1 Funds. Disburse all funds deposited with Escrow Agent by Buyer in payment of the Purchase Price as follows:

(a) Deduct all items chargeable to the account of Seller pursuant to **Paragraph 8 (Costs and Prorations)** and any other fees due from Seller.

(b) If, as the result of the prorations and credits pursuant to **Paragraph 8**, amounts are to be charged to account of Seller, deduct the total amount of such charges.

(c) Disburse the remaining balance of the Purchase Price to Seller promptly upon the Close of Escrow.

9.2 Recording. Cause the Grant Deed and any other documents which the parties hereto may mutually direct to be recorded in the Official Records in the county in which the Real Property is located and obtain conformed copies thereof for distribution to Buyer and Seller.

9.3 Title Policy. Direct the Title Company to issue the Title Policy to Buyer.

9.4 Delivery of Documents to Buyer. Deliver to Buyer any documents (or copies thereof) deposited into escrow by Seller pursuant hereto.

9.5 Delivery of Documents to Seller. Deliver to Seller any documents (or copies thereof) deposited into escrow by Buyer pursuant hereto.

10. AS-IS, WHERE-IS. Buyer acknowledges that Buyer is acquiring the Property "**AS-IS, WHERE-IS, IN ITS CURRENT CONDITION, WITH ALL FAULTS**" and in reliance upon its own studies, investigations and due diligence and not upon any information provided to Buyer by or on behalf of Seller. Seller makes no representations nor warranties, express or implied, as to such factors concerning the Property, except as expressly set forth in this Agreement. No person acting on behalf of Seller is authorized to make (and by execution hereof, Buyer acknowledges and agrees that, with the exception of those representations and warranties contained in this Agreement, has not made, does not make and specifically negates and disclaims) any representations or warranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, with regard to the Property, including without limitation (1) its value; (2) its nature, condition or quality (including without limitation, its water, soil and geology); (3) its compliance with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (4) its suitability for activities which Buyer may desire to conduct thereon; (5) its suitability for any development desired by Buyer or the ability of Buyer to develop the Property; (6) the income to be derived from the Property; (7) the habitability, merchantability, profitability or fitness for a particular purpose of the Property; (8) the environmental condition of the Property; and (9) the manner, quality, state of repair or lack of repair of the Property. Buyer acknowledges that it has (or, that it will, prior to Closing) inspected the Property, the physical and environmental condition and uses thereof to its satisfaction, and independently investigated, analyzed, and appraised the value, profitability, usefulness, its suitability for any development desired by Buyer or the ability of Buyer to develop the Property, the income to be derived from the Property, the habitability, merchantability, profitability or fitness for a particular purpose of the Property, and the manner, quality, state of repair or lack of repair of the Property. **EXCEPT FOR ANY CLAIMS ARISING OUT OF A BREACH OF SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, BUYER UPON CLOSING SHALL BE DEEMED TO HAVE WAIVED RELINQUISHED AND RELEASED SELLER FROM AND AGAINST, AND**

SHALL INDEMNIFY, DEFEND, AND HOLD SELLER HARMLESS FROM AND AGAINST, ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS FEES AND COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER BY REASON OF OR ARISING OUT OF ANY PHYSICAL OR ENVIRONMENTAL CONDITIONS OF THE PROPERTY, INCLUDING WITHOUT LIMITATION ANY LATENT OR PATENT CONSTRUCTION DEFECTS, VIOLATIONS OF APPLICABLE LAWS (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS), ANY OBLIGATION, LIABILITY AND RESPONSIBILITY FOR PERFORMING OR CAUSING TO BE PERFORMED ANY AND ALL INVESTIGATION, REMEDIATION AND MONITORING ACTIVITIES WITH REGARD TO ANY PRESENT CONDITION OF THE PROPERTY WHICH MAY BE REQUIRED AFTER THE CLOSING, AND ANY INTERFERENCE TO BUYER'S USE OR OPERATION OF THE PROPERTY CAUSED BY SUCH CONDITIONS, AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS WITH RESPECT TO THE PROPERTY. The provisions of this Article are a material inducement for Seller entering into this Agreement and this Article shall survive the Closing and the delivery of the deed.

11. **Closing.** The purchase and sale of the Property shall be consummated ("**Closing**") on or before that date which is fifteen (15) days following the Contingency Expiration Date ("**Closing Date**") unless such date is extended by mutual agreement of the parties hereto.

12. **Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, registered or certified mail, postage prepaid, return receipt requested, or by facsimile or email transmission followed by delivery of a hard copy and shall be deemed received upon the date of receipt thereof.

To Seller: Granite Land Company
8950 Cal Center Drive, Suite 201
Sacramento, CA 95826
Attn: Corporate Real Estate Manager
Telephone: (916) 855-8840
Facsimile: (916) 362-7515
Email: kevin.molloy@gcinc.com

With a copy to: Granite Construction Incorporated
585 W. Beach Street
P.O. Box 50085
Watsonville, CA 95077-5085
Attention: Group Counsel

To Buyer: McKinleyville Community Services District
P.O. Box 2037
McKinleyville, CA 95519

Attn: Norman Shopay, General Manager
Telephone: 707-839-3251
Email: nshopay@mckinleyvillecsd.com

With a copy to:

Russell S. Gains
Mitchell, Brisso, Delaney & Vrieze, LLP
814 Seventh Street
Eureka, CA 95501
Telephone: (707) 443-5643
Facsimile: (707) 444-9586
Email: rgans@mitchelllawfirm.com

Notice of change of address shall be given by written notice in the manner detailed in this **Paragraph 12.**

13. Broker's Commission. Buyer and Seller each warrant and represent to the other that it has not retained, nor is it obligated to, any person for brokerage, finder's or similar services in connection with the transactions contemplated by this Agreement, and that no commission, finder's fee or other brokerage or agent's compensation can be properly claimed by any person or entity based upon the acts of such party with regard to the transactions which are the subject matter of this Agreement. This **Paragraph 13** shall survive Closing.

14. Miscellaneous.

14.1 Construction. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. The term "person" includes individuals, corporations, partnerships, trusts and other entities and associations. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written." This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. In the event the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

14.2 Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof; or of any other covenant or provision herein contained. No extension of time for performance of

any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

14.3 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto. This Agreement and the rights and obligations hereunder shall not be assigned or conveyed by Buyer to any other entity or person without the prior written consent of Seller, which consent may be withheld in the sole and absolute discretion of Seller.

14.4 Attorneys Fees. If any action or suit is brought by one party against the other party by reason of any breach of this Agreement, then the prevailing party shall be entitled to recover its costs and expenses of the action or suit, including reasonable attorneys' fees.

14.5 Entire Agreement. This Agreement (including all Exhibits attached hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and their successors and assigns.

14.6 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

14.7 Counterparts. This Agreement may be executed in original, facsimile or emailed PDF counterparts, each of which shall constitute a separate document but all of which together shall constitute one and the same agreement. Signature pages may be detached and reattached to physically form one document.

14.8 Further Assurances. On and after the Effective Date, Seller and Buyer shall, at the request of the other, make, execute and deliver or obtain and deliver all such affidavits, deeds, approvals, certificates, resolutions and other instruments and documents, and shall do or cause to be done all such other things which either party may reasonably require to effectuate the provisions and intention of this Agreement.

14.9 Severability. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules and regulations. If any of the provisions of this Agreement or the application thereof to any person or circumstances shall for any reason and to any extent be invalid or unenforceable, then the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by law.

14.10 Time of the Essence. Time is of the essence of this Agreement.

14.11 Acceptance. This Agreement shall be void and have no legal effect unless Buyer signs one (1) copy of this Agreement on or before April 11, 2012, at 5:00 P.M., California Pacific Standard Time (the "Offer Period"). This Agreement, once executed by Seller, shall remain irrevocable during the Offer Period.

14.12 1031 Exchange. Buyer acknowledges that the Seller may use an exchange to purchase another property and agrees to cooperate with Seller, at no cost to Buyer, to affect said exchange through escrow.

[signatures on following page]

SELLER:

GRANITE CONSTRUCTION COMPANY,
a California corporation

By: Scott D. Wolcott
Name: SCOTT D. WOLCOTT
Title: VICE PRESIDENT

3/5/12

BUYER:

McKinleyville Community Services District

By: _____
Name: _____
Title: _____

The Title Company joins herein for the sole purpose of acknowledging its receipt of this Agreement and agrees to be bound by the terms hereof.

TITLE COMPANY:
FIDELITY NATIONAL TITLE

By: _____

Name: _____

Title: _____

EXHIBIT A
REAL PROPERTY DESCRIPTION

EXHIBIT B
FORM OF DEED

(To be provided by Title Company)

NILSEN REAL ESTATE APPRAISALS

3988 WALNUT DRIVE
EUREKA, CALIFORNIA 95503

MATT NILSEN
LIC. #AG006743

(707) 441-8560
FAX (707) 441-8565

EDWARD NILSEN

January 26, 2012

Mr. Norman Shopay, General Manager
McKinleyville Community Services District
1656 Sutter Road
McKinleyville, CA 95519-2037

**Re: Vacant Agricultural Zoned Parcel
2400 Block North Bank Road
McKinleyville, CA 95519**

Dear Mr. Shopay:

Pursuant to your request, I have made an investigation and analysis of the real property described above. My purpose was to estimate the current market value of the real property. The fee simple interest will be shown in this report. Per our agreement, this is a ***Restricted Use Appraisal Report*** which conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisals Standards Board of the Appraisal Foundation.

The valuation date is January 16, 2012.

By reason of my investigation and by virtue of my experience, I am of the opinion the estimated market value of the appraisal property, with the assumptions made herein, is the sum of

THIRTY SEVEN THOUSAND DOLLARS

(\$ 37,000)

Following you will find a brief report of my findings, conclusions, and information upon which my value conclusions are partially predicated. Should additional information be requested, please contact me.

Very truly yours,



Matt Nilsen, #AG006743

MN:klr

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A. Introduction

The appraisal property is a vacant, agricultural exclusive zoned parcel situated 200'± south of North Bank Road. This is also known as Highway 200. The appraisal property does not have frontage, or vehicular access, to North Bank Road or any other public/private roadway. The majority of the site is tree covered with alder, cottonwood, and other "softwoods". The parcel extends west to the middle of the Mad River. Properties to the north include single family residences on various size parcels, agricultural lands extending to the west and east, with industrial and neighborhood commercial farther to the south. This would be in the city limits of Arcata. The overall appeal of the neighborhood is average±.

B. Purpose of the Appraisal

To estimate the current market value of the real property.

C. Function of the Appraisal

This report will be used by yourself, board members, and/or authorized agents for internal use and perhaps as a guide for acquisition purposes. It is understood that this report may also be shared with Granite Construction Company (owner). This report was not prepared for financing nor any other use.

D. Definition of Market Value

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus." Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (1) buyer and seller are typically motivated;*
- (2) both parties are well informed or well advised, and each acting in what they considers their own best interest;*
- (3) a reasonable time is allowed for exposure in the open market;*
- (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
- (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

(Source: Office of the Comptroller of the Currency under 12 CFR, Part 34, Subpart C - Appraisals, 34.42 Definitions (f).)

E. **Scope of the Appraisal**

This appraisal report is intended to be an “appraisal assignment”. It is the intent that the appraisal service be performed in such a manner that the results of the analysis, opinions, or conclusions be that of a disinterested third party. It is the intent that all appropriate data deemed pertinent to the solution of the appraisal problem be collected, confirmed, and reported.

This is a ***Restricted Use Appraisal Report*** which is intended to comply with the reporting requirements set forth under Standards Rule 2-2c of the Uniform Standards of Professional Appraisal Practice (USPAP). As such, it presents no discussion of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser’s opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser’s file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated earlier. The appraiser is not responsible for unauthorized use of this report.

The specific area of McKinleyville, as well as Humboldt County areas, were investigated for this assignment. These areas were researched to discover any environmental, social, economic, and governmental forces which may affect the use of the appraisal property. Real estate appraisers, buyers, sellers, various personnel employed with the County of Humboldt, and others in the real estate business were interviewed.

F. Date of Valuation

January 16, 2012

G. Date of Report

January 26, 2012

H. Owner of Record

GRANITE CONSTRUCTION COMPANY, A California Corporation

I. Sales History

The current owner acquired the appraisal property, and various others, in May 2002. Granite Construction Company acquired various properties between Highway 101 to the west and the city of Blue Lake to the east. The appraisal property, and two adjoining parcels to the west, were offered "as a package" 1.5± years ago. The two parcels accessed off Wymore Road sold in January 2011. The appraisal property has been offered for sale in the past to a select number of potential buyers. There does appear to be a strong possibility that the appraisal property will continue to be marketed "in house". This is due to the selling of all, or most, of the other properties owned by Granite Construction over the past 1± year. No meaningful information can be obtained from the prior sales history.

J. Property Rights Appraised

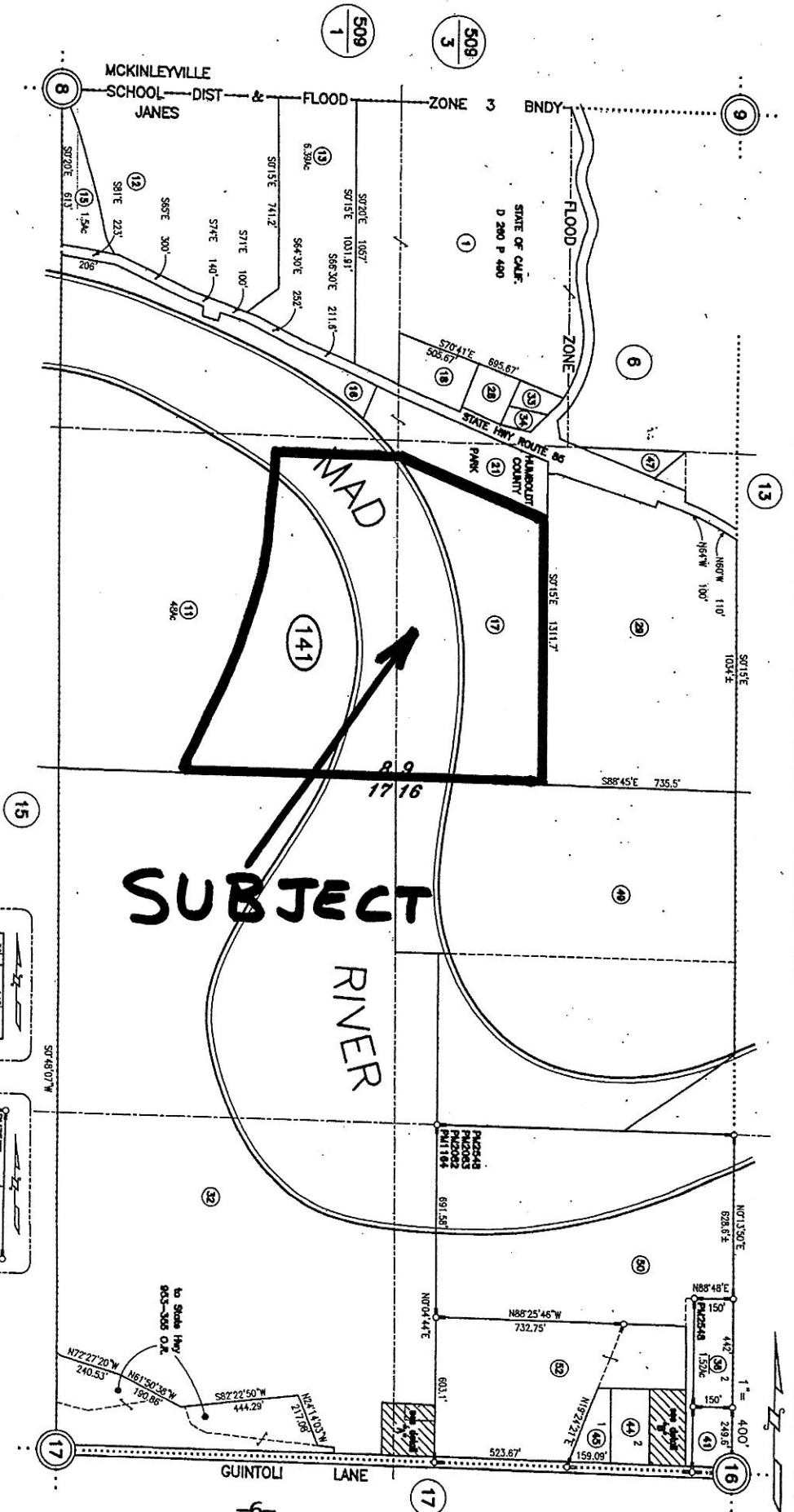
The property rights being appraised are fee simple. Fee simple is defined in the Appraisal Terminology and Handbook as "*An absolute fee: a fee without limitations to any particular class of heirs or restrictions, but subject to the limitations of eminent domain, escheat, police power, and taxation. An inheritable estate.*"

K. Appraisal Development and Reporting Process

A physical inspection of the appraisal property was conducted by myself on January 16, 2012. Two employees with McKinleyville Community Services District and one employee with SHN Consulting Engineers & Geologists, Inc. accompanied me during my site inspection. Various phone conversations and electronic messages were conducted with Kevin Molloy, Land Development Project Manager with Granite Land Company. Photographs were taken on this date.

A preliminary title report for subject property was available for review. Fidelity National Title Insurance Company prepared this report which was dated January 13, 2011. Included within this document was subject's legal description. According to the legal description, the west boundary line of the appraisal property extends down the main channel of the Mad River. According to my calculations, subject site is about 33± acres in size. Of this total, about 3 acres is part of the bar and river. Your attention is directed to the following page which is a copy of an assessor parcel number. The location of subject property is appropriately marked.

The north side of the appraisal property is approximately 200' away (south) from North Bank Road. This intervening property is owned by the County of Humboldt. Access to subject property is currently over walking trails which traverse over the county's parcel which then leads to the appraisal property. During my site inspection it was discovered that there are several defined trails which are currently being used by the general public. This extends along the south and southeastern portion of the appraisal property. This could be for walking a dog or other personal activities. Perhaps people think that the entire immediate area is owned by the county and not under private ownership. There were no "No Trespassing" signs observed. I am unaware how long the general public has been walking over or using the appraisal property for personal use.



ASSESSOR'S PARCEL MAP

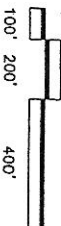
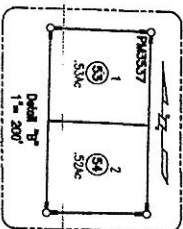
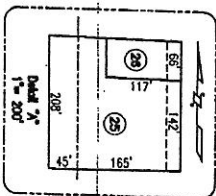
1. THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
2. NO LIABILITY IS ASSURED FOR THE ACCURACY OF THE DATA SHOWN.
3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

RS, Bk 2A of surveys, Pg 44
 RS, Bk 4 of surveys, Pg 65
 RS, Bk 7 of surveys, Pg 9
 RS, Bk 25 of surveys, Pg 13
 RS, Bk 25 of surveys, Pg 93
 PM2082 of PM Bk 10, Pgs 70-71
 PM2082 of PM Bk 18, Pgs 74-75
 PM2083 of PM Bk 18, Pgs 76-77
 PM2548 of PM Bk 22, Pgs 145-147

PM3537 of PM Bk 35, Pgs 3-5

NOTE - Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk.507, Pg.14
 County of Humboldt, CA.



Sept 26, 2011

K. Appraisal Development and Reporting Process (continued)

The land immediately to the south of North Bank Road, which extends over the County of Humboldt parcel, is gradual to moderately downsloping in a southerly direction. The appraisal property is about 20' to 25'± below grade of the roadway. The overall topography of subject site appears to be somewhat undulating, yet slopes slightly upward in a south to southeast direction. The extreme west side includes an embankment, river bar, and location of Mad River. The majority is tree covered with "softwoods".

During my site inspection, the defined trails over the appraisal property were damp or "muddy". There appears to be at least one location where a drainage culvert deposits surface water onto the county's property along the south side of North Bank Road. Subject property also appears to be below grade of adjoining lands to the east and south. With the number of trees over the appraisal property, perhaps the ground never really gets dry unless during the summer months. The groundwater at this location may also be very high which prohibits good drainage. There are no public utilities extended to the appraisal property. Community water is available "in the street" only. Sanitary disposal would have to be developed by a private septic system. Natural gas and electricity are provided by P.G. & E. Telephone is provided by SBC. Cable TV is provided by SuddenLink. The mixture of private and public utilities is considered typical for the immediate area.

The appraisal property is situated within an identified flood hazard zone. This is according to the Humboldt County map dated August 5, 1986. The community panel number is 060060 0615C. The appraisal property is entirely situated within Zone A7 which are areas of 100 year flooding where base flood elevations have been determined. Any proposed improvements would have to be constructed above the known flood hazard elevation mark.

K. **Appraisal Development and Reporting Process (continued)**

There are three approaches used by appraisers in estimating market value. I am of the opinion the sales comparison is considered the only applicable approach for this assignment. This ***Restricted Use Appraisal Report*** sets forth only the appraiser's conclusions. Supporting documentation is retained in the appraiser's file.

Your attention is directed to the following page which is an aerial map of subject's immediate neighborhood. The location of subject property is appropriately marked. Dashed lines are shown which identify those areas part of the embankment, river bar and Mad River. Notice the amount of trees covering the appraisal property and distance away from the public road. Following that are six pages of color photographs of subject property.

Humboldt County Web GIS Map

Prosperity!

Freeance PDF Printing System
Humboldt County Web GIS
<http://gis.co.humboldt.ca.us>

Map Disclaimer: While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence. Humboldt County assumes no liability or responsibility in the use, or misuse, of this data.



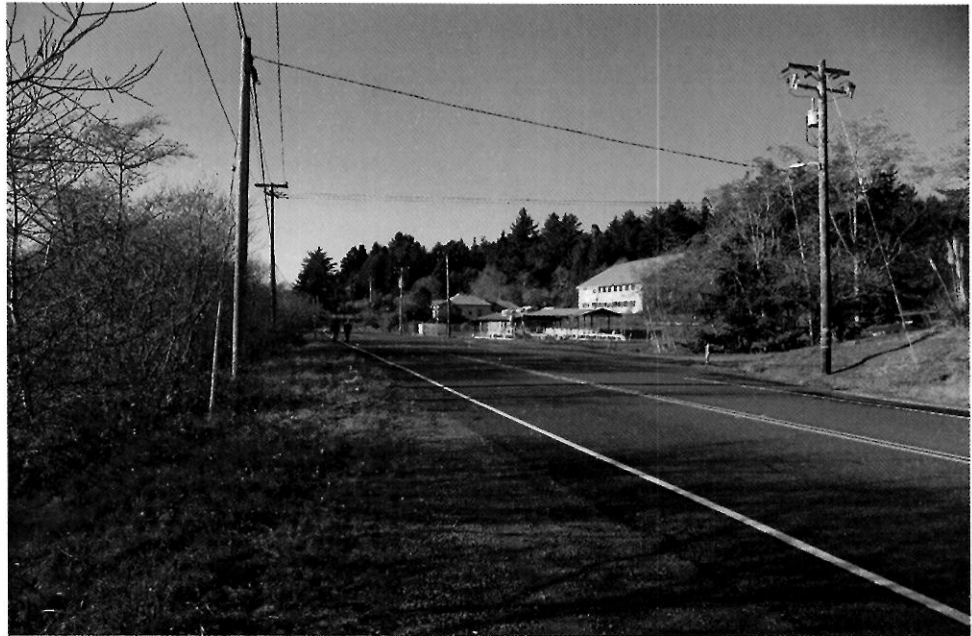
Legend

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SUBJECT

**VACANT AGRICULTURAL
ZONED PARCEL
2400 BLOCK NORTH BANK ROAD
MCKINLEYVILLE, CA 95519**

Looking west on North Bank
Road with subject farther to left.



PHOTOS TAKEN 1/16/12

Looking southerly from
North Bank Road over
approximate directional line
with subject's east property line.
The start would be 200'± farther
to the south.



Farther to the west from
previous picture over dense
vegetation adjacent to North
Bank Road and part of the
property owned by the
County of Humboldt.



Looking easterly on North Bank Road with small "turnout" for vehicles to park on county property. Start of Azalea Road is farther down and to the left.



Farther to the west from previous picture along county's property extending along south side of North Bank Road.



Looking southerly from roadway toward northwest portion of county owned parcel. The appraisal property is 200'± farther to the south.



Looking easterly over start of walking trail with North Bank Road immediately to the left. Notice steel gate which prohibits vehicular access onto county property.



Looking southerly on walking trail owned by the county.



Looking northerly from previous picture up trail which eventually extends to left and parking area adjacent to North Bank Road.



Farther to south from previous photo with dense vegetation and various trees over land owned by County of Humboldt. Notice walking trail through briar bushes straight ahead.



Looking westerly near previous picture over approximate north property line of subject.



Looking southwesterly from previous picture over appraisal property. Defined walking trail extends around trees and to the right.



Looking southeasterly with
typical ground cover and
softwood trees.



Looking southerly over
continuation of appraisal
property.



Looking southwesterly with
more dense vegetation which
prohibits pedestrian access.



Looking easterly toward
southeast portion of overall
property.



Looking southerly over similar
terrain, vegetation and a variety
of trees.



Looking easterly toward east
side of appraisal property.
Another “cut” walking path
extends straight ahead.



L. Zoning / Highest and Best Use

The current zoning designation according to the County of Humboldt is AE-20, Agricultural Exclusive with a 20 acre minimum parcel size. Some of the conditionally permitted uses include a single family residence, feed lot/slaughter house, kennels, agriculturally related recreation, fish and wildlife management, coastal access facilities, essential civic services, as well as minor generation and distribution facilities. The above mentioned list is a portion of residential, civic, agricultural, and natural resource uses. In addition to the zoning classification, there are various combining zones or overlays. These include wetland areas, stream and riparian corridor, public recreation, Alquist-Priolo fault zone and flood hazard area. Most of the combining zones are attributable to the proximity of the Mad River. As stated earlier, the entire parcel is situated within an identified flood hazard zone. Even though the location of the Mad River has been relatively stable over the recent past, it could be susceptible to change over time. The county requires adjacent properties to meet minimum requirements regarding streams and riparian protection regulations. The Alquist-Priolo area is along the northern portion of subject site. The majority of the site, except for the extreme south and southeast portion, is situated within a designated wetland area.

The appraisal property is zoned Agricultural Exclusive with a 20 acre minimum parcel size. The entire property is situated within an identified flood hazard zone. Any proposed improvement would have to be constructed above the known flood hazard elevation mark. It would also have to comply with any added construction from a fault evaluation report. There are currently no public nor private utilities to subject site. There is no road or recorded easement allowing pedestrian or vehicular access to the appraisal property. The appraisal property is "land locked" with access obtained only through an adjoining neighbor. The appraisal property has limited overall appeal to the general public at the present time.

L. Zoning / Highest and Best Use (continued)

The adjoining neighbor to the north is the County of Humboldt. This 3± acre site was acquired 40± years ago with the intent of public recreation and access to the Mad River. The neighbors to the east and south have been using their land for grazing and agricultural purposes for many years. The appraisal property consists of ground covered vegetation and trees. Given subject's current zoning classification and combining zones/overlays, I am of the opinion some of the highest and best uses of subject site would be for park and recreational use/river access, public utilities, or agricultural use.

M. Estimated Marketing Time

Given the appraisal property's current zoning, combining zone/overlays, no road access and other similar concerns, the overall appeal and marketability would be considered poor. The estimated marketing time for subject property, if listed appropriately, is between 4 and 10 months.

N. Conclusions

As stated earlier, there are three approaches used by appraisers in estimating market value. The appraisal property is a vacant, agricultural exclusive zoned parcel. The cost approach and income approaches are not considered appropriate for this assignment. The only applicable approach is the sales comparison approach. After considering the above information, I am of the opinion the estimated market value of subject property, with the assumptions made herein is the sum of \$37,000.

O. Assumptions/Limiting Conditions/Appraisal Certificate

In addition to the following four pages, which is a copy of the Limiting Conditions and Appraisal Certificate, the following conditions also apply:

A current preliminary title report for subject property was available for review. Fidelity National Title Insurance Company prepared this report which was dated January 13, 2011. Their reference number is 11-235796. Contents of this report is included within this report by reference even though not set forth herein. Item #6 references the lack of a legal right of access to and from a public street or highway. The estimated value shown herein is predicated upon this condition. Client to be aware of the above information and satisfy themselves accordingly.

As stated throughout, subject site has numerous softwood trees over the majority of the acreage. No inherent value was given any timber value over the appraisal property. This in part is due to no vehicular access, wet/low-lying ground and overall marketability of this type species. Client to be aware of the above information and satisfy themselves accordingly.

The land areas shown herein is this appraisers best estimate. A licensed land surveyor should be hired for the most accurate acreage calculations. The appraiser herein reserves the right to alter said appraised value if the land area used is different than surveyor's estimate. Client to be aware of this condition.

I am unaware of any improvements ever constructed over subject site. I am unaware of any underground storage tanks nor adverse soils conditions over the appraisal property. I am unaware of any "onflow" concerns. This is not my field of expertise. The estimated value shown herein assumes there are no adverse soils conditions over the appraisal property. Client to be aware of this condition.

O. **Assumptions / Limiting Conditions / Appraisal Certificate (continued)**

ASSUMPTIONS AND LIMITING CONDITIONS

1. As agreed upon with the client prior to the preparation of this appraisal, this is a Restricted Appraisal Report which is intended to comply with the reporting requirements set forth under Standard Rule 2-2c of the Uniform Standards of Professional Appraisal Practice for a Restricted Appraisal Report. As such, it does not include discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for any unauthorized use of this report.
2. No responsibility is assumed for legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated in this report.
3. The property is appraised free and clear of any or all liens and encumbrances unless otherwise stated in this report.
4. Responsible ownership and competent property management are assumed unless otherwise stated in this report.
5. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
6. All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that there is full compliance with all federal, state, and local environmental regulations and laws unless otherwise stated in this report.

O. Assumptions / Limiting Conditions / Appraisal Certificate (continued)

9. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.
10. It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.
11. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
12. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.
13. The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.

O. Assumptions / Limiting Conditions / Appraisal Certificate (continued)

14. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in compliance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.
15. Any proposed improvements are assumed to be completed in a good workmanlike manner in accordance with the submitted plans and specifications.
16. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
17. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with proper written qualification and only in its entirety.
18. Neither all nor any part of the contents of this report (especially with any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

O. **Assumptions / Limiting Conditions / Appraisal Certificate (continued)**

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. This appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.
6. My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
7. I have made a personal inspection of the property that is the subject of this report.
8. No one provided significant professional assistance to the person signing this report.
9. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

Date: 1/16/12

Appraiser



Matt Nilsen, #AG006743

RESOLUTION 2012-14

A RESOLUTION OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT AUTHORIZING THE BOARD PRESIDENT TO SIGN REAL ESTATE PURCHASE AGREEMENT WITH ESCROW INSTRUCTIONS, BY AND BETWEEN GRANITE CONSTRUCTION COMPANY AND MCKINLEYVILLE COMMUNITY SERVICES DISTRICT, FOR THE ACQUISITION OF A REAL PROPERTY PARCEL (APPROXIMATELY 33-ACRES) LOCATED AT/NEAR THE JUNCTION OF NORTH BANK ROAD AND AZALEA ROAD (APN 507-141-017).

A. WHEREAS, Granite Construction Company owns certain real property located at/near the junction of North Bank Road and Azalea Road (APN 507-141-017) ("Property");

B. WHEREAS, Granite Construction Company and McKinleyville Community Services District have prepared and negotiated a "Real Estate Purchase Agreement With Escrow Instructions" (the "Agreement"), a copy of which is attached hereto as "**Exhibit A**";

C. WHEREAS, Granite Construction Company agrees to sell the property to McKinleyville Community Services District ("MCSD"), and MCSD agrees to purchase the property from Granite Construction Company, subject to the rights of inspection and conditions stated in the terms and conditions set forth in the Agreement; and

D. WHEREAS, The total purchase price for the Property shall be Thirty Seven Thousand Dollars (\$37,000.00) (Purchase Price), payable by MCSD to Granite Construction Company as follows: A deposit in the amount of \$2,000 shall be deposited into escrow on the Effective Date, as set forth in the Agreement. Upon satisfaction of the contingencies stated in the Agreement, the cash balance of Thirty Five Thousand Dollars (\$35,000.00) shall be deposited in Escrow by MCSD prior to the Close of Escrow for delivery to Granite Construction Company by way of wire transfer of immediately available funds at the Close of Escrow.

E. WHEREAS, The Property has been appraised by a California licensed real estate appraiser, at an amount equal to the purchase price; and

F. WHEREAS, The Property can and likely will be used to facilitate park and recreational use in the future, and will insure additional open space in the McKinleyville area.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT DOES HEREBY AUTHORIZE THE BOARD PRESIDENT TO ENTER REAL ESTATE PURCHASE AGREEMENT WITH ESCROW INSTRUCTIONS, BY AND BETWEEN GRANITE CONSTRUCTION COMPANY AND MCKINLEYVILLE COMMUNITY SERVICES DISTRICT, FOR THE

ACQUISITION OF A REAL PROPERTY PARCEL (APPROXIMATELY 33-ACRES) LOCATED AT/NEAR THE JUNCTION OF NORTH BANK ROAD AND AZALEA ROAD (APN 507-141-017)

FURTHERMORE, THE BOARD MAKES THE FOLLOWING ADDITIONAL FINDINGS IN SUPPORT OF SAID RESOLUTION:

1. The purchase price for the Property, i.e., \$37,000.00, equals the fair market value of the Property, as appraised;
2. Completion of an environmental evaluation of the Property, as contemplated by the Agreement, should occur prior to the District's commitment to purchase the real property; and
3. Acquisition of the property for park, recreation and open space is categorically exempt under CEQA pursuant to Title 14 CCR § 15325(f).

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2012 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dennis Mayo, Board President

ATTEST:

Sharon L. Denison, Board Secretary

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.3 Consider acquisition of all or a portion of Real Property Parcel located at/near 2195 Hewitt Road (APN 509-021-045);

PRESENTED BY: Norman Shopay

TYPE OF ACTION: Voice Vote

Recommendation:

Staff recommends the Board Consider the following:

- (a) Identify and appoint persons to serve as the McKinleyville Community Services District's negotiator(s). Staff suggests the panel to include: Norman Shopay, General Manager; Russell Gans, District legal counsel.
- (c) Identify persons with whom McKinleyville Community Services District's appointed negotiator(s) may negotiate: Staff suggested persons Doug Shaw, Janne Page.

Discussion:

The Hewitt Parcel has been determined to be a potential suitable location to construct a new 4.5 million gallon water supply tank. The original Murray Road site was determined not to be suitable because of the high potential for ground movement in the event of an earthquake. The Murray Road site is also located immediately adjacent to an active fault. The Hewitt Ranch Parcel was determined to be in an area of low seismic activity and not in the immediate vicinity of an active fault making this parcel more desirable for a water tank location.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- Determined after negotiations

Environmental Requirements:

- Will require CEQA evaluation prior to purchase

Exhibits/Attachments

- None

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.4. Review MCSD Goals and Objectives

PRESENTED BY: Norman Shopay

TYPE OF ACTION: Voice Vote

Recommendation:

Appoint a temporary committee to work with District staff to consider updating the current goals and objectives for the short-term planning period of approximately three to five years and bring the updated goals and objectives back to the Board for review and approval at a future meeting.

Discussion:

Previously staff desired to seek input from the Board of Directors on establishing short and long-term goals and objectives for the District. It was managements desire to have the Board consider and establish both short and long term goals and objectives so District management and District staff could focus efforts in areas that were considered a priority for the Board.

This was a new concept and process and in October 2010 the Board approved the attached Goals and Objectives. Prior to that time the Board formed a temporary committee consisting of Board members Helen Edwards and John Corbett to work with District staff to consider focused goals and objectives for a short-term planning period of approximately three to five years.

The temporary committee met with staff and though a series of meetings and document revisions prepared the original goals and objectives for Board consideration.

The goals and objectives are intended to be a short term planning tool (approximately 3 years in duration) that focuses efforts and acknowledges the current Board priorities.

The goals and objectives are in addition to the common day-to-day activities that staff is currently addressing. The goals and objectives were intended to be general in nature and the purpose was not to generate a detailed list of every and all activities.

Since the original Board approval of the Goals and Objectives in October 2010, the District has made significant progress toward achieving and/or completing the identified Goals and Objectives.

We would like to review the accomplishments to date and request that the Board continue with the process and update and revise the Goals and Objectives for the future.

Alternatives:

Staff's analysis includes the following potential alternatives:

- Take no action
- Provide further revisions to the Mission Statement
- Provide further revisions, additions, or deletions to the Goals and Objectives

Fiscal Analysis:

Not applicable

Environmental Requirements:

Not applicable

Exhibits/Attachments

- Existing Goals and Objectives
- Excel version of the Goals and objectives with progress status notes

McKinleyville Community Services District (MCSD)
Mission Statement, Goals and Objectives

MISSION STATEMENT:

Provide McKinleyville with safe, adequate and reliable utility, lighting, open space, parks and recreation, and library services in an environmentally and fiscally responsible manner.

SUMMARY:

The following goals and objectives are intended to be a short term planning tool (3 years) that focuses efforts and acknowledges the current Board priorities. These are in addition to the common day-to-day activities that are currently being addressed.

GOAL 1:

Increase ability to serve MCSD growing population with water, sewer street lights parks recreation, and library.

OBJECTIVES:

1. Research trends and current needs of the community
 - a. Complete an independent survey that evaluates desired recreational activities within the community by June 30, 2011 related to Measure B renewal.
 - b. Update Parks Master Plan for Board approval by December 31, 2011
 - c. Determine the feasibility of establishing a pilot solar project for the Parks and Recreation Department or Corporation yard by June 2011
2. Increase water storage capacity through design and construction of new water storage at Murray Road.
 - a. Complete preliminary conceptual design in order to be able to apply for grant funding June 30, 2011
3. Encourage state, county and other regional agencies to work cooperatively with the District in planning and development to utilize existing infrastructure in an efficient and realistic manner
 - a. Establish a calendar to meet on a regular basis with County staff
 - b. Become active in the California Special District, Board of Directors, and/or a CSDA committee. Participate in CSDA meetings
 - c. Become active and participate in the Integrated Regional Water Management (IRWM) process
 - d. Meet with Federal, State and County Legislative staff to provide information on our District and discuss issues and concerns

McKinleyville Community Services District (MCSD)
Mission Statement, Goals and Objectives

- e. Determine if the current MCSD contract with Humboldt Bay Municipal Water District can be reopened for negotiations related to the inclusion of pipeline under the Mad River or revisions to cost share that MCSD is assessed to maintain other pipelines by June 2011.
- 4. Conduct analysis of alternative options for emergency backup services and future requirements
 - a. Water supply – Determine if groundwater would be a viable option as an emergency backup to our water supply system, near our existing water tanks, by June 30, 2012
 - b. Generators – Consider feasibility of upgrading or replacing generators at the sewer lift stations by completing technical evaluation memorandum by June 30, 2013
 - c. Install generator and automatic transfer switch at District Office by June 30, 2011
- 5. Ensure adherence to present and future regulatory requirements for Waste Water Management Facility and collection system
 - a. Identify treatment alternatives to carry forward in the 20-year Facilities Plan by December 30, 2010
 - b. Implement the findings from the 20 year Facilities Plan by June 30, 2013
 - c. Develop sewer pre-treatment program and modification of local limits in the rules and regulations by June 30, 2012

GOAL 2:

Insure appropriate funding is available to meet service objectives

OBJECTIVES:

- 1. Ensure that the reserve methodology is sufficient to fund service objectives
 - a. Determine needed reserve categories by June 2011
 - b. Determine what portion of our water and sewer rates should be set aside into each reserve category by June 30, 2012
 - c. Upon retirement of debt for purchase of streetlights reevaluate rate structure to ensure appropriate reserves for capital replacement program by June 30, 2013.
 - d. Identify long term medical reserve amounts and propose a plan to fund those amounts by March 31, 2011
- 2. Determine appropriate reserve strategy for accumulation of reserves and adjust sewer, water and streetlight connection fees rates to accommodate

McKinleyville Community Services District (MCSD)
Mission Statement, Goals and Objectives

- a. Establish and complete revised connection and capacity fee structure for all new services by September 30, 2011
- b. Evaluate park and facility fees by June 30, 2011

GOAL 3:

Develop succession and staffing plan

OBJECTIVES:

- 1. Determine long term staffing needs
 - a. Create a 5-year staff development plan
 - b. Develop district office facility expansion plan by December 30, 2012
- 2. Increase youth recruitment
 - a. Establish a calendar to meet on a regular basis with students

GOAL 4:

Prepare for major disasters

OBJECTIVES:

- 1. Update and implement the Emergency Response Plan
 - a. Meet annually to ensure Emergency Response Plan is current with staff
 - b. Annually Verify Mutual Aid Agreements are accurate and plan meets local state and federal requirements
- 2. Work with staff and other agencies to prepare and train for major disasters
 - a. Participate in a minimum of one (1) table-top exercise annually

McKinleyville Community Services District

Goals and Objectives

Status Updated: March 27, 2012

In Process
Ongoing
Completed
Not Scheduled
Delayed

Goal 1: Increase ability to serve MCSD's growing population with water, sewer, streetlights, parks and recreation and library.

Objective	Work Plan	Action	Due Date	Completed	Notes
1.1		Research trends and current needs of the community			
	1.1 A	Complete an independent survey that evaluates desired recreational activities within the community related to Measure B.	6/30/2011	Yes	This survey was completed as part of the Measure B renewal. Meetings were also conducted with community members as part of the Proposition 84 Grant funding application process. Survey information was incorporated into the Parks Master Plan
	1.1 B	Update Parks Master Plan for board approval.	12/31/2011	Yes	Presented for initial review to the Board on February 1st and March 14th . The Recreation Advisory Committee reviewed and incorporated additional changes. Presented to the Board for approval on April 4, 2012
	1.1 C	Determine the feasibility of establishing a pilot solar project for the parks and recreation department or corporation yard.	6/1/2011	Yes	Determined that a Solar Pilot Project will be evaluated during the planning and construction for the new Teen Center to include a potential Solar pilot project for the Activity Center
1.2		Increase water storage capacity through design and construction of new water storage at Murray Road.			

Objective	Work Plan	Action	Due Date	Completed	Notes
	1.2 A	Complete preliminary conceptual design in order to be able to apply for grant funding.	6/30/2011	Yes	The original Murray Road site is not acceptable based on a seismic (potential earthquake) assessment conducted by LACO. The Murray Road site is not an acceptable location to construct a water tank. Therefore, we are in the process of looking for an alternate sites.
1.3		Encourage state, county, and other regional agencies to work cooperatively with the district in planning and development to utilize existing infrastructure in an efficient and realistic manner.			
	1.3 A	Establish a calendar to meet on a regular basis with county staff.		Yes	Currently schedule quarterly meetings with Arcata Fire, Sherriff, Cal Fire, Coast Guard and County.
	1.3 B	Become active in the California Special District, board of directors, and or a CSDA committee. Participate in CSDA meetings.		Yes	Successful in being elected to the CSDA Board of Directors representing Region 1. Appointed to the CSDA Education and Membership Committees. Appointed as regional representative to ACWA State and Local Legislative Committees
	1.3 C	Become active and participate in the integrated Regional Water Management Process.		Yes	Participate in the IRWM process and meetings

Objective	Work Plan	Action	Due Date	Completed	Notes
	1.3 D	Meet with Federal, State and County legislative staff to provide information on our district and discuss issues and concerns.			Attended CSDA Legislative days in 2010 and 2011. Actively reviewing proposed legislation as part of ACWA Legislative Committee
	1.3 E	Determine if the current MCSD contract with Humboldt Bay Municipal Water District can be reopened for negotiations related to the inclusion of pipeline under the Mad River or revisions to the cost share that MCSD is assessed to maintain other pipelines.	6/20/2011		The opportunity to formally reopen and actively discuss this provision in the contract did not develop when the Pulp mill was not able to restart operations that would have required the contract to be reopened. Will continue to look for opportunities to modify the contract
1.4		Conduct analysis of alternative options for emergency backup services and future requirements.			
	1.4 A	Water supply- Determine if groundwater would be a viable option as an emergency backup to our water supply system, near our existing water tanks.	6/30/2012		Identified the Granite property as a potentially suitable location. Will be conducting additional studies to determine suitability
	1.4 B	Generators - Consider feasibility of upgrading or replacing generators at the sewer lift by completing technical evaluation memorandum.	6/30/2013		
	1.4 C	Install generator and automatic transfer switch at District Office.	6/30/2011	Yes	Generator installed and functional at District Office
1.5		Ensure adherence to present and future regulatory requirements for wastewater management facility and collection system.			
	1.5 A	Identify treatment alternatives to carry forward in the 20 year facilities plan.	12/30/2010	Yes	20-year facility plan completed and submitted to RWQCB for review
	1.5 B	Implement the findings from the 20 year facilities plan.	6/30/2013	Yes	Draft RFP issued to consultants to review the RFP and provide comments for the initial design of the facilities. The design and CEQA process will take approximately 2 years to complete
	1.5 C	Develop sewer pre-treatment program and modification of local limits in the rules and regulations.	6/30/2012	Yes	Submitted to Board for approval in April 2012

Objective	Work Plan	Action	Due Date	Completed	Notes
Goal 2: Ensure appropriate funding is available to meet service objectives					
Obj.	Work Plan	Action	Due Date	Date Completed	Notes
2.1		Ensure that the reserve methodology is sufficient to fund service objectives.			
	2.1 A	Determine needed reserve categories.	6/30/2011	Yes	Reserve Policy prepared and adopted by Board
	2.1 B	Determine what portion of our water and sewer rates should be set aside into each reserve category.	12/31/2011	Yes	Completed and approved by Board
	2.1 C	Upon retirement of debt for purchase of streetlights re-evaluate rate structure to ensure appropriate reserves for capital replacement program.	6/1/2011		Determined that changing streetlights to LED will reduce energy costs and begin to fund future reserves for streetlights
	2.1 D	Identify long term reserve amounts and propose a plan to fund those amounts.		Yes	CIP completed and rate study completed related to projects that included funding for reserves
2.2		Determine appropriate reserve strategy for accumulation of reserves and adjust sewer water and streetlight connection fee rates to accommodate.			
	2.2 A	Establish and complete revised connection and capacity fee structure for all new services.	9/30/2011	Yes	Completed and approved by Board
	2.1 B	Evaluate park and facility fees.	6/30/2011		Ongoing - raise rates for Hiller sports complex by 4% in March 2012

Objective	Work Plan	Action	Due Date	Completed	Notes
Goal 3: Develop succession and staffing plan.					
Obj.	Work Plan	Action	Due Date	Date Completed	Notes
3.1		Determine long term staffing needs.			
	3.1 A	Create 5 Year staff development plan.		yes	Individual Development Plans(IDPs) for staff have been completed and are
	3.1 B	Develop District office facility expansion plan.	12/30/2012	Yes	Initial conceptual design completed. During Fiscal Year 2012/2013 we will begin the formal design and plans and specifications for the office
3.2		Increase youth recruitment	May-12		
	3.2 A	Establish a calendar to meet on a regular basis with students	May-12		Email and letter prepared and sent to High School and Middle School to start a process to have a teen advisory council

Objective	Work Plan	Action	Due Date	Completed	Notes
Goal 4: Prepare for Major Disasters					
Obj.	Work Plan	Action	Due Date	Date Completed	Notes
4.1		Update and implement the Emergency Response Team.			
	4.1 A	Annually verify aid agreements are accurate and plans meet local and federal requirements.		yes	Rewrite Emergency Operations Plan. Updated Mutual Aid agreements
4.2		Work with staff and other agencies to prepare and train for major disasters.		yes	Tsunami/Earthquake Preparedness Class sponsored by MCSD at Azalea Hall. Communication Exercise at Woodley Island Marina, for Humboldt Operational Area. Attending regular Operational Area meetings with County OES
	4.2 A	Participate in a minimum of one table top exercise annually.		yes	Roundtable was conducted in September 2011, Tabletop Exercise was conducted in November 2011. Emergency Operations Center setup was conducted

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.5. Adopt Resolution 2012-12 for an Ordinance change to update the wastewater discharge limitations (local limits) in the Rules and Regulations.

PRESENTED BY: Greg Orsini, Operations Director

TYPE OF ACTION: Roll Call Vote

Recommendation:

Staff requests the Board approve Resolution 2012-12 to amend the Rules and Regulations to update wastewater discharge limitations (local limits).

Discussion:

Federal water quality regulations require local governments prevent the introduction of certain pollutants into their Publicly Owned Treatment Works (POTW), in order to prevent interference with wastewater treatment processes and pass through of pollutants, and provide for the use and disposal of municipal biosolids (sludge). This is accomplished through development and implementation of specific wastewater discharge effluent limits (local limits) for industrial users. These limits are developed to reflect the specific needs and capabilities of individual POTWs and protect the waterbody to which the POTW discharges.

In April of 2009 Tetra Tech conducted a Pretreatment Audit of McKinleyville Community Services District (MCSD) on behalf of Regional Water Quality Control Board (RWQCB). The resulting report received in October of 2009 and attached as EXHIBIT 2 was then reviewed by the RWQCB. The Tetra Tech recommendations were elevated to requirements by the RWQCB.

The RWQCB requested MCSD review and update, as necessary, the existing local limits to reflect new state and federal requirements, treatment plant changes, National Pollutant Discharge Elimination System (NPDES) Permit requirements, and any other requirements that may affect the reliability of said local limits.

MCSD enlisted the help of Freshwater Environmental and started work to update the Local Limits and Sewer Use Ordinance to meet requirements expressed in the Pretreatment Audit letter from the RWQCB.

In May of 2011 a draft copy of the Local Limits Work Plan was submitted to the RWQCB for their approval. In August of 2011 the District received a response from the RWQCB concurring with the work plan testing locations, constituents and quantity of testing. The work proceeded and the results of the work plan are in the table below.

These standards meet both State and Federal regulation and were created using the Environmental Protection Agency Guidelines and the EPA Region 10 Spreadsheet.

Pollutant	Existing Local Limit in (mg/L) ppm	Proposed Local Limit in (mg/L) ppm
Arsenic	0.1	RNNV
Cadmium	0.2	RNNV
Copper	2.0	0.13
Cyanide	1.0	RNNV
Lead	1.0	0.0055
Mercury	0.01	RNNV
Molybdenum	None	0.0047
Nickel	1.0	0.0052
Silver	1.0	RNNV
Total Chromium	0.5	RNNV
Zinc	3.0	0.135
Oil and Grease (animal or vegetable)	300	100
Oil and Grease (mineral or petroleum)	100	100
Total Identifiable Chlorinated Hydrocarbons (which cannot be removed by treatment)	0.02	RNNV
Phenolic compounds	1.0	RNNV
bis(2-ethylhexyl) phthalate	None	0.0235
BOD	300	354.0

Notes:

- All Local Limits enforced as Daily Maximum limits. Daily Maximum Limit is the arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- Local limits analysis indicated that the appropriate local limit for 4,4-DDT is "zero discharge". MCSD decided to add a narrative prohibition for 4,4-DDT in the sewer use ordinance. MCSD proposed Rule 24.01 (w) prohibits the discharge of "any detectable concentration of 4,4-DDT."
- RNNV-Regulated but no numeric value. These compounds are regulated in concentration by the narrative prohibitions contained within the MCSD regulation 24.01.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

Not Applicable

Environmental Requirements:

This project is Categorically Exempt under Title 14, California Code of Regulations, Chapter 3, Article 19, Section 15308 as the wastewater discharge limitations are part of a regulatory Ordinance (MCSD Ordinance No. 0-06-09) designed to protect the environment and there is not a relaxation of standards allowing environmental degradation.

Exhibits/Attachments

- Exhibit 1 Resolution 2012-12
- Exhibit 2 Report from Tetra Tech

EXHIBIT 1

RESOLUTION 2012-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT AMENDING THE RULES AND REGULATIONS TO UPDATE WASTEWATER DISCHARGE LIMITATIONS (LOCAL LIMITS)

WHEREAS, the General Pretreatment Regulations (40CFR, Part 403) allows the McKinleyville Community Services District (MCSD) to establish specific pollutant limitations on users of its publicly owned treatment works, and;

WHEREAS, users of the MCSD sanitary sewer system whose sanitary sewer discharge terminates at the MCSD Wastewater Management Facility, are required to comply with the specified pollutant limitations established by the MCSD, and;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the McKinleyville Community Services District hereby adopts the following allowable discharge limits for users of the MCSD Wastewater Management Facility:

Pollutant	Existing Local Limit in (mg/L) ppm	Proposed Local Limit in (mg/L) ppm
Arsenic	0.1	RNNV
Cadmium	0.2	RNNV
Copper	2.0	0.13
Cyanide	1.0	RNNV
Lead	1.0	0.0055
Mercury	0.01	RNNV
Molybdenum	None	0.0047
Nickel	1.0	0.0052
Silver	1.0	RNNV
Total Chromium	0.5	RNNV
Zinc	3.0	0.135
Oil and Grease (animal or vegetable)	300	100
Oil and Grease (mineral or petroleum)	100	100
Total Identifiable Chlorinated Hydrocarbons (which cannot be removed by treatment)	0.02	RNNV
Phenolic compounds	1.0	RNNV
bis(2-ethylhexyl) phthalate	None	0.0235
4,4-DDT	None	ND
BOD	300	354.0

Note:

RNNV-Regulated but no numeric value. This compound is regulated in concentration by the narrative prohibitions contained within the MCSD regulation 24.01.

ND- Non Detect

PASSED AND ADOPTED at a duly called meeting of the Board of Directors of the McKinleyville Community Services District on the 4th of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dennis Mayo, Board President

Attest: _____
Sharon L. Denison, Board Secretary

EXHIBIT 2
Pretreatment Compliance Audit
Summary Report

Discharger: McKinleyville Community Services District
NPDES No. CA0024490
Humboldt County

Location: 675 Hiller Road, McKinleyville, California 95519

Contact: Greg Orsini, Lead Operator
Tom Marking, Director of Public Works (not present for the PCA)
Oren Plocker, Freshwater Environmental

Inspection date: April 21, 2009

Inspected by: Chuck Durham, Tetra Tech, Inc.
Lisa Bernard, North Coast Regional Water Board

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Attachment A Sewer Use Ordinance
Attachment B Legal Review Checklist

1. Executive Summary

The McKinleyville Community Services District (District) is responsible for providing sewer, water, street, electricity, and parks and recreation service to McKinleyville and the surrounding area. The District provides sewer service to approximately 10,000 customers, and its staff manages the Wastewater Management Facility (WMF or facility) at 675 Hiller Road. That facility is regulated under National Pollutant Discharge Elimination System (NPDES) No. CA0024490 and Order No. R1-2008-0039 and has a design capacity of 1.61 million gallons per day. The District does not have an approved pretreatment program, but Section VI(C) (5) (b) of its NPDES permit requires it to carry out a number of source control measures. Those measures include establishing adequate legal authority to monitor and enforce source control standards, establish a permit system for waste haulers, conduct a waste survey every 5 years, and conducting periodic inspections and monitoring to ensure adequate source control.

At the time of the Pretreatment Compliance Audit (PCA or audit), the District had not completed an industrial waste survey in more than 6 years but had just recently initiated efforts to do so. The District's Rules and Regulations (sewer use ordinance or SUO) do not comply with the minimum requirements of Title 40 of the *Code of Federal Regulations* (CFR) Part 403 and must be revised. The District does not have a control mechanism that meets the minimum requirements of 40 CFR 403.8 in place for any of its nondomestic users (NDUs). Neither the District's personnel nor its consultant could validate the basis for existing local limits, and development documents were not available. The local limits must be reevaluated at least every 5 years and must be technically sound. The District has acquired the services Freshwater Environmental to perform the reevaluation. The District has implemented a pollution prevention program to reduce the disposal of unused pharmaceuticals to the sewer.

2. Introduction

The North Coast Regional Water Quality Control Board (Water Board), with assistance from Tetra Tech, Inc., conducted a PCA of the District on April 21, 2009. In the absence of an approved pretreatment program, the primary purpose of this PCA was to evaluate any efforts the District has implemented with respect to source control and to identify any potential categorical industrial users (CIUs) that might be discharging to the publicly owned treatment works (POTW). This report describes the primary concerns generated from the audit. Please note that, for the purposes of the report, recommendations and requirements are addressed as if the District has an approved program.

The audit consisted of three parts: an interview of the District's source control staff, a review of the pretreatment program files, and site visits to area NDUs. The interview included a discussion with the District's lead operator and the District's consultant regarding the program in general, the District's compliance sampling and inspection procedures and their frequency, and enforcement issues. The information available for

specific NDUs was minimal; therefore, the file review was limited to a cursory review of the SUO and the most recent discharge monitoring reports. As part of the audit, the following NDUs were inspected:

- Humboldt Sanitation (noncategorical significant industrial user [SIU])

- Six River's Brewery (noncategorical SIU)
- Minkler's Jewelry (zero-discharging CIU)
- Steve's Septic (non-categorical SIU)

This report summarizes the overall findings of the audit and describes the program elements that are not consistent with federal pretreatment program requirements. In addition, the report provides recommendations to enhance the effectiveness of program implementation and enforcement.

3. Industrial Waste Survey

The regulations at 40 CFR 403.8(f)(2) requires POTWs to identify all possible industrial users (IUs) and further identify the character and volume of pollutants contributed by each IU. Furthermore, Section VI(C)(5)(b)(ii) of the District's NPDES permit requires the POTW to conduct an industrial waste survey at a minimum frequency of at least every 5 years. At the time of the PCA, the District had initiated a preliminary industrial waste survey, identifying more than 50 commercial users in need of further evaluation. District personnel indicated that it had been more than 6 years since the last survey had been completed. The District intends to send out a survey *short form* and, on the basis of the results of the survey, will narrow the list to those users discharging nondomestic wastewater. The District will then require those facilities to fill out the survey *long form* providing detailed information about processes, chemicals used, and wastewater characteristics. The District is required to complete the survey and submit the results to the Water Board. That report must include the following: identification of those industries eliminated from further evaluation with an explanation as to why, identification of IUs in need of further evaluation, and the final list of IUs for which the District has determined are in need of permitting under the pretreatment program.

4. Local Limits

The federal pretreatment regulations at 40 CFR 403.5(c) require POTWs to develop and enforce local limits to implement the general and specific prohibitions at 40 CFR 403.5(a) and (b). The pretreatment regulations also require POTWs to continue to develop the local limits as necessary and effectively enforce the limits. In addition, the recently promulgated federal streamlining regulations state that POTWs may develop best management practices (BMPs) to implement the general and specific prohibitions. The BMPs must be considered local limits and pretreatment standards (40 CFR 403.5(c)(4)).

The District has established local limits for 10 metals (arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, and zinc), as listed in Section 24.08.01 of its SUO. In addition, Section 24.08.02 lists restrictions on temperature, oil and grease, pH, chlorinated hydrocarbons, and phenols. The limiting criteria used to determine existing limits for each individual pollutant was unknown to District staff and the consultant. It was noted, however, that the District planned to recalculate the local limits in the near future and had just acquired the services of Freshwater Environmental to assist with that effort. District personnel cited the lenient nature of the existing limits for toxic pollutants (lead, copper, and silver specifically) as the driving force being the reevaluation. The Tetra Tech auditor recommends that the District submit the findings and proposed actions from the local limits evaluation to the Water Board for approval before adopting any changes.

5. Legal Authority

The federal pretreatment regulations at 40 CFR 403.8(f) require that every POTW subject to the national pretreatment program has the necessary legal authority to apply and enforce section 307(b) and (c) and section 402(b)(8) of the Clean Water Act.

5.1 Pretreatment Streamlining Regulations

On October 14, 2005, the U.S. Environmental Protection Agency (EPA) promulgated several changes to the general pretreatment regulations (streamlining rule). The following table indicates where to find the changes in the newly revised general pretreatment regulations at 40 CFR Part 403.

Issue	Section of 40 CFR Part 403 Rule
Sampling for pollutant not present	403.8(f)(2)(v), 403.12(e)
General control mechanisms	403.8(f)(1)(iii)
Best management practices	403.5, 403.8(f), 403.12(b), (e), (h)
Slug control plans	403.8(f)(1)(iii)(B)(6), 403.8(f)(2)(vi)
Equivalent concentration limits for flow-based standards	403.6(c)(6)
Equivalent mass limits for concentration-based standards	403.6(c)(5)
Use of grab and composite samples	403.12(g)
Significant noncompliance criteria	403.8(f)(2)(viii)
Removal credits	403.7(h)
Nonsignificant CIU	403.3(v)(2), 403.8(f)(2)(v), (6), 403.12(e)(1), (g), (i), (q)
Middle Tier CIU	403.8(f)(2)(v)(C), 403.12(e)(3), (i)
Miscellaneous changes	403.12(g), (j), (l), (m)

Many of the streamlining provisions are changes that the POTW may adopt at its discretion. A few of the provisions, however, require the POTW to revise its legal authority. The required changes are as follows:

- 40 CFR 403.8(f)(1)(iii)(B)(6): clarification that slug control requirements must be referenced in SIU control mechanisms
- 40 CFR 403.8(f)(2)(viii)(A–C): revisions to the significant noncompliance (SNC) definition
- 40 CFR 403.12(g): modifications to the sampling requirements and a clarification of the requirement to report all monitoring results

The required changes are summarized in *Pretreatment Streamlining Rule Fact Sheet 2.0: Required Changes*, February 2006, on EPA's Web site at http://cfpub.epa.gov/npdes/home.cfm?program_id=3.

5.2 Legal Authority Review

The auditor reviewed the District's existing SUO to evaluate whether it contains all legal authority components required at 40 CFR Part 403. The findings of this review are described in detail in the sections below.

5.2.1 Definitions

The SUO does not include many of the definitions listed in 40 CFR 403.3. Specifically, it is missing adequate definitions for the following:

- Authorized Representative
- BMPs
- Categorical Standard
- IU
- Interference
- National Pretreatment Standard
- New Source
- Pass Through
- Pretreatment Requirement
- SIU
- SNC

The District is required to modify the SUO to include definitions for each of the above terms.

5.2.2 Prohibitive Discharge Standards

Section 24.01 of the SUO lists prohibited dischargers but does not comply with 40 CFR 403.5(b). Specific deficiencies include the following:

- The fire/explosion prohibition does not include the flashpoint criteria listed in 40 CFR 403.5(b)(1).
- Prohibition language does not include the pH/corrosion prohibition listed in 40 CFR 403.5(b)(2).
- The only temperature prohibition restricts actual discharge to 150 degrees Fahrenheit (°F). 40 CFR 403.5(b)(5) restricts discharges that cause the POTW influent to exceed 140 °F.
- The language in Sections 24.08.3 and 24.08.4 refers to national categorical standards and local limits but is lacking in comparison to 40 CFR Part 403.
- The SUO does not contain any reference to BMPs

The District is required to modify the SUO's prohibitive discharge section to comply with 40 CFR 403.5(b).

5.2.3 Control Mechanisms

The regulation at 40 CFR 403.8(f)(1) lists the minimum requirements for an IU permit. Section 26.02.4 of the SUO provides a list of information to be included in an IU permit issued by the District. That section is missing information regarding permit duration, non-transferability, applicable penalties, and slug discharge. The SUO does establish legal authority for permit duration and non-transferability but not within the scope of individual permit language. The District is required to modify Section 26.02.4 to include all components of 40 CFR 403.8(f)(1)

Section 26.02.3 of the SUO states that the permit application submitted by NDUs becomes the permit, upon approval by the District. The District should use the permit application to determine which pollutants of concern should be monitored, sampling frequencies, and reporting requirements. The permit format and layout should not look anything like a permit application. The Tetra Tech auditor strongly recommends that the District develop a permit template that will meet the standards established in 40 CFR 403.8(f)(1)

5.2.4 Reporting Requirements

Section 26.01 of the SUO references the authority to request periodic discharge reports but does not specifically identify baseline monitoring report (BMR) requirements. The Tetra tech auditor strongly recommends that the District revise the SUO to specify the BMR requirements at 40 CFR 403.12(b).

5.2.5 Enforcement

Section 29 of the SUO establishes all the District's enforcement remedies. However, it fails to include all components of enforcement outlined in 40 CFR 403.8(f)(1)(vi). Of greatest significance, the SUO does not establish authority for an enforcement response plan (ERP). It is imperative that the District develop an ERP to ensure an effective source control program. Therefore, the District is required to modify the SUO to comply with 40 CFR 403.8(f)(1)(vi).

As noted throughout this section, the SUO does not comply with the minimum requirements of 40 CFR Part 403 and must be revised accordingly. The Tetra Tech auditor recommends that the District obtain a copy of the recently revised Model SUO from EPA's Web site at <http://www.epa.gov/npdes/pretreatment> to assist with that effort. In addition, EPA also has published a guidance manual on developing an ERP, and it can be downloaded from the same Web site. Attached to this report is a copy of the completed legal authority checklist to help the District identify deficient components of its SUO.

6. Control Mechanisms

To ensure compliance with applicable pretreatment standards, the federal pretreatment regulations at 40 CFR 403.8(f)(1)(iii) require POTWs to control the discharges from nondomestic dischargers by using control mechanisms (permits or other similar means). The control mechanisms must include, at a minimum, the following:

- Statement of duration (in no case more than 5 years)
- Statement of nontransferability
- Effluent limits, including BMPs, based on applicable pretreatment standards
- Self-monitoring, sampling, reporting, and record-keeping requirements
- Statement of penalties
- Compliance schedules (if applicable)
- Required resampling within 30 days after noticing a violation
- Slug control requirements (if necessary)
- Notification requirements
 - Notice of slug loadings
 - Notification of spills, bypasses, or upsets
 - Notification of significant change in discharge

- Notification within 24 hours after noticing a violation

Permits for CIUs must also properly use the combined wastestream formula, properly convert mass-based limits to concentration-based limits, properly apply production-based limits (if applicable), and include a prohibition on dilution as a substitute for treatment.

Section VI(C)(5)(b) of the District's NPDES permit describes the source control program implementation requirements. The only reference to permitting of NDUs in that language is found in subpart (ii), and it stipulates that the District is to establish a waste hauler permit system. At the time of the audit, Steve's Septic did not have a discharge permit. It is the largest contributor, by volume, to the POTW. In an effort to comply with Section VI(C)(5)(b)(ii) of the NPDES permit, the District must issue a permit to Steve's Septic.

Minkler's Jewelry is a zero-discharging categorical facility. The retail jeweler does small-volume (one-pint beakers) rhodium plating. Until the District can revise its SUO to adopt the nonsignificant CIU (NSCIU) classification, the regulations at 40 CFR 403.8(f)(1)(iii) require the District to permit the facility as a zero-discharging CIU and require annual certification of the zero-discharge.

7. Application of Pretreatment Standards and Requirements

The federal pretreatment regulations at 40 CFR 403.8(f)(1) requires the District to have the legal authority to require compliance with applicable pretreatment standards and requirements and to ensure compliance with these standards and requirements through the use of control mechanisms such as permits.

The District has not classified as SIUs any of the NDUs that were visited during the audit. Minkler's Jewelry operates a zero-discharge metal finishing operation subject to categorical standards under 40 CFR Part 433. The regulations at 40 CFR 403.3(v)(2) stipulate that a POTW with an approved pretreatment program may classify CIUs discharging less than 100 gallons per day as an NSCIU. An NSCIU is required to submit annual certification statement as specified in 40 CFR 403.12(q). The Tetra Tech auditor strongly recommends that the District establish the necessary legal authority to implement the NSCIU classification by adopting into the SUO the definition in 40 CFR Part 403.3(v)(2).

8. Compliance Monitoring

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require that a POTW develop and implement an inspection and monitoring program to determine, independent of information supplied by nondomestic dischargers, compliance or noncompliance with applicable pretreatment standards and requirements. Furthermore, 40 CFR 403.8(f)(2)(vii) requires POTWs to investigate instances of noncompliance and enforce the regulations as necessary.

8.1 Compliance Sampling

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be sampled at least once a year unless the POTW has authorized a CIU to forego sampling of a pollutant regulated by federal pretreatment requirements. In such a case, the POTW must sample for the waived pollutant(s) at least once during the permit term [40 CFR 403.8(f)(2)(v)(A)].

Restaurants grease traps are sampled monthly to get a profile of the waste. If grease traps are at greater than 20 percent capacity, pumping is required. The restaurant is required to submit a copy of the invoice to the District as verification of the pumping event. District representatives noted that the biggest impact to the collection system and the WMF is historically from the restaurants.

Groundwater remediation wastes hauled to the WMF are sampled for benzene, toluene, and xylene before pumping. All results must be below detection (0.5 milligram per liter) before discharge can occur.

The lack of established monitoring makes it difficult to assess the impact from other nondomestic dischargers. Section 8.3 below includes recommendations for monitoring at Humboldt Sanitation and Six Rivers Brewery. The Tetra Tech auditor also recommends that the District conduct periodic sampling downstream of Minkler's Jewelry to secure independent verification, as required by 40 CFR 403.8(f)(2)(v), that no metals from the categorical process are being discharged to the sewer.

8.2 Compliance Inspections

The federal pretreatment regulations at 40 CFR 403.8(f)(2)(v) require that all SIUs be inspected at least once a year unless a discharger is subject to the reduced reporting requirements under 40 CFR 403.12(e)(3). In such a case, the POTW must inspect the discharger at least once every 2 years [40 CFR 403.8(f)(2)(v)(C)].

The District's compliance inspection frequencies were found to be inadequate. The District's inspection efforts are primarily focused on restaurants, which are inspected monthly. The District is preparing to initiate an oil/water separator evaluation program for area car washes and automobile service facilities. The other NDUs have been inspected by District personnel in the past but not necessarily annually. The District's NPDES permit Section VI(C)(5)(b)(iv) requires ongoing industrial inspections at a frequency to ensure adequate source control. Therefore, the District is required to establish and implement an inspection protocol that complies with its NPDES permit and the provisions of 40 CFR 403.8(f)(2)(v).

8.3 Nondomestic Discharger Site Inspections Conducted during the PCA

The Tetra Tech auditor, along with the District and Water Board representatives, inspected four of the District's NDUs. The Tetra Tech auditor noted the following during the nondomestic discharger site visits:

Humboldt Sanitation. This facility's primary operation is refuse collection, but it also operates a recycling center, a liquid waste booth rental company, and a fencing equipment rental company at the same location. The facility has two open wash bays on-site. The first wash bay is for the refuse collection trucks and has a four-stage oil/water separation system. Chico Oil pumps out the separator twice per year and disposes of the waste off-site. The second bay is for washing the dust off of portable toilet booths. The booths are *dry* when they arrive on-site, having already been pumped out by the hauler. They are sprayed off

when rented just before delivery simply for aesthetic purposes. The facility performs periodic monitoring of its stormwater runoff for heavy metals. There is, however, only random monitoring of the discharge to sewer even though the facility has experienced lead violations in the past. The Tetra Tech auditor recommends that the District evaluate the stormwater monitoring data to gauge the level of metals that might also be reaching the sewer. The auditor further recommends that the District initiate sampling of the discharge to sewer to verify that the waste does not continue to contain elevated levels of heavy metals. Additionally, the Tetra Tech auditor recommends that the District work with the facility to cover the wash bays to minimize the amount of stormwater entering the collection system.

Steve's Septic. The facility is a commercial septic hauling operation that also has on-site treatment of collected waste. The operation includes two trucks that collect waste from septic tanks throughout Humboldt County. Once on-site, the waste is dumped into one of two 10,000-gallon tanks. The waste is then pumped into the treatment unit. Polymer (polyacrylamide emulsion) is added for flocculation. After mixing, the waste is then pumped into the filter tank (a filter-lined roll-off box) for dewatering. The water filters through and drains to a 1,200-gallon settling tank. The water then passes through a three-stage settling chamber before entering the sewer. Solids generated from the operation are shipped off-site to a ranch in Gerlach, Nevada, for land application. As noted previously, the District is required to permit all waste hauling facilities that discharge to the WMF. No deficiencies were noted at this facility as part of the PCA. As noted previously, the District must issue a permit to this facility as required by Section VI(C)(5)(b)(ii) of its NPDES permit.

Six River's Brewery. The facility is a restaurant and small microbrewery that brews approximately three to five batches per week. The brewing operation uses one 200-gallon kettle and two 400-gallon kettles. A caustic cleaner and acid rinse is used to clean kettles after each batch. The brew room has a 2-foot floor trap that captures spillage and washdown water. The trap flows to the grease interceptor before entering the sewer. Solids wastes (grains, hops, and barley malt) are picked up daily by a local farmer and used for horse feed. Exact biochemical oxygen demand (BOD) loadings from the discharge are unknown. The Tetra Tech auditor strongly recommends that the District monitor the discharge for BOD and total suspended solids to verify the loading rates. No other concerns were noted at this facility.

Minkler's Jewelry. The facility is a commercial jeweler that performs a small amount of rhodium plating on individual pieces. The facility owner was not present at the time of the inspection, but other facility personnel noted that the plating occurs only about once a month and that no discharge is made to the sewer from the process. The plating and rinse takes place in small-volume beakers and is simply replenished as needed. The Tetra Tech auditor recommends that the District revisit the facility to speak with the owner and ensure that no discharge occurs from the facility. The auditor further recommends that the District issue a zero-discharge permit to the facility as an added level of protection for the WMF.

9. Pollution Prevention

Because of increased public awareness and concerns nationwide regarding unused pharmaceuticals, the District has initiated a *No Drugs Down the Drain* program. The program includes distribution of education flyers at various community events and designates

special locations and times for disposal of unused prescription medicine. The District also plans to purchase advertising space on prescription bags for local pharmacies. The District is to be commended for this progressive effort.

10. Summary of Requirements and Recommendations

Listed below are the primary requirements and recommendations resulting from the audit of the District's pretreatment program. For more specific information pertaining to each comment, see the cited sections of the report.

10.1 Requirements

1. The District has not completed an industrial waste survey in more than 6 years. The regulations at 40 CFR 403.8(f)(2) requires POTWs to identify all possible IUs and further identify the character and volume of pollutants contributed by each IU. Furthermore, the District's NPDES permit Section VI(C)(5)(b)(ii) permit requires the it to conduct an industrial waste survey at a minimum frequency of at least every 5 years. The District is required to complete the survey and submit the results to the Water Board. That report must include the following: (1) a list of industries eliminated from further evaluation with an explanation as to why, (2) a list of IUs in need of further evaluation, and (3) the final list of IUs for which the District has determined are in need of permitting under the pretreatment program. (Section 3.0, Industrial Waste Survey)
2. The SUO does not include many of the definitions listed in 40 CFR 403.3. The District is required to modify the SUO to include definitions for each of the specified terms. (Section 5.2.1, Definitions)
3. Section 24.01 of the SUO lists prohibited dischargers, but the language does not comply with 40 CFR 403.5(b). The District is required to modify the SUO's prohibitive discharge section to comply with 40 CFR 403.5(b). (Section 5.2.2, Prohibitive Discharge Standards)
4. 40 CFR 403.8(f)(1) lists the minimum requirements for an IU permit. Section 26.02.4 of the SUO lists information to be included in an IU permit issued by the District, but it is missing information regarding permit duration, non-transferability, applicable penalties, and slug discharge. The District is required to modify Section 26.02.4 to include all components of 40 CFR 403.8(f)(1). (Section 5.2.3, Control Mechanisms)
5. Section 29 of the SUO describes all enforcement remedies for the District. It fails to include all components of enforcement outlined in 40 CFR 403.8(f)(1)(vi). Of greatest significance, the SUO does not establish authority for an ERP. The District must develop an ERP to ensure an effective source control program. Therefore, the District is required to modify the SUO to comply with 403.8(f)(1)(vi). (Section 5.2.5, Enforcement)
6. Section VI(C)(5)(b)(ii) stipulates that the District is to establish a waste hauler permit system. At the time of the audit, Steve's Septic did not have a discharge permit and is

the largest contributor, by volume, to the POTW. In an effort to comply with Section VI(C)(5)(b)(ii) of the NPDES permit, the District must issue a permit to Steve's Septic. (Section 6.0, Control Mechanisms)

7. Minkler's Jewelry is a zero-discharging categorical facility. The District is required by 40 CFR 403.8(f)(1)(iii) to permit the facility as a zero-discharging CIU and require annual certification of the zero-discharge. (Section 6.0, Control Mechanisms)
8. The District's compliance inspection frequencies were found to be inadequate. The District's NPDES permit Section VI(C)(5)(b)(iv) requires ongoing industrial inspections at a frequency to ensure adequate source control. Therefore, the District is required to establish and implement an inspection protocol that complies with the NPDES permit and the provisions of 40 CFR 403.8(f)(2)(v). (Section 8.2, Compliance Inspections)

10.2 Recommendations

1. The District has initiated plans to reevaluate the local limits and has acquired the services of Freshwater Environmental to assist with this effort. The Tetra Tech auditor recommends that the District submit to the Water Board for approval the findings and proposed actions from the local limits evaluation before adopting any changes. (Section 4, Local Limits)
2. Section 26.02.3 of the SUO states that the permit application submitted by NDUs becomes the permit upon approval by the District. The Tetra Tech auditor strongly recommends that the District develop a permit template that meets the standards established in 40 CFR 403.8(f)(1). (Section 5.2.3, Control Mechanisms)
3. Section 26.01 of the draft SUO references the authority to request periodic discharge reports but does not specifically identify BMR requirements. The Tetra tech auditor strongly recommends that the District revise the SUO to specify the BMR requirements at 40 CFR 403.12(b). (Section 5.2.4, Reporting Requirements)
4. As noted throughout the report, the SUO does not comply with the minimum requirements of 40 CFR Part 403 and must be revised accordingly. The Tetra Tech auditor recommends the District obtain a copy of the recently revised Model SUO from EPA's Web site at <http://www.epa.gov/npdes/pretreatment> to assist with this effort. (Section 5.2.5, Enforcement)
5. The District has not classified as SIUs any of the NDUs that were visited during the audit. Minkler's Jewelry operates a zero-discharge metal finishing operation subject to categorical standards under 40 CFR Part 433. The regulations at 40 CFR 403.3(v)(2) stipulate that a POTW with an approved pretreatment program may classify CIUs discharging less than 100 gallons per day as an NSCIU. The Tetra Tech auditor strongly recommends that the District establish the necessary legal authority to implement the NSCIU classification by adopting into the SUO the

definition in 40 CFR Part 403.3(v)(2). (Section 7.0, Application of Pretreatment Standards and Requirements)

6. The lack of established monitoring makes it difficult to assess the impact from other nondomestic dischargers. Section 8.3 of this report has recommendations for monitoring at Humboldt Sanitation and Six Rivers Brewery. The Tetra Tech auditor also recommends that the District conduct periodic sampling downstream of Minkler's Jewelry to secure independent verification, as required by 40 CFR 403.8(f)(2)(v), that no metals from the categorical process are being discharged to sewer. (Section 8.1, Compliance Sampling and Section 8.3, Nondomestic Discharger Site Inspections Conducted During the PCA)
7. Humboldt Sanitation performs periodic monitoring of its stormwater runoff for heavy metals. However, no monitoring of the discharge to sewer is performed. The Tetra Tech auditor recommends that the District evaluate the stormwater monitoring data to gage the level of metals that might also be reaching the sewer. The auditor further recommends that the District initiate sampling of the discharge to sewer to verify that the waste does not contain elevated levels of heavy metals. (Section 8.3, Nondomestic Discharger Site Inspections Conducted during the PCA)
8. Humboldt Sanitation has two open wash bays on-site. The Tetra Tech auditor recommends that the District work with the facility to ensure that the wash bays are covered to minimize the amount of stormwater entering the collection system. (Section 8.3, Nondomestic Discharger Site Inspections Conducted during the PCA)
9. Exact BOD loadings from Six Rivers Brewery were unknown at the time of the PCA. The Tetra Tech auditor strongly recommends that the District monitor the discharge for BOD and total suspended solids to verify the loading rates. (Section 8.3, Nondomestic Discharger Site Inspections Conducted during the PCA)
10. Minkler's Jewelry is a commercial jeweler that performs a small amount of rhodium plating on individual pieces. Such a process is subject to 40 CFR Part 433. The Tetra Tech auditor recommends that the District revisit the facility to speak with the owner and ensure that no discharge is occurring as reported during the site visit. The auditor further recommends that the District issue a zero-discharge permit to the facility as an added level of protection for the WMF. (Section 8.3, Nondomestic Discharger Site Inspections Conducted during the PCA)

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.6. Adopt Resolution 2012-13 to modify the Sewer Use Ordinance sections of the Rules and Regulations

PRESENTED BY: Greg Orsini, Operations director

TYPE OF ACTION: Roll Call Vote

Recommendation:

Staff requests the Board approve Resolution 2012-13 to amend the MCSD Rules and Regulations including the update of the following sections:

- Article I, Regulation 1 "Additional Definitions",
- Article III, Regulation 24 "Additional Definitions",
- Article III, Regulation 26 "Reports, Wastewater Discharge Permits, And Administration ",
- Article III, Regulation 27 "Wastewater Charges and Fees",
- Article III, Regulation 29 "Enforcement",
- Article III, Regulation 30 "Abatement".

Discussion:

The update to our Sewer Use Ordinance is designed to grant the McKinleyville Community Services District (MCSD) the authority to issue Waste Discharge Permits and administer the Pretreatment Program

In May of 2009 Tetra Tech conducted a Pretreatment Audit MCSD on behalf of Regional Water Quality Control Board (RWQCB). The resulting report received in October of 2009 was then reviewed by the RWQCB. The Tetra Tech recommendations were elevated to requirements by the RWQCB.

The RWQCB requested MCSD review and update, as necessary, the existing Sewer Use Ordinance to reflect new state and federal requirements, treatment plant changes, National Pollutant Discharge Elimination System (NPDES) Permit requirements, and any other requirements that may affect MCSD's ability to enforce Pretreatment Standards.

MCSD enlisted the help of Freshwater Environmental and started work to update the Sewer Use Ordinance to meet requirements expressed in the recommendation letter from the RWQCB.

MCSD Legal counsel reviewed and provided guidance in the creation of and modification to the existing ordinance.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

The resulting issuance of waste discharge permits and administration of this program will be revenue neutral. Language will be implemented in the Sewer Use Ordinance that allows MCSD to charge time and material through fees to finance the Pretreatment Program and enforce the Local Limits.

Environmental Requirements:

This project is Categorically Exempt under Title 14, California Code of Regulations, Chapter 3, Article 19, Section 15308 as the wastewater discharge limitations are part of a regulatory Ordinance (MCSD Ordinance No. 0-06-09) designed to protect the environment and there is not a relaxation of standards allowing environmental degradation.

Exhibits/Attachments

- Exhibit 1 Resolution 2012-13

EXHIBIT 1

RESOLUTION 2012-13

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT AMENDING THE RULES AND REGULATIONS RELATED TO SEWER USE

WHEREAS, the McKinleyville Community Services District (MCSD) is a community services district that operates as a special district in accordance with Government Code Section 56036; and,

WHEREAS, the MCSD Board of Directors desires to modify portions of the existing wastewater ordinance that is a comprehensive set of rules and regulations governing the design, construction, maintenance and use of public and private sewer facilities within District Boundaries; and,

WHEREAS, the MCSD Board of Directors desires that these rules and regulations consolidate existing guidelines, clarify and amend District rules and procedures, and address new regulatory requirements; and,

WHEREAS, a public hearing to consider the adoption of a wastewater ordinance was duly noticed and held in accordance with Water Code Section 31105 on the date hereof,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the McKinleyville Community Services District hereby:

1. Adopt the modifications to the MCSD sewer use ordinance contained below and directs that it be implemented consistent with all applicable laws and related District policies.:
2. That the provisions of this ordinance shall be effective immediately upon adoption.

ARTICLE I - DEFINITIONS

REGULATION 1 - DEFINITIONS

ADDITIONAL DEFINITIONS. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated. For the purpose of this ordinance, additional terms shall have the meaning indicated in Chapter 1 of the most recent edition of the "Uniform Plumbing Code," copies of which are on file in the District.

ACT, OR "THE ACT". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq. and any amendments thereof.

APPLICANT shall mean the person making application for a permit for wastewater discharge or for a sewer installation and shall be the owner of premises to be served by the sewer for which a permit is requested or his authorized agent.

RESOLUTION 2012-13

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.

(a) If the User is a corporation:

- i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the MCSD.

BENEFICIAL USES shall mean the uses of waters of the State that may be protected against quality degradation including domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by Federal or State law.

BEST MANAGEMENT PRACTICES OR BMPS. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Rule 24 [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (denoted BOD) shall mean quantity of oxygen utilized in the biochemical oxidation of the

wastewater under standard laboratory conditions in five (5) days at 20 C, expressed in milligrams per liter (mg/l).

BOARD means the Board of Directors of McKinleyville Community Services District.

BUILDING shall mean any structure used for human habitation or a place of business, recreation or other purpose containing sanitary facilities.

BUILDING SEWER shall mean that portion of any sewer beginning at the plumbing or drainage outlet of any building or industrial facility and running to the property line or to a private wastewater disposal system.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

COMBINED SEWER shall mean any sewer receiving both surface runoff and wastewater.

COMMUNITY SEWER shall mean a sewer owned and operated by the District.

COMPATIBLE POLLUTANT shall mean BOD, SS, pH and fecal coliform bacteria, plus additional pollutants identified in the Authority's National Pollutant Discharge Elimination System (NPDES) Permit if the District's treatment works were designed to treat such pollutants, and in fact do remove such pollutants to a substantial degree.

CONNECTION means the pipeline and appurtenant facilities such as the curb stop, meter and meter box all used to extend water service from a main to premises, the laying thereof and the tapping of the main. Where services are divided at the curb or property line to serve several customers, each such branch service shall be deemed a separate service.

CONNECTION CHARGES shall mean any fee or charges made by the District for the privilege of connecting to the sanitary sewer system.

CONTAMINATION shall mean an impairment of the quality of the waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the State are affected.

CONTRACTOR shall mean any individual, firm, corporation, partnership or association duly licensed by the State of California to perform the type of work to be done under the permit and shall be responsible to the owner or their agent.

COST means the cost of labor, materials, transportation, supervision, engineering, and all other necessary overhead expenses.

CROSS-CONNECTIONS means any physical connection between the piping system from the District service and that of any other water supply that may be forced or drawn into the District distribution mains.

CUSTOMER means, the water user, the tenant, or the owner.

Daily Maximum Limit is the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

DEVELOPER STREET LIGHTING CHARGES shall mean the total monthly street lighting charge for all lots in a new subdivision which are imposed upon the subdivision developer prior to the developer's sale of individual lots and the establishment of regular street lighting service pursuant to Regulation 52.

DISTRICT means the McKinleyville Community Service District, McKinleyville, California.

DOMESTIC WASTEWATER shall mean the wastewater derived principally from dwellings, business buildings, institutions and the like.

EQUIVALENT RESIDENTIAL UNIT shall mean a free-standing, single family residential structure. The average hydraulic flow from such a structure is 5,386 gallons per month. Other types of structures such as apartments, mobile home installations, RV parks, and commercial establishments, will be evaluated by the District on an individual basis with respect to average monthly flows, and the capacity charge imposed thereon will be proportionate to the standard charge imposed on Equivalent Residential Units.

FEDERAL ACT The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq. and any amendments thereof.

FIXTURE shall mean any sink, tub, shower, receptor, water closet or other facility connected by a drain to the sewer.

GARBAGE shall mean the solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

GENERAL MANGER shall mean the MCSD General Manager or appointed representative.

HOLDING TANK WASTES shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

INCOMPATIBLE POLLUTANT shall mean any pollutant which is not a "compatible pollutant" as defined in Rule 1.10.

USER OR INDUSTRIAL USER (IU). A source of indirect discharge. An indirect discharge is the introduction of pollutants from a non-domestic source into a publicly owned waste-treatment system. Indirect dischargers can be commercial or industrial facilities whose wastes enter local sewers.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the MCSD's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State

regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

INDUSTRIAL WASTEWATER shall mean the wastewater in which the liquid wastes from industrial and manufacturing processes, laboratory, trade or business predominate as distinct from domestic wastewater (Rule 1.19).

INHABITED AREAS shall mean any specifically described geographic area within the District.

LATERAL SEWER shall mean the portion of a sewer lying within a public street connecting a building sewer to the community sewer.

LIVING UNIT shall mean any residence, trailer, mobile home, habitation or other structure customarily occupied by a person or family containing bath and kitchen facilities.

MAIN means a water line in a street, highway, alley, or easement used for public and private fire protection and for general distribution of water.

MAJOR CONTRIBUTING INDUSTRY shall mean any wastewater contributor identified by the Standard Industrial Classification (SIC) Manual in any of Divisions A, B, D, E, and I that: (1) has a discharge flow of 50,000 gallons or more per average work day (if seasonal, the average shall be computed for the period of use); or (2) has a flow or pollutant loading greater than five percent of the design capacity of the elements of the District's treatment works which serve the wastewater contributor; or (3) has in its wastes toxic pollutants in toxic amounts as defined in the standard issued under Section 307 (a) of the Federal Water Pollution Control Act Amendments of 1972; or (4) is found by the Manager to have significant impact, either singly or in combination with other contributing industries, on the treatment works or upon the quality of effluent from the treatment works.

MANAGER shall mean the District Manager or appointed representative.

MASS EMISSION RATE shall mean the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

MULTIPLE LIVING UNIT shall mean any residential complex with two or more residences on one property including duplexes, triplexes, apartments, trailer parks, mobile home parks and manufactured home parks but excluding motels, hotels and boarding houses.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NEW SOURCE.

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the

construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (a) (ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- i) Begun, or caused to begin, as part of a continuous onsite construction program
 - a) any placement, assembly, or installation of facilities or equipment; or
 - b) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

NUISANCE shall mean anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

OWNER means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder's office, or the person in

possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner.

OUTLET means any properties of a sewer system to which a fixture may be connected.

OUTSIDE SEWER shall mean any private sewer beyond the limits of the District.

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the MCSD's NPDES permit, including an increase in the magnitude or duration of a violation.

PERMIT shall mean any written authorization required pursuant to this or any other rule, regulation or ordinance of the District for the installation of, connection to, or use of any water or wastewater works.

PERSON shall mean any individual, firm, company, partnership, association, and private, public, and municipal corporation's responsible corporate officer, the United States of America, the State of California, districts and all political subdivisions, governmental agencies and mandatories thereof.

PH shall mean the reciprocal of the negative logarithm of the hydrogen ion concentration in moles per liter of solution.

POLLUTION shall mean alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for the beneficial use or affects the facilities which serve such beneficial uses. Pollution may include contamination.

PREMISES means a lot or parcel of real property under one ownership, except where there are well-defined boundaries or partitions such as fences, hedges or other restrictions preventing the common use of the property by the several tenants, in which case each portion shall be deemed separate premises. Apartment houses, trailer courts and office buildings may be classified as single premises.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

PRETREATMENT STANDARDS OR STANDARDS. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

PRIVATE FIRE PROTECTION SERVICE means water service and facilities for building sprinkler systems, hydrants, hose reels and other facilities installed on private property for fire protection and the water available therefore.

PUBLIC FIRE PROTECTION SERVICE means the service and facilities of the entire water supply, storage and distribution system of the District including the fire hydrants affixed thereto, and the water available for fire protection, excepting house service connections and appurtenances thereto.

PUBLICLY OWNED TREATMENT WORKS OR POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292),

which is owned by the MCSD. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

REGULAR WATER SERVICE means water service and facilities rendered for normal domestic, commercial and industrial purposes on a permanent basis, and the water available therefore.

REPORT means the report referred to in Section 5473 of the Health and Safety Code of the State of California.

SANITARY SEWER shall mean a sewer which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.

SEWER shall mean any pipe or conduit for carrying wastewater.

SEWER SERVICE CHARGES means fees, rates or other charges for service or the ability to provide service furnished by District in connection with its sanitation or sewerage system.

SHALL is mandatory; "May" is permissive.

SIDE SEWER shall mean the sewer line beginning at the foundation wall of any building and terminating at the community sewer and includes the building sewer and lateral sewer together.

SIGNIFICANT INDUSTRIAL USER (SIU). Except as provided in paragraphs (c) and (d) of this Section, a Significant Industrial User is:

(a) An Industrial User subject to categorical Pretreatment Standards; or

(b) An Industrial User that:

i) Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

ii) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

iii) Is designated as such by the MCSD on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(c) The MCSD may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

i) The Industrial User, prior to MCSD's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

- ii) The Industrial User annually submits the certification statement required in Rule 26.10.02 (b) [see 40 CR 403.12(q)], together with any additional information necessary to support the certification statement; and
- iii) The Industrial User never discharges any untreated concentrated wastewater.

(d) Upon a finding that a User meeting the criteria in Subsection (b) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the MCSD may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

SLUG LOAD OR SLUG DISCHARGE. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Rule 24 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

STORM SEWER or STORM DRAIN shall mean a conduit which carries storm and surface or ground waters and drainage, but excludes domestic and industrial wastewater.

STREET shall mean any public highway, road, street, avenue, alley, way, public place, public easement or right-of-way.

STREET LIGHTING FACILITIES shall mean all works or improvements used or useful for the lighting of public places as set forth in sections 22533 and 22534 of the California Streets and Highway Code.

STREET LIGHTING PLAN shall mean the staff report and any related drawings pertaining to the location of street lighting facilities within a street lighting zone.

STREET LIGHTING ZONE shall mean the geographic area included in a resolution adopted pursuant to Rule 53.05 or Rule 54.06.

SUSPENDED SOLIDS (denoted SS) shall mean solids that either float on the surface, or are in suspension in water, wastewater or other liquids, and which are removable by laboratory filtering, and are referred to as nonfilterable residue in the laboratory test described in "Standard Methods for the Examination of Water and Wastewater."

TEMPORARY WATER SERVICE means water service and facilities rendered for construction work and other uses of limited duration and the water available therefore.

TREATMENT WORKS shall mean any devices and systems used in the storage, treatment, recycling, and reclamation of domestic or industrial wastes of a liquid nature or necessary to recycle or reuse water at the most economical cost over the useful life of the works, including interceptor sewers, outfall sewers, wastewater collection systems, pumping, power, and other

equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste.

UNPOLLUTED WATER shall mean water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

USER shall mean any person that discharges, causes or permits the discharge of wastewater into a community sewer.

USER CLASSIFICATION shall mean the classification of users based on the 1972 edition of the Standard Industrial Classification (SIC) Manual prepared by the Executive Office of Management and Budget.

WASTE shall include wastewater and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for the purposes of, disposal.

WASTEWATER shall mean any waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS shall mean the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WASTEWATER DISCHARGE PERMIT shall mean the permit issued by the District to control the discharge of industrial wastewater to the treatment works.

WASTEWATER WORKS shall mean the system of building sewers, lateral sewers, community sewers, and treatment works designed for collection, conveyance, treatment, and disposal of wastewater.

WATER DEPARTMENT means the Board of Directors performing functions related to the District water service, together with the Manager and other duly authorized representatives.

WATERS OF THE STATE shall mean any water, surface or underground, including saline waters within the boundaries of the State.

PARK SYSTEM means Hiller Park, Pierson Park, or any other area in the District owned or used by the District and devoted to recreation.

VEHICLE means any wheeled conveyance, whether motorpowered, animal drawn, or self propelled. The term shall include any trailer in tow of any size or kind.

RESOLUTION 2012-13

REGULATION 24. - USE OF THE PUBLIC SEWERS

Rule 24.01. PROHIBITIONS ON DISCHARGES. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. This general prohibition applies to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

No person shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater containing:

- (a) pollutants which cause a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
- (b) solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference or injury to the treatment works;
- (c) pollutants which cause a danger to life or safety of personnel;
- (d) pollutants which cause a strong offensive odor or prevention of the effective maintenance or operation of the treatment works;
- (e) pollutants which cause air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
- (f) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- (g) pollutants which cause a the District's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation or treatment process;
- (h) pollutants which cause a detrimental environmental impact or a nuisance in the Waters of the State or a condition unacceptable to any public agency having regulatory jurisdiction over the District;
- (i) any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the MCDS's NPDES permit;
- (j) pollutants which cause conditions at or near the District's POTW which violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body;
- (k) pollutants which cause the District's POTW to be overloaded or cause excessive collection or treatment costs, or may use a disproportionate share of the facilities;
- (l) pollutants which cause a pass through of any pollutant;
- (m) wastewater having a pH less than 6.5 or more than 8.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(n) wastewater having a temperature greater than 140 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(o) more than 100 mg/l of oil or grease of animal or vegetable origin;

(p) more than 25 mg/L Total Petroleum Hydrocarbons (TPH) as diesel, motor oil, hydraulic oil or gasoline;

(q) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(r) identifiable chlorinated hydrocarbons;

(s) trucked or hauled pollutants, except at discharge points designated by the General Manager in accordance with Rule 24.15 of this ordinance;

(t) substances which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261;

(u) medical Wastes, except as specifically authorized by the General Manager in an individual wastewater discharge permit, or a general permit.

(w) any detectable concentration of 4,4-DDT.

Rule 24.02. PROHIBITIONS ON STORM DRAINAGE AND GROUND WATER.

Storm water, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections to a community sewer.

Rule 24.03. PROHIBITIONS ON UNPOLLUTED WATER. Unpolluted water, including, but not limited to cooling water, process water or blow-down from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a community sewer.

Rule 24.04. LIMITATIONS ON RADIOACTIVE WASTES. No person shall discharge or cause to be discharged, any radioactive waste into a community sewer except;

(a) when the person is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials, and

(b) when the waste is discharged in strict conformity with current California Radiation Control Regulations (California Administrative Code, Title 17) and the Nuclear Regulatory Commission regulations and recommendations for safe disposal, and

(c) when the person is in compliance with all rules and regulations of all other applicable regulatory agencies.

Rule 24.05. LIMITATIONS ON THE USE OF GARBAGE GRINDERS. Waste from garbage grinders shall not be discharged by any nondomestic users into the community sewer.

Rule 24.06. LIMITATIONS ON POINT OF DISCHARGE. No person shall discharge any substances directly into a manhole or other opening in a

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community sewer other than through an approved building sewer, unless he has been issued a permit by the District. If a permit is issued for such direct discharge, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the District.

Rule 24.07. HOLDING TANK WASTE. No person shall discharge any holding tank waste into a community sewer unless he has been issued a permit by the District. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the District. An exception to the above is that no permit will be required for discharge of domestic wastes from recreational vehicles holding tanks provided that such discharges are made into a District approved facility designed to receive such wastes.

Rule 24.08. NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

(a) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the General Manager may impose an alternate limit in accordance with 40 CFR 403.6(e).

(b) A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section. [Note: See 40 CFR 403.15]

(i) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the MCSD. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraphs a) through d) of this Section are met.

a) Criteria.

1) Either 1- The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or 2- The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be

granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

3) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

4) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The MCSD may waive this requirement if it finds that no environmental degradation will result.

Rule 24.09. LIMITATIONS ON WASTEWATER STRENGTH (LOCAL LIMITS).

Rule 24.09.01. The General Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following concentrations:

POLLUTANT	DAILY MAXIMUM LIMIT (mg/L)
Copper	0.1300
Lead	0.0055
Molybdenum	0.0047
Nickel	0.0052
Zinc	0.135
bis(2-ethylhexyl) phthalate	0.0235
Oil and Grease (petroleum and vegetable)	100
BOD	354

(a) The above limits apply at the point where the wastewater is discharged to the POTW. All Local Limits enforced as Daily Maximum limits. The Daily Maximum Limit is the arithmetic average of all effluent samples for a pollutant

collected during a calendar day. All concentrations for metallic substances are for total metal unless indicated otherwise. The General Manager may impose mass limitations in addition to the concentration-based limitations above.

(b) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager or other parties approved by EPA.

(c) BMPs. The General Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, or general permits, to implement Local Limits and the requirements of Rule 24.

(d) Right of Revision. The MCSD reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

(e) Dilution. No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The General Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

Rule 24.09.02 The General Manager shall cause to be prepared from time to time a list of the maximum permissible quantities or concentrations of certain constituents in industrial or wastewater flows and otherwise issue detailed directions for meeting the requirements of this section.

Limitations on wastewater strength in Rule 24 of this Ordinance may be supplemented with more stringent limitations provided:

(a) If the District determines that the limitations in Rule 24 may not be sufficient to protect the operation of the District's treatment works, or

(b) If the Authority determines that the limitations in Rule 24 may not be sufficient to enable the District's POTW to comply with water quality standards or effluent limitations specified in the

District's National Pollutant Discharge Elimination System (NPDES) permit.

Rule 24.10. DISPOSAL OF UNACCEPTABLE WASTE. Waste not permitted to be discharged into the community sewer must be transported to a State approved disposal site. The required "Waste Haulers Report" must be completed and a copy furnished within (30) days to the District by the discharger.

Rule 24.11. INTERCEPTORS REQUIRED. Grease, oil and sand interceptors shall be provided when, in the opinion of the General Manager, they are necessary for the proper handling of liquid wastes, containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for buildings used for residential purposes. All interceptors shall be of a type and capacity approved by the General Manager and shall be so located as to be readily and easily accessible for cleaning and inspection.

All such grease, oil and sand interceptors shall be maintained by the Owner, at their expense, in continuous efficient operation at all times.

Rule 24.11.01. GREASE INTERCEPTORS/TRAPS. Establishments serving food, manufacturing food products, Slaughter Houses, Packing Establishments, Car Washes, Auto Wash Racks, etc. are grouped into the following major categories:

INDUSTRIAL-commercial facilities, and those facilities designated by the General Manager.

HIGH VOLUME-full menu types establishments operating over 16 hours per day and/or serving 500 or more meals per day.

MEDIUM VOLUME-full menu or specialty menu type establishments serving full meals 8 to 16 hours per day, and/or 100 to 400 meals per day.

SMALL VOLUME-fast foot, take out or specialty type food establishments with limited menus, a minimum of dish washing, and/or minimal seating capacity.

Rule 24.11.02. GREASE INTERCEPTORS. Industrial facilities, High Volume and Medium Volume food establishments are required to install a grease interceptor. The size, type and location of each grease interceptor shall be approved by the General Manager or his designated representative. Waste in excess of 140°F (60°C) shall not be discharged into a grease interceptor. Grease interceptors shall have a minimum 750-gallon capacity.

Any type of business or establishment such as, but not limited to restaurants, bakeries, donut shops, take-out, drive-in eating establishments, ice cream or milk drive-in stations, hospitals, hotels, markets, recreation or reception halls, etc., where any grease or other objectionable materials may be discharged into a public or private sewage main or disposal system shall have a grease interceptor.

Interceptors shall be constructed and installed at the expense of the owner, in accordance with the design previously approved by the General Manager.

Each grease interceptor shall be so installed and connected that it shall be at all times easily accessible for inspection, cleaning, and removal of the intercepted grease. A grease interceptor may not be installed in any part of a building where food is handled. Proper location of the grease interceptor shall meet the Uniform Plumbing Code Requirements and the approval of the General Manager.

Each commercial facility or business establishment for which a grease interceptor is required shall have an interceptor which shall serve only that business establishment.

Buildings remodeled for use requiring interceptors shall be subject to these regulations.

For the purpose of this section the term 'fixture' shall mean and include each plumbing fixture, appliance, apparatus or other equipment required to be connected to or discharged into a grease interceptor by any provision of this section.

Waste discharge from fixtures and equipment in the above-mentioned types of establishments which may contain grease or other objectionable materials, including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposal, soup kettles, etc., and floor drains located in areas where such objectionable materials may exist, may be drained into the sanitary waste through the interceptor when approved by the General Manager. Exception: Toilets, urinals, and other fixtures containing fecal material may not flow through the interceptor.

The interceptors shall be maintained in efficient operating condition by periodic removal and proper disposal of the accumulated grease. No such collected grease shall be introduced into any drainage piping or public or private sewer.

Abandoned grease interceptors shall be emptied and filled in the same manner as required for abandoned septic tanks as described in Section 1119 of the Uniform Plumbing Code.

The cover for grease interceptors shall be one-half inch (1/2") steel plate reinforced as required by the General Manager, said reinforcing to depend upon the load to be imposed on the plate. Except as otherwise provided, the cover shall be gas-tight on all interceptors and the waste shall enter the interceptor through the inlet pipe only. Interceptors shall be so designed that they will not become air bound if closed covers are used. Each interceptor shall be properly vented, Sec 708(d) UPC.

Interceptors shall be installed in such a manner that drainage from areas outside the area intended to be served may not enter. Interceptors shall be tested in a manner approved by the District and shall be witnessed by a District Inspector. Grade rings may be used to establish final grade and shall be installed using Ram-Nek and Ram-Nek primer, and inspected by the District.

Rule 24.11.03. GREASE TRAPS. Any type of business or establishment such as, but not limited to restaurants, bakeries, donut shops, take-out, drive-in eating establishments, ice cream or milk drive-in stations, hospitals, hotels, markets, recreation or reception halls, etc., where any grease or other objectionable materials may be discharged into a public or private sewage main or disposal system which is deemed by the General Manager or his designated representative to be a Small Volume food establishment as described in

Rule 24.11.01 may choose to install a grease trap in place of a grease interceptor.

The size, type and location of each grease trap shall be approved by the General Manager or his designated representative. Wastes in excess of 140° F (60°C) shall not be discharged into a grease trap.

For the purpose of this section, the term "fixture" shall mean and include each plumbing fixture, appliance, apparatus or other equipment required to be connected to or discharged into a grease trap by any provision of this section.

Waste discharge from fixtures and equipment in the above-mentioned types of establishments which may contain grease or other objectionable materials, including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposal, soup kettles, etc., and floor drains located in areas where such objectionable materials may exist, may be drained into the sanitary waste through the grease trap when approved by the General Manager. Exception: Toilets, urinals, and other fixtures containing fecal material may not flow through the grease trap.

No grease trap shall be installed which has an approval rate of flow of more than fifty-five (55) gallons per minute, nor less than twenty (20) gallons per minute, except with prior written approval of the General Manager.

Each plumbing fixture or piece of equipment connected to a grease trap shall be provided with an approved type flow control or restricting device installed in a readily accessible and visible location in the tailpiece or drain outlet of each such fixture. Flow control devices shall be so designed that the flow through such device or devices shall at no time be greater than the rated capacity of the grease trap. No flow control device having adjustable or removable parts shall be approved.

Each grease trap required by this section shall have an approved rate of flow, expressed in gallons per minutes, which is not less than forty (40) percent of the total capacity in gallons of fixtures discharging into said trap. The grease retention capacity of the trap, expressed in pounds of grease, shall not be less than two times the approved rate of flow in gallons per minute.

Any grease trap installed with the inlet more than four (4) feet lower in elevation than the outlet of any fixture discharging into such grease trap shall have an approved rate of flow which is not less than fifty (50) percent greater than that given in the preceding paragraph. Not more than four (4) separate fixtures shall be connected to or discharged into any one (1) grease trap.

Each fixture discharging into grease trap shall be individually trapped and vented in an approved manner. An approved type grease trap may be used as a fixture trap for a single fixture when the horizontal distance between the fixture outlet and the grease trap does not exceed four (4) feet and the vertical tailpipe or drain does not exceed two and one-half (2 ½) feet.

No water-jacketed grease trap or grease interceptor shall be approved or installed. No mechanical grease trap shall be allowed.

Each grease trap shall have an approved water seal of not less than two (2) inches in depth or the diameter of its outlet, whichever is greater.

Rule 24.11.04. TIME OF COMPLIANCE. All commercial facilities and food establishments described in Division VII shall be required to install a sand and/or grease interceptor or grease trap within the sixty (60) day period after the first occurrence of any of the following events:

- (a) Transfer of any ownership or interest in the commercial facility;
- (b) The issuance by the County of any building permit for the construction, reconstruction or related work to be performed on the premises costing more than \$5,000;
- (c) The backup or discharge of raw sewage on or from the premises due to grease build up in their service lateral;
- (d) Or ninety (90) days after receiving written notice from the General Manager of the necessity for installation of such facilities.

Rule 24.11.05. MONITORING AND REPORTING. All establishments having a grease trap or interceptor shall maintain and clean this unit as recommended by the manufacturer. Each grease trap or interceptor shall be regularly maintained by the proprietor or property owner and records kept at the site for inspection by the District. Maintenance will vary depending upon the size of the unit and grease loading. The property owner or proprietor shall send a copy of the maintenance records to the District annually from the time of installation or some other agreed upon date by the District. At no time shall the unit be allowed to become clogged with grease so as to create damage to the District collection or treatment facilities. The Proprietor must develop a cleaning schedule sufficient to keep the unit functioning properly. Records of grease disposal to a collection agent must be made available to District personnel upon request.

Rule 24.12. PRELIMINARY TREATMENT OF WASTES. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Rule 24 of this ordinance within the time limitations specified by EPA, the State, or the General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to District under the provisions of this ordinance.

Rule 24.13. MAINTENANCE OF PRETREATMENT FACILITIES. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical

Pretreatment Standards, Local Limits, and the prohibitions set out in Rule 24 of this ordinance within the time limitations specified by EPA, the State, or the General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the MCSD under the provisions of this ordinance.

Rule 24.14. AVAILABILITY OF DISTRICT FACILITIES. If sewerage capacity is not available, the District may require the discharger to restrict their discharge until sufficient capacity can be made available. When requested, the District will advise persons desiring to locate new facilities as to the areas where wastewater of their proposed quantity and quality can be received by available sewerage facilities. The District may refuse service to persons locating facilities in areas where their proposed quantity or quality of wastewater is unacceptable in the available collection facility.

Rule 24.15. HAULED WASTEWATER

(a) Septic tank waste may be introduced into the POTW only at locations designated by the General Manager, and at such times as are established by the General Manager. Such waste shall not violate Rule 24 of this ordinance or any other requirements established by the MCSD. The General Manager may require septic tank waste haulers to obtain individual wastewater discharge permits or general permits.

(b) The General Manager may require haulers of industrial waste to obtain individual wastewater discharge permits or general permits. The General Manager may require generators of hauled industrial waste to obtain individual wastewater discharge permits or general permits. The General Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the General Manager. No load may be discharged without prior consent of the General Manager. The General Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The General Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Rule 24.16. ADDITIONAL PRETREATMENT MEASURES

(a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the General Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the General Manager, shall comply with the MCSD's Oil and Grease Management ordinance Rule 24.11 and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with the MCSD's Oil and Grease Management ordinance Rule 24.11 by the User at their expense.

Rule 24.17. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS The General Manager may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the General Manager shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which provides, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the General Manager of any accidental or Slug Discharge, as required by Rule 26.07 of this ordinance; and
- (d) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

REGULATION 26. - REPORT, WASTEWATER DISCHARGE PERMITS, AND ADMINISTRATION

Rule 26.01. DISCHARGE REPORTS. The District may require that any person discharging or proposing to discharge wastewater into a community sewer file a periodic Discharge Report. The Discharge Report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rates, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of waste including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. In addition to Discharge Reports, the District may require information in the form of

Wastewater Discharge Permit applications, self-monitoring reports and other reports contained in Rule 26.02 through 26.10.

Rule 26.02. BASELINE MONITORING REPORTS.

(a) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the General Manager a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the General Manager a report which contains the information listed in paragraph (b), below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) All information required in Rule 26.11.02 (a), Rule 26.11.02 (g), Rule 26.11.02 (k), and Rule 26.11.02 (l).

(ii) Measurement of pollutants.

a) The User shall provide the information required in Rule 26.11.02 (m) (i) through (v).

b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

d) Sampling and analysis shall be performed in accordance with Rule 24.09.01 (b) and Rule 26.10.03;

e) The General Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

f) The baseline report shall indicate the time, method, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is

representative of normal work cycles and expected pollutant Discharges to the POTW.

(c) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(d) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Rule 26.03 of this ordinance.

(e) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Rule 26.10.02 (a) of this ordinance and signed by an Authorized Representative as defined in Section 1.

Rule 26.03. COMPLIANCE SCHEDULE PROGRESS REPORTS. The following conditions shall apply to the compliance schedule required by Rule 26.02 (d) of this ordinance:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months; and

(c) The User shall submit a progress report to the General Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the General Manager.

Rule 26.04. REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE. Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the General Manager a report containing the information described in Rule 26.11.02

(1) and Rule 26.11.02 (m) and Rule 26.02 (b) (ii) of this ordinance. All compliance reports must be signed and certified in accordance with Rule 26.10.02 (a) of this ordinance. All sampling will be done in conformance with Rule 26.10.03.

Rule 26.05. PERIODIC COMPLIANCE REPORTS

(a) Any Significant Industrial User subject to a pretreatment standard must, at a frequency determined by the General Manager, submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the General Manager or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Rule 26.10.02 (a) of this ordinance.

(b) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

Rule 26.06. REPORTS OF CHANGED CONDITIONS. Each User must notify the General Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least (45) days before the change.

(a) The General Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Rule 26.11.02 of this ordinance.

(b) The General Manager may issue an individual wastewater discharge permit or a general permit under Rule 26.11.09 of this ordinance or modify an existing wastewater discharge permit or a general permit under Rule 26.11.07 of this ordinance in response to changed conditions or anticipated changed conditions.

Rule 26.07. REPORTS OF POTENTIAL PROBLEMS.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the General Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Within five (5) days following such discharge, the User shall, unless waived by the General Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the General Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

Rule 26.08. NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by a User indicates a violation, the User must notify the General Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the General Manager within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the MCSD performs sampling at the User's facility at least once a month, or if the MCSD performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the MCSD receives the results of this sampling, or if the MCSD has performed the sampling and analysis in lieu of the Industrial User.

Rule 26.09. NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

(a) Any User who accidentally discharges hazardous waste shall notify the General Manager, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the General Manager of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Discharge of hazardous waste is prohibited under Rule 24.01 (t) of this ordinance.

Rule 26.10. OTHER REPORTING REQUIREMENTS

(a) All periodic compliance reports must be signed and certified in accordance with Rule 26.10.02 (a) of this ordinance.

(b) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the General Manager, using the procedures prescribed in Rule 26.10.03 of this ordinance, the results of this monitoring shall be included in the report.

Rule 26.10.01 RECORDKEEPING. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Rule 24.09.01 (c). Records shall include the date, exact place, method, and time of sampling, and the name of the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the MCSD, or where the User has been specifically notified of a longer retention period by the General Manager.

Rule 26.10.02. CERTIFICATION STATEMENTS

(a) CERTIFICATION OF PERMIT APPLICATIONS, USER REPORTS— The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Rule 26.11.03; Users submitting baseline monitoring reports under Rule 26.02 (e) [Note: See 40 CFR 403.12 (1)]; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Rule 26.04 [Note: See 40 CFR 403.12(d)]; and Users submitting periodic compliance reports required by Rule 26.05. The following certification statement must be signed by an Authorized Representative as defined in Section 1:

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.

(b) ANNUAL CERTIFICATION FOR NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USERS—A facility determined to be a Non-Significant Categorical Industrial User (defined in Rule 1) by the General Manager pursuant Rule 26.11.03 (c) [Note: See 40 CFR 403.3(v)(2)] must annually submit the following certification statement signed in accordance with the signatory requirements of authorized or duly authorized representative (defined in Rule 1) [Note: See 40 CFR 403.120(1)]. This certification must accompany an alternative report required by the General Manager.

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Rule 1.64 (c); [Note: See 40 CFR 403.3(v) (2)]

(2) The facility complied with all applicable Pretreatment Standards and during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based on the following information.

Rule 26.10.03. SAMPLE COLLECTION. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in Section (b) and (c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the General Manager. Where time-proportional composite sampling or grab sampling is authorized by the MCSD, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the MCSD, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in Rule 26.02 and Rule 26.04 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which

historical sampling data are available, the General Manager may authorize a lower minimum. For the reports required by Rule 26.05 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Rule 26.11. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMITS

Rule 26.11.01. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT REQUIREMENT. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or a general permit from the General Manager, except that a Significant Industrial User that has filed a timely application pursuant to Rule 26.11.01 (a) of this ordinance may continue to discharge for the time period specified therein.

The General Manager may require other Users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this ordinance.

Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Rule 29 and 30 of this ordinance. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

A Zero Discharge Permit may be issued to industrial users generating process wastewaters who would normally be subject to either Rule 26 of this ordinance or subject to Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40CFR Chapter I, Subpart N but are not discharging said wastestream(s) to the system. Zero Discharge Permit holders are subject to all applicable regulations under local, state, or federal laws. Pursuant to Rule 24 of this ordinance, a statement of zero discharge must be submitted to the District annually.

(a) Individual Wastewater Discharge and General Permitting: Existing Connections. Any User required to obtain an individual wastewater discharge permit or a general permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within (45) days after said date, apply to the General Manager for an individual wastewater discharge permit or a general permit in accordance with Rule 26.11.02 of this ordinance, and shall not cause or allow discharges to the POTW to continue after (90) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or a general permit issued by the General Manager.

(b) Individual Wastewater Discharge and General Permitting: New Connections. Any User required to obtain an individual wastewater discharge permit or a general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with Rule 26.11.02 of this ordinance, must be filed at least (45) days prior to the date upon which any discharge will begin or recommence.

Rule 26.11.02. PERMIT APPLICATION CONTENTS. Applicants for an Individual or General Wastewater Discharge Permit shall complete an application, in the form prescribed by the District. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (a)** The name and address of the facility, including the name of the operator and owner, and the SIC code.;
- (b)** Volume of wastewater to be discharged;
- (c)** Wastewater constituents and characteristics including but not limited to those mentioned in Rules 24 as determined by a laboratory approved by the District;
- (d)** Time and duration of discharge;
- (e)** Average and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (f)** Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- (g)** A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes and types of materials which are or could be discharged;
- (h)** Each product produced by type, amount, and rate of production;
- (i)** Number and type of employees, and hours of work;
- (j)** Any other information as may be deemed by the District to be necessary to evaluate the permit application.
- (k) Environmental Permits.** A list of any environmental control permits held by or for the facility.
- (l) Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Rule 24.08 (a) (40 CFR 403.6(e)).
- (m) Measurement of Pollutants.**
 - (i)** The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the General Manager, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Rule 24.09.01 (b) of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the General Manager or the applicable Standards to determine compliance with the Standard.

(v) Sampling must be performed in accordance with procedures set out in Section Rule 26.10.03 of this ordinance.

Rule 26.11.03. APPLICATION SIGNATORIES AND CERTIFICATIONS

(a) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Rule 26.10.02 (a).

(b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the General Manager prior to or together with any reports to be signed by an Authorized Representative.

(c) A facility determined to be a Non-Significant Categorical Industrial User (defined in Rule 1 under Significant Categorical Industrial User) by the General Manager must annually submit the signed certification statement in Rule 26.10.02 (b) [Note: See 40 CFR 403.3(v)(2)]

Rule 26.11.04. PERMIT ISSUANCE PROCESS

The General Manager will evaluate the data furnished by the User in Rule 26.11.02 and may require additional information. Within (45) days of receipt of a complete permit application, including additional information requested, the General Manager will determine whether or not to issue an individual wastewater discharge permit or a general permit. If no determination is made within the time period, the application will be deemed denied. The General Manager may deny any application for an individual wastewater discharge permit or a general permit.

Rule 26.11.05. WASTEWATER DISCHARGE PERMITTING: GENERAL PERMIT

(a) At the discretion of the General Manager, the General Manager may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(i) Involve the same or substantially similar types of operations;
(ii) Discharge the same types of wastes;
(iii) Require the same effluent limitations;
(iv) Require the same or similar monitoring; and
(v) In the opinion of the General Manager, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit.

(c) The General Manager will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Rule 26.11.06 (a) (i) through (v) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit. [Note: See 40 CFR 403.8(f) (1) (iii) (A) (1) through (5).]

(d) The General Manager may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined Wastestream Formula Rule 24.08 (a) or Net/Gross calculations Rule 24.08 (b). [Note: See 40 CFR 403.6(e) and 40 CFR 403.15]

Rule 26.11.06. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT CONTENTS. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the General Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits and general permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
(ii) A statement that the wastewater discharge permit is nontransferable in accordance with Rule 26.11.11 of this ordinance;
(iii) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(v) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(vi) Requirements to control Slug Discharge, if determined by the General Manager to be necessary.

(b) Individual wastewater discharge permits and general permits may contain:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(viii) Other conditions as deemed appropriate by the General Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Rule 26.11.07. PERMIT MODIFICATION

(a) The General Manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

(ii) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

- (iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (iv) Information indicating that the permitted discharge poses a threat to the MCSD's POTW, MCSD personnel, or the receiving waters;
 - (v) Violation of any terms or conditions of the individual wastewater discharge permit;
 - (vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (vii) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13; or
 - (viii) To correct typographical or other errors in the individual wastewater discharge permit.
- (b)** The General Manager may modify a general permit for good cause, including, but not limited to, the following reasons:
- (i) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
 - (ii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (iii) To correct typographical or other errors in the individual wastewater discharge permit.

Rule 26.11.08. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT REVOCATION. The General Manager may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

- (a)** Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
- (b)** Failure to provide prior notification to the General Manager of changed conditions pursuant to Rule 26.06 of this ordinance;
- (c)** Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d)** Falsifying self-monitoring reports and certification statements;
- (e)** Tampering with monitoring equipment;
- (f)** Refusing to allow the General Manager timely access to the facility premises and records;
- (g)** Failure to meet effluent limitations;
- (h)** Failure to pay fines;
- (i)** Failure to pay sewer charges;
- (j)** Failure to meet compliance schedules;
- (k)** Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l)** Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or the general permit or this ordinance.

Individual wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permits issued to a User are void upon the issuance of a new individual wastewater discharge permit or a general permit to that User.

Rule 26.11.09. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT REISSUANCE. A User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with Rule 26.11.02 of this ordinance, a minimum of (45) days prior to the expiration of the User's existing individual wastewater discharge permit or general permit.

Rule 26.11.10. INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT DURATION. Permit Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire. The terms and conditions of the Permit may be subject to modification and change by the District during the life of the Permit as limitations or requirements as identified in Rule 24 are modified and changed. The user shall be informed of any proposed changes in his Permit at least (30) days prior to the effective date of change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance. Any user proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the District at least forty-five (45) days prior to the proposed change or connection.

Rule 26.11.11. Wastewater Discharge Permits are issued to a specific user for a specific operation. Wastewater Discharge Permits shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

Rule 26.12. MONITORING FACILITIES. Users who propose to discharge, or who in the judgment of the District could discharge now or in the future, wastewater with constituents and characteristics different from that produced by a domestic premise will be required to install a monitoring facility. When more than one user can discharge into a common building sewer, the District may require installation of a separate monitoring facility for each user. Also when, in the judgment of the District, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the District may require that separate monitoring facilities be installed for each separate discharge.

Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. The

purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by a user. If sampling or metering equipment is also required by the district, it shall be provided, installed and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside of the building. The District may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area, with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for the District personnel, such as a gate secured with a District lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

When constructed on public or private property, the monitoring facilities shall be constructed in accordance with the District's requirements and all applicable local agency construction standards and specifications.

When, in the judgment of the District, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within (90) days following written notification unless a time extension is otherwise granted by the District.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the District and/or other duly authorized employees of the District may reasonably require, including installation, use, and maintenance of monitoring equipment and records to the District. Such records shall be made available upon request by the District and to other Agencies having jurisdiction over discharges to the receiving waters.

Rule 26.13. INSPECTION AND SAMPLING. The District may inspect the facilities of any user to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the District or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The District shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the District will be permitted to enter without delay for the purposes of performing their specific responsibilities.

Rule 26.14. PRETREATMENT. Users shall make wastewater acceptable under the limitations established herein before discharging into any

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community sewer. Any facilities required to pretreat wastewater to a level acceptable to the District shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the District for review, and shall be approved by the District before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the District.

Rule 26.15. PROTECTION FROM ACCIDENTAL DISCHARGE. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the District for review, and shall be approved by the District before construction of the facility.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Ordinance.

Rule 26.16. CONFIDENTIAL INFORMATION. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restrictions unless the user specifically requests and is able to demonstrate, to the satisfaction of the District, that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the District as confidential shall not be transmitted to any governmental agency or to the general public by the District until and unless prior and adequate notification is given to the user.

Rule 26.17. SPECIAL AGREEMENTS. Special agreements and arrangements between the District and any persons or agencies may be established when, in the opinion of the District, unusual or extraordinary circumstances compel special terms and conditions.

Rule 26.18. PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE. The General Manager shall publish annually, in a newspaper of general circulation that provides meaningful

public notice within the jurisdictions served by the MCSD, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (c), (d) or (h) of this Section) and shall mean:

(a). Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Rule 24; [see 40 CFR 403.3(1)]

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Rule 24 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a Pretreatment Standard or Requirement as defined by Rule 24 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or the environment, or has resulted in the General Manager's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

REGULATION 27. - WASTEWATER CHARGES AND FEES

Rule 27.01. CLASSIFICATION OF USERS. All users are to be classified either by assigning each one to a "user classification"

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category according to the principal activity conducted on the user's premises, by individual user analysis, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the District's cost.

Rule 27.02. TYPES OF CHARGES AND FEES. The charges and fees established in the District's schedules of charges and fees, may include, but not be limited to:

- (a) user classification charges;
- (b) fees for monitoring;
- (c) fees for permit applications;
- (d) appeal fees;
- (e) connection fees or assessments;
- (f) service charges;
- (g) penalties or special cost recovery charges;
- (h) charges and fees based on wastewater constituents flows and characteristics to include industrial cost recovery provisions of the Federal Act;

Rule 27.03. BASIS FOR DETERMINATION OF CHARGES. Charges and fees established for each user or user classification, including permit users, shall be based on measured or estimated constituents and characteristics of the wastewater discharge of each user or user classification, which may include, but not be limited to, BOD, COD, SS, oil and grease, chlorine demand, volume, and rate of flow.

Unless otherwise specified, the charges and fees for each user or user classification shall be computed on the basis of the characteristics of wastewater from a domestic premise and relative difficulty to transport and treat.

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

Mobile Home Park (per space)	12 ccf \$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. \$17.60
Office Buildings & Post Office (up to 2,000 Sq. ft/7 people)	\$17.60
Church, Hall or Rectory	\$17.60 plus \$2.86/100 cf of water over 440 cf
Restaurant or Tavern	\$17.60 plus \$2.61/100 cf of water over 440 cf
Bakery	\$17.60 plus \$2.61/100 cf of water over 759 cf
Motel or Hotel	\$17.60 plus \$3.34/100 cf of water over 440 cf
Market	\$17.60 plus \$2.48/100 cf of water over 769 cf
Retail Store, Banks, Theater and all others	\$17.60 plus \$2.13/100 cf of water over 786 cf
Gas Station (No Market)	\$17.60 plus \$2.61/100 cf of water over 840 cf
Laundromat	\$17.60 plus \$1.33/100 cf of water over 769 cf
Fire Station or School	\$17.60 plus \$1.99/100 cf of water over 440 cf
Barber or Beauty Shop	\$17.60 plus \$2.39/100 cf of water over 769 cf
Coast Guard Station or Airport	\$17.60 plus \$2.65/100 cf of water over 769 cf
Car Washes	To be Calculated based on flow & load
Industrial	\$247 plus \$182.18 per 100 cf over 133.67 cf per dump
Septage Delivered to Headworks	\$17.60
Customers Without MCSD Water Service	
Customers residing in a zone of special benefit will pay the fee specified in the then current Resolution for their zone in addition to the charges specified above.	

Rule 27.05. EXTRAORDINARY CHARGES. The Board of Directors reserves the right to set special sewer service charges where, in the opinion of the Manager, a waste discharge strength and loading does not fit into existing rate schedules.

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Rule 27.06. RELIEF FROM UNJUST RATES. The owner or occupants of any premises who by reason of special circumstances finds that the foregoing rates are unjust or inequitable as applied to their premises, may make written application to the Board, stating the circumstances and requesting a different basis of charges for sewer services to their premises. If such application be approved, the board may by resolution fix and establish fair and equitable rates for such premises to be effective as of the date of such application and continuing during the period of such special circumstances. The Board may on its own motion find that by reason of special circumstances the foregoing rates are unjust and inequitable as applied to particular premises and may by resolution fix and establish fair and equitable rates for such premises during the period of such special circumstances, or any part thereof.

Rule 27.07. WAIVER OF SEWER SERVICE CHARGES. If a living unit is to be totally unoccupied for a minimum period of thirty (30) days and water service is terminated, the sewer charge may be waived for that living unit for such period if the Manager determines that the sewer will not be used for such period. Waiver of sewer charges for sewer-only accounts require that the account be placed in the name of the property owner. Future connections of sewer only customers may not be in the name of a property renter.

Rule 27.08. LATE NOTICE AND TERMINATION NOTICE FEES. The District shall charge \$0.60 (sixty cents) in addition to any other charges for each notice mailed to the customer advising the customer that a payment has not been received by the District within the 15-day payment period. The District will charge \$2.50 (two dollars and fifty cents) in addition to any other charges for each notice mailed to the customer notifying the customer that service will be terminated if payment is not received.

Rule 27.09. PRETREATMENT CHARGES AND FEES. The District may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the District's pretreatment program. All fees will be based on actual time and materials plus 20% for indirect costs. Charges and fees may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications.

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by the users.

(c) Fees for reviewing and responding to accidental discharge procedures and construction.

(d) Fees for filing appeals.

(e) Other fees as the District may deem necessary to carry out the requirements contained in this section. These fees relate solely to the matters covered by Regulation 26 and are separate from all other fees, fines, and penalties chargeable by the District.

REGULATION 29. - ENFORCEMENT

Rule 29.01. ACCIDENTAL DISCHARGES.

Rule 29.01.1. Users shall notify the District immediately upon accidentally discharging wastes in violations of this Ordinance to enable countermeasures to be taken by the District to minimize damage to the community sewer, treatment facility, treatment processes, the receiving waters, and the public in general.

The notification shall be followed, within fifteen (5) business days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed.

Rule 29.01.2. In order that employees of users are informed of District requirements, users shall make available to their employees copies of this Ordinance together with such other wastewater information and notices which may be furnished by the District from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge or spill in violation of this Ordinance.

Rule 29.01.3. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system would be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this Ordinance.

Rule 29.02. NOTICE OF VIOLATION. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may serve upon that User a written Notice of Violation. Within (5) business days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the General Manager. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the

Notice of Violation. Nothing in this Section shall limit the authority of the General Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Rule 29.03. CONSENT ORDERS. The General Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Rule 29.04 and Rule 29.06 of this ordinance and shall be judicially enforceable.

Rule 29.04. COMPLIANCE ORDERS. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Rule 29.05. ADMINISTRATIVE FINES.

(a) When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, General Manager may fine such User in an amount not to exceed one hundred dollars (\$100.00) for each and every violation committed. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one-half of one percent (0.5%) per month. A lien against the User's property shall be sought for unpaid charges,

finest, and penalties as authorized by California Government Code section 61621.

(c) Users desiring to dispute such fines must file a written request for the General Manager to reconsider the fine along with full payment of the fine amount within (30) days of being notified of the fine. Where a request has merit, the General Manager may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The General Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User authorized under these regulations or by California law, including the District's right(s) to abate any violations by the User under these regulations and/or seeking recovery of all damages sustained by the District as a result of any such violation(s).

Rule 29.06. ISSUANCE OF CEASE AND DESIST ORDERS. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the General Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Rule 29.07. Emergency Suspensions The General Manager may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The General Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the General Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The General Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the General Manager

that the period of endangerment has passed, unless the termination proceedings in Rule 29.08 of this ordinance are initiated against the User.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

Rule 29.08. TERMINATION OF DISCHARGE. In addition to the provisions in Rule 26.11.08 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- (a) Violation of individual wastewater discharge permit or general permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- (e) Violation of the Pretreatment Standards in Rule 24 of this ordinance.

Such User will be notified of the proposed termination of its discharge. Exercise of this option by the General Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

Rule 29.09. APPEALS. Any user, permit applicant, or permit holder affected by any decision, action, or determination, including Cease and Desist Orders, made by the General Manager, interpreting or implementing the provisions of this Ordinance or in any permit issued herein, may file with the General Manager, a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the subsequent ruling made by the General Manager is unsatisfactory to the person requesting reconsideration, they may, within (10) days after notification of the District action, file a written appeal to the Board. The written appeal shall be heard by the governing body within thirty (30) days from the date of filing. The District's governing body shall make a final ruling on the appeal within fifteen (15) days of the closing of the meeting. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

Rule 29.10. REMEDIES NON-EXCLUSIVE. The remedies provided for in this ordinance are not exclusive. The General Manager may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with Districts enforcement response plan. However, the General Manager may take other action against any User when the circumstances warrant. Further, the General Manager is empowered to take more than one enforcement action against any noncompliant User.

Rule 29.11. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

Rule 29.11.1. UPSET.

(a) unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c), below, are met.

(c) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the User can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The User has submitted the following information to the General Manager within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

a) A description of the indirect discharge and cause of noncompliance;

b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Rule 29.11.2. BYPASS.

(a) For the purposes of this Section,

(i) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss

of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs **(c)** and **(d)** of this Section.

(c) Bypass Notifications

(i) If a User knows in advance of the need for a bypass, it shall submit prior notice to the General Manager, at least ten (10) days before the date of the bypass, if possible.

(ii) A User shall submit oral notice to the General Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The General Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass

(i) Bypass is prohibited, and the General Manager may take an enforcement action against a User for a bypass, unless

a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c) The User submitted notices as required under paragraph **(c)** of this section.

(ii) The General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in paragraph **(d)** (i) of this Section.

REGULATION 30. - ABATEMENT

Rule 30.01. PUBLIC NUISANCE. Discharges of Wastewater in any manner in violation of this Ordinance or of any order issued by the General Manager as authorized by this Ordinance, is hereby declared a public nuisance and shall be corrected or abated as directed by the

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General Manager. Any person creating a public nuisance shall be subject to provisions of District codes or ordinances, rules and/or regulations governing such nuisance.

Rule 30.02. INJUNCTIVE RELIEF. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the District may petition the Superior Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this ordinance on activities of the User. The District may also pursue any other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against the User authorized under these regulations or by California law.

Rule 30.03. DAMAGE TO FACILITIES. When a discharge of wastes causes an obstruction, damage, or any other impairment to District facilities, the District may assess a charge against the User for the work required to clean or repair the facility and add such charge to the User's sewer service charge.

Rule 30.04. CORRECTION OF VIOLATIONS; COLLECTION OF COSTS; INJUNCTION. In order to enforce the provisions of this ordinance, the District may correct any violations hereof. The cost of such correction may be added to any sewer service charge payable by the person violating the Ordinance or the owner or tenant of the property upon which the violation occurred, and the District shall have such remedies for the collection of such costs as it has for the collection of sewer service charges under California law.

Rule 30.05. CIVIL PENALTIES.

(a) A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the MCSD for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The District may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the MCSD.

(c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit

gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User authorized under these regulations or by California law.

Rule 30.06. CRIMINAL PROSECUTION.

(a) A User who violates any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or imprisonment for not more than one (1) year, or both.

(b) A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and may be subject to a penalty of at least one thousand dollars (\$1,000.00) per violation, or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available to the District under California law, and the District shall be entitled to recover damages in the amount(s) actually sustained.

(c) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars per violation, per day, or imprisonment for not more than one (1) year, or both.

PASSED AND ADOPTED at a duly called meeting of the Board of Directors of the McKinleyville Community Services District on the 4th of April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dennis Mayo, Board President

Attest: _____
Sharon L. Denison, Board Secretary

RESOLUTION 2012-13

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **INFORMATIONAL**

ITEM: E.7. **Informational overview of Quimby Parkland Dedication Funds**

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

TYPE OF ACTION: **None**

Recommendation:

Listen to staff's presentation regarding Quimby Parkland Dedication Funds.

Discussion:

Quimby Coastal Parkland Dedication funds have been collected since 1995 and significantly assisted in establishing recreational facilities at Hiller Park. Coastal funds can be used for projects with a nexus to recreation as long as they are located west of Highway 101.

At its November 1, 1994 meeting, the Humboldt County Board of Supervisors supported MCSD's intent to retain a contract planner for planning services related to extending the County's Parkland Dedication ordinance to the inland portions of McKinleyville. An ordinance "Adding the parkland dedication provisions applicable to inland area of McKinleyville" was adopted on January 9, 1996. Inland funds can be used for projects with a nexus to recreation as long as they are located east of Highway 101.

The goal of the Quimby Act was to require developers to help mitigate the impacts of property improvements. The act gives authority for passage of land dedication ordinances only to cities and counties. Special districts must work with cities, and/or counties to receive parkland dedication and/or in-lieu fees. The fees must be paid and land conveyed directly to the local public agencies that provide park and recreation services community-wide.

Quimby funds can be used only for capital projects with a nexus to recreation. For example, the funds can be used to build a softball field; however, they cannot be used to purchase a lawn mower.

Developers also have the opportunity to build park features in lieu of paying into the Quimby Parkland Dedication Funds as long as the project has a nexus to recreation. For example, portions of the Mid Town Trail system have been funded by developers in lieu of paying into the Quimby Inland Dedication Funds.

It should be noted that for subdivisions with more than fifty (50) lots, the County requires developers to provide parks that fulfill their requirement for useable open space for public use. These developers are still required to pay into the Quimby Parkland Dedication Funds in addition to providing park improvements.

A good example of this is the Santos subdivision where staff designed a small park with a playground, trail system and open space that the developer is responsible for. The developer will still pay into the Quimby funds.

Attached, please find section 314-110.1 of the Humboldt County Zoning Regulations. The Zoning Regulations state, "The purpose of these requirements is to provide opportunities for public recreation in conjunction with residential development in conformity with the County General Plan."

Humboldt County collects the Quimby funds from developers. 70% is available for MCSD's Parks & Recreation Department to use and 30% is available for the Humboldt County Public Works with the idea that the funds are used for projects inside the area of influence. For example, the County utilized a portion of Quimby Funds for the Hammond Trail extension project. According to County staff, no Quimby funds are used for administrative purposes.

In order to request a release of funds from the County, MCSD staff is required to submit a letter requesting the release of fees to the County. The request is brought before the Humboldt County Board of Supervisors. In most cases, MCSD funds the project and is reimbursed with Quimby funds after the project is complete. Quimby fees used for the McKinleyville Library Expansion project were received prior to the project completion.

In the last several years, MCSD staff has been quite frugal with using Quimby funds for projects. The following are capital projects completed by MCSD in the last several years and where the funding came from:

McKinleyville Activity Center floor replacement

Proposition 84 per capita bond

Azalea Hall floor replacement

Proposition 84 per capita bond

Hiller Park Playground

Funds & California Waste Tire Grant

Fenced in picnic area at Hiller Park

Land & Water Conservation Fund grant and Quimby funds

Pierson Park Playground replacement

Proposition 12 per capita bond & California Waste Tire Grant

Hiller Sports Complex, phase I (little league, softball and Babe Ruth)
Measure B, donations

Hiller Sports Complex, phase II (soccer fields)
Quimby Funds, donations

Bocce ball courts
Mad River Rotary Club grant, MCSD reserves

Library Expansion Project (Conference Room)
Friends of the McKinleyville Library, Quimby Funds

Alternatives:

- Take Action

Fiscal Analysis:

Current available funds (Inland):	\$230,344
Current available funds (Coastal):	\$89,098

The current FY 2011/12 budget has the following projects to be funded with Quimby Inland Parkland Dedication funds:

Playground replacement:	\$50,000
Hewitt Ranch improvements:	\$25,000
Covered Picnic Area – Pierson Park:	\$25,000
Land Acquisition:	<u>\$120,000</u>
	\$220,000

Note: Staff has postponed much of the playground replacement projects until next fiscal year.

It should also be noted that with new development, additional Quimby funds will be received. Staff feels it is necessary to consider utilizing future Quimby Funds to assist with the construction of the Teen & Community Center as well as potential park development at the school property site.

Environmental Requirements:

- Not applicable

Exhibits/Attachments

- Section 314-110.1 of the Humboldt County Zoning Regulations

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314-110.1 PARKLAND DEDICATION

110.1.1 Purpose. The purpose of these requirements is to provide opportunities for public recreation in conjunction with residential development in conformity with the County General Plan. (Former Section INL#316-23(A); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.2 Applicability. These regulations shall apply to all divisions of land for residential uses where parkland dedication pursuant to the Quimby Act is required by local community plans. (Former Section INL#316-23(B); Added by Ord. 2103, Sec. 4, 1/9/96; Amended by Ord. 2166, Sec. 24, 4/7/98)

110.1.3 Requirements. As a condition of approval of a Final Map or Parcel Map the subdivider shall satisfy one (1) of the following requirements, at the option of the County: (Former Section INL#316-23(C); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.3.1 For new subdivisions containing fifty-one (51) or more parcels: (Former Section INL#316-23(C)(1)); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.3.1.1 an offer of dedication land to a public or private non-profit agency for public park or recreation use as identified in the County General Plan

and Eureka Community Plan, according to the formula and standards set forth in Section 314-110.1.5 and trails and support facilities identified in the County Trails Plan; or (Former Section INL#316-23(C)(1); Added by Ord. 2103, Sec. 4, 1/9/96; Amended by Ord. 2166, Sec. 24, 4/7/98)

110.1.3.1.2 an in-lieu fee, in accordance with the provisions of Section 314-110.1.6 to provide an appropriate contribution to public parks or recreation. It shall be the County's option to decide whether dedication of land or in-lieu fees shall be required. (Former Section INL#316-23(C)(1); Added by Ord. 2103, Sec. 4, 1/9/96; Amended by Ord. 2166, Sec. 24, 4/7/98)

110.1.3.2 For new subdivisions containing fifty (50) or fewer lots or parcels, an in-lieu fee shall be provided consistent with the provisions of Section 314-110.1.6; except that, if mutually agreeable, the subdivider and the County may agree to the dedication of land or a combination of dedication and fee payment. (Former Section INL#316-23(C)(2); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.3.3 Subdivisions containing less than five (5) parcels and not used for residential purposes shall be exempted from the requirements of this section. However, a condition shall be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four (4) years, the fee shall be required to be paid by the owner of each such parcel as a condition to the issuance of such permit. (Former Section INL#316-23(C)(3); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.4 **General Standard.** Public parkland and/or recreation facilities shall be provided at the rate of three (3) acres for each 1,000 persons, equal to a standard of 130 square feet per person. This standard shall be utilized pursuant to Section 314-110.1.5 for the determination of parkland dedication. (Former Section INL#316-23(D)(1); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.5 **Formula for Dedication of Parkland.** The amount of land (per dwelling unit), where land is dedicated, shall be determined by the application of the following formula: (Former Section INL#316-23(D); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.5.1 130 square feet per person multiplied by the average number of persons per household. (Former Section INL#316-23(D)(1); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.5.2 The average number of persons per household shall be determined by the Planning and Building Divisions based on demographic research and available County Census data from the United States Bureau of the Census. (Former Section INL#316-23(D)(2); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.6 **Fees In-Lieu of Land Dedication.**

110.1.6.1 Where a fee is required to be paid in-lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to Section 314-110.1.4.3. The fair market value shall be determined in conjunction with the County Assessor at the time of filing the Tentative Map or Tentative Parcel Map. (Former Section INL#316-23(F); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.6.2 If the subdivider objects to the fair market value determination, the subdivider may, at his/her own expense, obtain an appraisal of the property by a qualified real estate appraiser mutually agreed upon by the County in determining fair market value. (Former Section INL#316-23(F); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.6.3 A fee paid in-lieu of land dedication shall be paid to the County prior to the recordation of the Subdivision Map or Parcel Map. For multiple final maps, the fee paid in-lieu of land dedication shall be paid prior to the recordation of the final map for each unit or phase. (Former Section 316-23(F); Added by Ord. 2166, Sec. 24, 4/7/98)

110.1.7 Deferred Payment of Fees for Secondary Dwelling Units.

110.1.7.1 The Hearing Officer may approve a request by the subdivider to defer payment of a portion of the fee paid in-lieu of land dedication for secondary dwelling units on each parcel created by the subdivision map. Any such deferral shall be subject to the recordation of an agreement between the subdivider and the County to convey development rights for the secondary dwelling unit. (Former Section 316-23(G); Added by Ord. 2166, Sec. 24, 4/7/98)

110.1.7.2 The amount of the fee paid in-lieu of dedication subject to the conveyance agreement shall be determined for each affected parcel prior to the recordation of the Subdivision Map or Parcel Map. The fee breakdown for individual parcels subject to deferment shall be in the same proportion that the size of the lot bears to the total aggregate area of the parcels covered by the conveyance. (Former Section 316-23(G); Added by Ord. 2166, Sec. 24, 4/7/98)

110.1.7.3 If the fee paid in-lieu of land dedication is deferred, reconveyance of development rights shall be initiated upon payment of the fee in-lieu of dedication by the record owner of the subject parcel at the time the request for reconveyance is made to the County. (Former Section 316-23(G); Added by Ord. 2166, Sec. 24, 4/7/98)

110.1.8 Procedures for Determining Land Dedication, Fee Payment or a Combination of Both. The procedure for determining whether the subdivider is to dedicate land, pay a fee, or a combination of both shall be as follows: (Former Section 316-23(H); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.1 At the time of filing a Tentative Subdivision Map or Tentative Parcel Map for approval, the subdivider shall, as part of such filing, indicate whether he/she desires to dedicate property for park and recreational purposes, or whether he/she desires to pay a fee in-lieu thereof. If the subdivider desires to dedicate land for this purpose, he/she shall designate the area thereof on the subdivision map as submitted. (Former Section 316-23(H)(1); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.2 At the time of the approval of the Tentative Subdivision Map or Tentative Parcel Map, the Hearing Officer shall determine as a part of such approval whether to require a dedication of land within the subdivision, payment of a fee in-lieu thereof, or a combination of both. (Former Section 316-23(H)(2); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3 The Hearing Officer may approve of the offer of land dedication, or elect to recommend that a payment of a fee in-lieu thereof be required, or that a combination of both be required. In making this determination the Planning Commission shall consider the following: (Former Section 316-23(H)(3); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3.1 The Humboldt County General Plan; (Former Section 316-23(H)(3)(a); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3.2 Topography, geology, access, and location of land in the subdivision available for dedication; (Former Section 316-23(H)(3)(b); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3.3 Size and shape of the land in the subdivision available for dedication; (Former Section 316-23(H)(3)(c); Added by Ord. 2103, Sec. 4, 1/9/96; Amended by Ord. 2214, 6/6/00)

110.1.8.3.4 Feasibility of dedication; (Former Section 316-23(H)(3)(d); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3.5 Availability and adequacy of previously acquired park property; and (Former Section 316-23(H)(3)(e); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.8.3.6 The desirability of fees being used for indoor recreational facilities. (Former Section 316-23(H)(3)(f); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.9 **Credit for Private Recreation Facilities.** Where a substantial private park and recreation area is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, partial credit, not to exceed fifty percent (50%), may be given against the requirement of land dedication or payment of fees in-lieu thereof if the Planning Commission finds that it is in the public interest to do so and that the following standards are met: (Former Section 316-23(I)); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.9.1 That yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private open space; (Former Section 316-23(I)(1); Added by Ord. 2103, Sec. 4, 1/9/96)

110.1.9.2 That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance, or restrictions; (Former Section 316-23(I)(2); Added by Ord. 2103, Sec. 4, 1/9/96)

- 110.1.9.3 That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property in the subdivision and which cannot be defeated or eliminated without the consent of the County or its successor; (Former Section 316-23(I)(3); Added by Ord. 2103, Sec. 4, 1/9/96)
- 110.1.9.4 That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; (Former Section 316-23(I)(4); Added by Ord. 2103, Sec. 4, 1/9/96)
- 110.1.9.5 That facilities proposed for the open space are in substantial accordance with the provisions of the Humboldt County General Plan. (Former Section 316-23(I)(5); Added by Ord. 2103, Sec. 4, 1/9/96)

Before credit is given, the Planning Commission shall make findings that the standards herein are met. (Former Section 316-23(I); Added by Ord. 2103, Sec. 4, 1/9/96)

314-110.2 PLOT PLAN APPROVAL

In order to assure compliance with the land use and development regulations, the Humboldt County Building Division shall not issue any building permit until a plot plan or site plan showing the work to be done as it relates to surrounding uses and property lines has been approved by the Planning Division. All requests for plot plan or site plan approval shall be accompanied by a fee as established by resolution of the Board of Supervisors. (For more on plot plan approval, see Chapter 2, Zoning Clearance Certificate Procedures, Section 312-2) (Former Section INL#316-22; Added by Ord. 1280, Sec. 3, 10/10/78)

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.8. Consider approval of Parks & Recreation Master Plan

PRESENTED BY: Jason Sehon, Parks & Recreation Director

TYPE OF ACTION: Voice Vote

Recommendation:

Staff recommends the Board of Directors consider approving the Parks & Recreation Master Plan.

Discussion:

Staff and the Recreation Advisory Committee have been working on the Parks & Recreation Master Plan update for more than a year. Staff presented a *draft* plan to the Board at its February 1 and March 14, 2012 meetings for review. At the March 14, 2012 meeting, staff presented the Board with copies of the *draft* plan for review.

The plan has also been available to view on our website.

When completed, the Parks & Recreation Master Plan will serve as a guide to the District for current parks and facilities as well as future park development. The plan intends to provide strategic planning for the next twenty (20) years and will be a resource for staff for grant funding and future park development.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

Not applicable

Environmental Requirements:

- Not applicable

Exhibits/Attachments

- None

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

TYPE OF ITEM: **ACTION**

ITEM: E.9. Consider approval of letter to Humboldt County Board of Supervisors

PRESENTED BY: Norman Shopay

TYPE OF ACTION: Voice Vote

Recommendation:

Review, approve and sign the attached draft letter to the Humboldt County Board of Supervisors.

Discussion:

In light of the recent rejection of Humboldt County's Housing Element by the state Housing and Community Development Department and the ongoing CEQA litigation which has impacted the proposed Multi-Family Zoning Project, the upcoming appointment of an Interim Planning Director presents the Board of Supervisors with a unique opportunity to address these issues and "reset" its relationships with state government and local communities.

The attached letter expresses MCSD's desire that an effective candidate would be an outsider who brings a fresh perspective to the challenges confronting the Planning Department. They would have extensive "real world" experience running a planning agency, but they would also understand and appreciate the North Coast and its diverse communities, while critically analyzing the issues facing our region.

We believe there is a rich pool of candidates living locally who would serve the county well.

The letter urges the Board of Supervisors to include retired administrators in that pool, many of whom are widely respected, and whose independence and reputation would go a long way toward restoring credibility to the Humboldt County planning process and lifting the legal and regulatory cloud that hangs over the Planning Department today.

Alternatives:

Staff's analysis includes the following potential alternative:

- Take no action

Fiscal Analysis:

- Not applicable

Environmental Requirements:

- Not applicable

Exhibits/Attachments

- April 4, 2012 Draft Letter

Mr. Ryan Sundberg, 5th District Supervisor
Ms. Virginia Bass, 4th District Supervisor
Mr. Mark Lovelace, 3rd District Supervisor
Mr. Clif Clendenen, 2nd District Supervisor
Mr. Jimmy Smith, 1st District Supervisor
825 5th Street
Eureka, CA 95501

April 4, 2012

MCSD BOARD LETTER APPOINTMENT OF INTERIM PLANNING DIRECTOR

Dear Supervisors:

In light of the recent rejection of Humboldt County's Housing Element by the state Housing and Community Development Department and the ongoing CEQA litigation which has impacted the proposed Multi-Family Zoning Project, the upcoming appointment of an Interim Planning Director presents the Board of Supervisors with a unique opportunity to address these issues and "reset" its relationships with state government and local communities.

An effective candidate would be an outsider who brings a fresh perspective to the challenges confronting the Planning Department. They would have extensive "real world" experience running a planning agency, but they would also understand and appreciate the North Coast and its diverse communities, while critically analyzing the issues facing our region.

We believe there is a rich pool of candidates living locally who would serve the county well. We would also urge the board to include retired administrators in that pool, many of whom are widely respected, and whose independence and reputation would go a long way toward restoring credibility to the Humboldt County planning process and lifting the legal and regulatory cloud that hangs over the Planning Department today.

We thank you for your consideration.

Sincerely;

Dennis Mayo, President

David Couch, Vice President

Helen Edwards, Director

John Corbett, Director

Bill Wennerholm, Director

McKINLEYVILLE COMMUNITY SERVICES DISTRICT
Board Agenda Background - Department Report
April 4, 2012

AGENDA ITEM: F.2.A.
PRESENTED TO: MCSD Board of Directors
FROM: Colleen Trask, Finance Director
SUBJECT: Support Services Department Report

BUDGET STATUS

The budgeting process for FY 2012-13 is currently underway. During Phase 2, we will provide draft budgets for the Water & Sewer Department and for the Parks & Recreation Department for review before the final budget is brought to the Board for approval. Comments and questions from the Board may be sent to the Finance Director or the General Manager.

The Amended Budget for FY 2011-12, which was adopted by the Board at the March 7, 2012 meeting, has been implemented.

FINANCIAL POLICIES AND PROCEDURES

Over the second half of the fiscal year, the District's financial policies and procedures will be reviewed and updated.

PERSONNEL

The open CSR1 position has been filled and the front office is now fully staffed to serve the public. The new hire will start on April 9th.

McKINLEYVILLE COMMUNITY SERVICES DISTRICT

Board Agenda Background: Department Report

March 23, 2012

To: MCSD Board

From: Gregory P Orsini, Operations Director

Subject: Agenda Item: F.2.B. –April 4, 2012 Board Meeting
Operations Department – February 2012 Report

Progress in achieving the Board's adopted FY11-12 Goals are summarized in the following narrative:

Water Department:

◇ Water Statistics:

The district pumped 34 million gallons of water in February.

Four water quality complaints were investigated and rectified in February.

No service line leaks were reported or repaired in February.

Two water service installations were completed in February.

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

◇ Double Check Valve Testing:

Routes 2, 3, and 4 testing was completed in February accounting for 57 devices.

◇ Valve Exercising Program:

The Annual Valve Exercise Program is 92% (1990 valves) complete. All valves are cycled and returned to the appropriate position. All information will be documented on the designated paperwork and any issues will be documented to generate a work order for repairs. (ex: valve can buried, valve does not operate correctly, etc.)

◇ Leak Repair Permanent Paving:

The water main leak on Sutter and Childrens was permanently paved following the repairs made by District staff. A contractor that specializes in paving was hired as the District does not own the equipment necessary for large paving jobs.

Permanent paving took place on Hiller Road and McKinleyville Ave. Paving was required in these locations due to emergency leak repairs.

◇ Water Facility Maintenance:

The compressor motor at the Blake Station was replaced. The weekly inspection revealed the hydro pneumatic tank was not maintaining the proper air level. After investigation it was determined the electric motor was not operating properly and was replaced.

A leaking pump control valve was repaired on pump 1 at the Cochran Booster Station.

Repairs were made at the Tank 3 site. These work orders were generated from January's monthly inspection and included the site gauge pulley mount replacement and debris was also cleaned out away from the tank vents.

Digital sensors were installed on the seismic actuators at the Cochran and Norton Tank sites. These sensor retrofits will improve the accuracy of the actuators, modernize the units and due to the modular construction of the units extend their life 10 years.

The control lines at North Bank were wrapped to prevent the lines from freezing and causing failure. The gauges were also removed from the headers and stored inside the building to prevent vandalism or possible theft.

◇ New Construction Inspections:

Loren Ave Mainline, Manhole on Murray is installed and the mainline was bored across Murray Ave.; VanEaton Subdivision has been completed and waiting for asbuilts and Santos Subdivision, Testing of water and sewer mains are completed, two tie ins are pending.

Waste Water Statistics:

33 million gallons of wastewater were collected and pumped to the W.W.M.F in February. 40 million gallons of waste water was treated and discharged to the Mad River in February.

One sewer services was completed in February.

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

◇ **WWMF Maintenance:**

Staff records sludge depths in the primary ponds in a boat and by dipping a manometer. The depths are recorded and documented. This information is used to compare with previous years data to determine the rate at which the sludge is accumulating and possibly predict when sludge removal should take place.

The recirculation piping in Pond A&B was retrofitted to help aid in breaking up the floating sludge blanket that accumulates on the ponds during the summer season.

The straw bedding was replaced in the goat shed. This task is completed semiannually so the goats have a clean area to escape the rainy season

◇ **Sewer Lift Station Maintenance:**

B Street and Fischer Sewer Lift Stations wet wells were washed with high pressure water from a fire hose while manipulating the levels using the lift pumps. The grit pits at Fischer were also cleaned out with the Vac-con. This regularly scheduled maintenance is done to prevent rags from getting sucked into the pumps and plugging them up. The wash downs also remove grease accumulation from the wet well walls and prevent the buildup of grit. Grease and grit cause sulfide gas accumulations that are hazardous to life and corrosive to the facilities.

◇ **Banner Removal:**

Holiday banners were removed and new banners were installed on Central Avenue using the new Boom Truck.

◇ **Street Light Department:**

A streetlight on Cypress was discovered to be inoperative during the scheduled inspection. The wiring was found to be faulty and had to be replaced from the power pedestal to the light pole.

Promote Staff Training and Advancement: Weekly safety meetings were conducted. Chris Reed and Seth Meynell received their 40 hour HAZWOPER training at the Northern California Safety Consortium. Other members of the staff were trained on the proper use, inspections and maintenance of the new Boom Truck. This training was conducted by a Terex representative. Erik and Chris Jones attended a Lock-out/ Tag-out class that was hosted by CWEA.

Special Notes:

Work continues in February on the annual requirement of the District's NPDES Permit. A report recapping all the monitoring data presented in both tabular and graphical format that includes summaries of monitoring and discharge/ disposal records. Any data collected that is not required in the monthly monitoring reports is also included. A comprehensive discussion of the facilities compliance is also included and planned upgrades are discussed.

An L.E.D. Technology conference was held in Santa Clara in February Staff attended, walked the exposition and gather information associated to streetlights and what is on the horizon. Contacts were made and information collected to aid in the decisions for specifying LED streetlight for all new developments.

A mandatory pre bid meeting and site walk was conducted for the Norton Road Tank Recoating Project. All general contractors that will be submitted bids were required to attend. The time line for the project was discussed along with noise considerations. The site was visited to allow the contractors a chance to visualize staging for their equipment. The Norton Tank Painting Project bid packages were received and opened at 3:30 Friday February 17, 2012. Two bids were received and the lowest bid was determined to be responsive and responsible. Advance Industrial Services, Inc. was the lowest bid at \$333,069.00. The process of confirming their qualifications included verification of their contractor's license, insurance and bonding information was conducted before this item was brought to the board last month.

Work continues on the hydraulic model for the water distribution system. The District purchased Bently Water Cad software and is in the process of designing our system into the model using existing points recorded with our GPS, account information from our billing software, design information for the new pumps at North Bank Road and telemetry data stored on the SCADA system. When completed the water model will simulate the actual behavior of the distribution system and allow staff to allocate demand for new development to verify the District will be able to accommodate the new demand. A report will be generated representing three scenarios.

Effective January 1, 2013 the Federal Communications Commission (FCC) will require that all two way radios have the frequency they operate on narrowed from 25kHz to 12.5kHz. All of the District data and voice radios have been certified to operate within the new regulation.

Two new Dutch doors were installed in the Administrative Office to improve safety for the employees limiting access by members of the public to unauthorized areas.

Staff completed their Individual Development Plans (IDP) and Performance Evaluations during February. During the process time was spent assessing and drafting the official IDP and Performance Evaluation. Each employee met with his supervisor to discuss, review the previous year's performance and plan to implement their IDP.

McKINLEYVILLE COMMUNITY SERVICES DISTRICT
Board Agenda Background - Department Report
April 4, 2012

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

GRANT OPPORTUNITIES:

Proposition 84 – Statewide Park Development:

Project: Build a 3-acre community park in the southern area of McKinleyville.

Status: Application Submitted, pending approval: State grant officer recently toured the properties and reviewed grant application with staff.

Proposition 84 – Statewide Park Development:

Project: Acquire 60-acres in the north area of town and construct a trail system through the forest.

Status: Application Submitted, pending approval: State grant officer recently toured the properties and reviewed grant application with staff.

Habitat Conservation Fund:

Projects: Build new trails and make improvements to existing trails.

Remove invasive plants from wetlands and riparian areas.

Status: Staff is working on the application process.

Coast Central Credit Union – Community Investment Program:

Project: Playground replacement.

Status: Working on application.

Land and Water Conservation Fund:

Project: Build a covered picnic area at Pierson Park.

Status: Application submitted, pending approval.

McKinleyville Land Trust

Project: Replaced damaged fire truck spring rocker at Hiller Park.

Status: Application submitted, pending approval.

CPRS CONFERENCE:

I attended the California Parks and Recreation Society (CPRS) Conference in Long Beach last week. The conference proved to be a great success. I was able to talk to a variety of vendors at the Exhibit Hall. I was also able to visit and was given tours of teen and community centers in the area. In addition, I attended the following sessions:

- 10 Steps to Successful Park Development
- Plugging Teens In: Designing Youth Space
- The Value of a Maintenance Management Plan
- Park Maintenance Standards
- Social Media: What it's Worth
- Exploring Youth Culture: Enhancing Youth Development Services
- Designing Parks through Community Based Workshops

TEEN & COMMUNITY CENTER UPDATE:

Staff is preparing to develop a Youth Advisory Council with students from McKinleyville Middle School. The intention is to select a group of students who will work with staff on the architectural design process in addition to what type of amenities will be installed at the new facility. Staff will also work with teens to discover what type of leisure and recreation program offerings they prefer.

We have held two (2) out of three (3) scheduled interviews with selected firms.

Below, please find a preliminary schedule for the Teen & Community Center:

- Deadline for proposals February 15, 2012
- Complete review of proposals/
Selection of firms to interview March 30, 2012
- Candidate Interviews April 4–20, 2012
- Contract Award May 1, 2012
- Kick off meeting May 15, 2012
- Construction Bidding 1st quarter 2013
- Construction begins 2nd quarter of 2013

SKATE PARK UPDATE:

As requested by the Board, reports from the McKinleyville Skate Park Organization (MSPO) will be submitted quarterly. At the time of this report, the Right of Entry Agreement approved by the MCSD Board of Directors on February 1, 2012 had not been signed by one of the representatives of the MSPO.

WATER FOR HILLER PARK WEST:

At its September 2011 meeting, members of the Recreation Advisory Committee recommended that staff extend a water line and install a spigot at the edge of the open meadow at Hiller Park West. This area is popular for dog owners and also individuals who like to enjoy the Hiller Park Loop Trails.

Staff's plan was to budget for this project in FY 2012/13, and utilize Sheriff Work Alternative Program (SWAP) and California Conservation Corps crews to complete the labor. The work was slated to begin next fiscal year (after July 1, 2012).

Darin Price from Bay Point Mortgage recently contacted our department and offered to donate up to \$700.00 towards the project. This donation will allow staff to install the spigot during the current fiscal year as time and availability of SWAP and CCC crews permits.

RECREATION ADVISORY COMMITTEE MEETING:

The Recreation Advisory Committee (RAC) met and is working on coming up with a recommendation to the MCSD Board of Directors regarding the Right of Entry Agreement with the McKinleyville Skate Park Organization (MSPO).

The Committee has voted to form four (4) Ad Hoc Committees:

- Hewitt Ranch Ad Hoc Committee (John Kulstad Chair)
- Teen & Community Center Committee (Neil Montgomery Chair)

- Property at School Road and Washington Ave (Jim Fritz Chair)
- Skate Park Ad Hoc Committee (Charlie Caldwell)

As requested by the MCSD Board of Directors, staff will be asking the Committee to make recommendations to the MCSD Board of Directors regarding a Right of Entry Agreement with the MSPO.

The item will be considered at the May 2, 2012 MCSD Board of Directors meeting.

HIGH ROCK CAMP:

We recently hired the High Rock Camp inmate crews to work at Hiller Sports Complex in order to prepare for the upcoming baseball and softball season. The cost of the thirteen (13) person crew is just \$200.00. The cost savings is estimated to be \$1,680 per day.

CALIFORNIA CONSERVATION CORPS (CCC):

MCSD has a contractual agreement with the CCC where in exchange for us providing space for the use of the Pierson Park Trailer and the parking lot at Pierson Park, the CCC provides MCSD with 5 ½ weeks of crews. The estimated value of this agreement is \$25,000.

Most recently, the CCC worked at Hiller Park to prepare for baseball and softball season.

SHERIFF WORK ALTERNATIVE PROGRAM (SWAP):

MCSD and County staff worked out an agreement to keep a SWAP crew working twelve (12) days per year. In addition, the County has agreed to provide between two (2) and five (5) individual SWAP members to report to work for MCSD each Saturday. This partnership is still working very well.

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.

WORK EXPERIENCE (Cal Works PROGRAM)

We currently have two (2) 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 (with possible extensions of time), and workers compensation is also under the County's umbrella.

GRAFFITI & VANDALISM UPDATE:

None to report.

McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

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 – The following is a summary of some of the recent cost savings opportunities District staff has identified.

- | | |
|------------------------------------|---------------|
| • Volunteers: | \$500 (labor) |
| • High Rock Camp Crew | \$1,680 |
| • SWAP crews: | \$3,000 |
| • CalWORKS: Parks | \$5,000 |
| • Paving leak repair trenches | \$2,000 |
| • Compressor/Generator repairs | \$ 750 |
| • New wiring and conduit, Holly St | \$ 600 |

Total cost savings for February 2012 is \$13,530

The cumulative cost saving to the District to date from July 1, 2011 is \$165,755

District staff are acknowledged and commended for their continued efforts in looking for cost savings opportunities that result in real savings for the District and our rate payers.

2. Norton Tank Painting - The tank painting project started on March 20, 2012 when the contractor began to mobilize to the site. A project kick-off meeting was held. It is anticipated that the project will be completed by May 1, 2012

3 Emergency Water Line Crossing over the Mad River – Construction continues on the bridge. One vault has been constructed. The second vault will be constructed in the spring. After this is completed the entire water line in the bridge will be tested.

4. Water and Sewer Rate Study – Notices were mailed to the public on Friday March 16, 2012. A copy of the notice was also placed on the MCSD Web site. The item will be brought back to the Board on May 2, 2012.

5. Alternate Water Tank Location – Staff has identified a potential alternate water tank location other than Murray Road. The Murray Road site was determined to have significant potential seismic risk based on the proximity to active faults. It is

not a good location to place a water tank. We have identified a more suitable site location at Hewitt Ranch.

6. Measure B, Teen Center – The RFP for design and preparation of plans and specification has been issued in order to solicit bids for the project. Bids have been received and we have completed preliminary interviews and will be bringing a recommendation to the Board in May.

7. Fiscal Year 2012/2013 budget – Staff continues to work on next year's budget and anticipates bringing the Parks and Recreation Budget to the Board at the next Board meeting. It is anticipated that the complete budget will be brought to the Board at a May or June Board meeting for approval.

8. CSDA Membership Committee Meeting – Attended and chaired CSDA membership committee meeting.

9. CSDA Board of Directors Meeting – Attended and participated in CSDA Board meeting as representative from Region 1.

10. CSDA Education Committee Meeting – No meeting scheduled.

11. ACWA Legislative Committee Meeting – Attend and participated in ACWA legislative committee meeting.

12. Roberts Rules of Order Training – A successful training was conducted on March 26 and 27, 2012. The training was attended by MCSD staff, Board of Directors, and a number of other organizations and Districts.

13. CSDA Legislative bill Summary – Attached is a legislative summary provided by CSDA

PHYSICAL ADDRESS:

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McKINLEYVILLE, CA 95519

MAILING ADDRESS:

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McKINLEYVILLE, CA 95519



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PARKS & RECREATION OFFICE:

PHONE: (707) 839-9003
FAX: (707) 839-5964

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

February 25, 2012

RE: MONTHLY MONITORING REPORT

Dear Lisa:

Enclosed is the Monthly Monitoring Report for January 2011 for McKinleyville Community Services District Wastewater Management Facilities WDID NO. 1B82084OHUM, operating under Order Number WQ 2011-0008-DWQ.

The normal discharge of effluent was 19 days discharge to reclamation M-005 & 6 and land disposal to M-003. Starting on January 19, 2012 discharge to M-002 Mad River began. The required monitoring and water quality constituents that were tested and were reported were in compliance in January with the exception of a weekly mass emission for BOD and Annual Chronic Toxicity Testing.

The requirement for BOD is 45 mg/L, 604 lbs/day and 65% removal for the monthly average and a weekly average limit of 65 mg/L and 873 lbs/day. With four weekly tests in January, that constitutes seven criteria. The BOD results for January are in compliance with the exception 1058 lbs/day mass emission on January 27, 2012. This exceedance was seasonal and due entirely to the level of discharge required during an extremely large rain even. Our influent increased by an average of 100% per day and our pond levels increased 9 inches due to the rain. This required an increase to our Effluent discharge by 1million gallons per day for approximately 10 days.

The requirement for NFR is 83 mg/L and minimum of 65% removal for the monthly average. With four weekly tests in January, that constitutes three criteria. The NFR results for January are in compliance.

The requirement for Nitrate as Nitrogen in the effluent is a monthly average of 10 mg/L. One test was conducted in January 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 January are as follows. Median was <1.8 and a Maximum of <1.8. Five samples were collected in the month of January and were in compliance.

Monthly River Monitoring was conducted in January.

Acute Toxicity testing was conducted in January the first test was collected January 11, 2012 and the result for Rainbow Trout was 100% but the survival of *C. dubia* was 0%. Upon notification, Lisa Bernard chose disqualify the *C. dubia* test as we had not started discharge to the Mad River. The follow up test resulted in 95% survival.

Chronic Toxicity testing was conducted in January and the lab results are attached. The District is experiencing ongoing issues associated with ammonia levels and will be pursuing an interim solution.

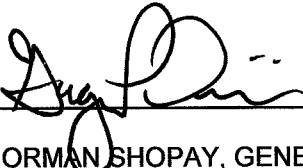
The District has just completed a 20 year Facility Plan and it outlines an upgrade alternative that will address the ammonia toxicity. A Request for Proposals will be issued shortly for design of the upgrades for the facility.

EXHIBITS:

- A. January 2011 Wastewater Management Facilities spreadsheet with the daily, weekly, monthly, and quarterly 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. Acute Toxicity lab report
- G. Chronic Toxicity lab report
- H. Semi Annual Pollutants of Concern and Quarterly Disinfection Byproducts lab report
- I. Well Monitoring Data and Level Sheets

"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: JANUARY

YEAR: 2012

DATE	INFLUENT FLOW M.G.D.	EFFLUENT FLOW M.G.D.	EFFLUENT MAXIMUM GPM	RIVER CFS	INFLUENT MONITORING		pH	(C°) TEMP	B.O.D. mg/L	NFR mg/L	EFFLUENT MONITORING			SETTLABLE SOLIDS	3X5 TOTAL COLIFORM
					B.O.D. mg/L	N.F.R. mg/L					AMMONIA	CL ₂ RES.	CL ₂ RES.		
1	0.866	0.458	322												
2	1.003	0.461	323												
3	0.914	0.481	901		7.0	10.4					28	2.1			<1.8
4	0.910	0.079	2637		7.0	9.7					28	1.7			
5	0.902	0.743	875		7.1	10.8					32	0.2			
6	0.875	0.933	886		7	10.2			16	35	32	1		<0.1	
7	0.925	0.562	393												
8	0.971	0.547	391		7.0	8.6					30	4.0			
9	0.910	0.942	862		7.0	8.4					32	1.2			<1.8
10	0.879	1.319	1740		7.0	8.1					30	2.3			
11	0.801	1.267	908		6.9	8.9					28	2.2			
12	0.893	1.234	883		7	8.3			31	42	30	2		<0.1	
13	0.848	0.809	883												
14	0.895	0.407	288												
15	0.935	0.414	295												
16	0.852	0.915	862		7.0	7.8					28	3.5			<1.8
17	0.891	1.218	854		7.1	8.6					32	2.5			
18	0.995	1.120	855		6.9	8.8					26	3.3			
19	1.346	1.016	1059	948	7	11.2					28	4.4	0.00		
20	1.406	1.780	1461	7610	7.1	10.2			25	50	32	1.2	0.00	<0.1	
21	1.446	2.237	1832	19200	7.1	9.7						0.1	0.00		
22	1.319	2.589	1637	6650	7.1	9.7						0.4	0.00		
23	1.185	2.481	1748	6420	7.2	10.0					28	1.4	0.00		<1.8
24	1.112	2.301	1713	3440	7.1	10.1					32	0.2	0.00		
25	1.288	1.909	1574	4220	7.1	10.9					30	1.3	0.00		
26	1.318	1.818	1289	8050	6.9	11.9					28	1.3	0.00		
27	1.210	2.115	1675	5450	6.9	10.4			60	69	32	0.1	0.00	<0.1	
28	1.231	2.188	1654	2970	7.0	11.1						2.3	0.00		
29	1.248	2.026	1537	2120	7.0	10.6						0.8	0.00		
30	1.137	2.012	1407	1780	7.0	11.2					28	1.1	0.00		<1.8
31	1.095	1.532	1413	1540	7.1	11.1					28	2.3	0.00		

MONTHLY TESTS			
DATE	TDS	AMMONIA	NITRATE
1/12/2012	270	25.0	ND
			BORON
			240

Semi-Annual Tests		Value in ug/l
Bis phthalate		DNG
aliph-BHC		ND
4,4' -DDT		ND
carbon tetrachloride		DNG

Quarterly Tests		Value in ug/l
Dichlorobromomethane		ND
Bromofom		ND
Chloroacibromomethane		ND
Chlorofom		1.5

30 DAY AVERAGE

DATE	BOD mg/L	BOD LBS/DAY	BOD % Removal	NFR mg/L	NFR LBS/DAY	NFR % Removal
1/10/2012	33	441	83	49	629	71

ACUTE TOXICITY		% Survival
Rainbow Trout	1/10/2012	100%
C. dubia	1/23/2012	95%
	Median	98%

CHRONIC TOXICITY		% Survival
TESTED		
Minnow		2
C. Dubia		1
Algae		1,333
		TUc

SIGNATURE:

[Signature]

REMARKS:

Indicates Permit Exceedance

Total Coliform	
Monthly	Median
<1.8	
Daily	
Maximum	<1.8



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March 16, 2012

TO: ACWA STATE LEGISLATIVE COMMITTEE

FROM: Antonio Alfaro, State Legislative Analyst

SUBJECT: State Legislative Committee Bill Packet

Below is bill packet #2 for the State Legislative Committee meeting on March 23, 2012. **The meeting will begin at 10:00 a.m. in the ACWA board room.**

If you have questions or concerns regarding any of the bills in the packet, please contact the advocate assigned to the bill prior to the meeting.

The State Legislative Committee will meet on the following dates in 2012:

- April 13, 2012
- May 4, 2012
- June 1, 2012
- June 15, 2012
- July 6, 2012
- August 10, 2012
- October 26, 2012 – Annual Planning Meeting

Excused Absences and Designation of an Alternate

Active participation by members appointed to the ACWA State Legislative Committee is critical to the success of its mission as described in the ACWA Bylaws (bylaws) and the ACWA Committee Guidelines (guidelines). Therefore, regular attendance is essential. The ACWA committee guidelines state that two unexcused absences from the committee will constitute a resignation of the committee member. The committee member should submit a request for an excused absence to ACWA's Director, State Legislation prior to the committee meeting.

The State Legislative Committee Chair has been asked to provide clarification as to whether a committee member not able to attend a meeting is authorized to designate an alternate to act on behalf of the committee member. ACWA bylaws and committee guidelines do not provide for designation of alternates for committee members. The committee's long-standing practice, however, has been and will continue to be to allow a member of the committee with an excused absence to designate an alternate. The committee member will be required to secure the concurrence of the appropriate ACWA Region Chair for the alternate. The committee member should provide the name of the alternate to ACWA's Director, State Legislation prior to the committee meeting. The alternate will be authorized to fully participate in all discussions of the committee and to vote on issues before the committee. Committee members, including alternates, act on behalf of the region for which they were appointed to represent.

ACWA State Legislative Committee

Friday, March 23, 2012
10:00 a.m.

AGENDA

- | | | |
|-------|--|----------------------------------|
| I. | Welcome | Paul Bartkiewicz, Chair |
| II. | Self-Introductions | Members, Guests, Staff |
| III. | Executive Director's Report | Tim Quinn |
| | A. Federal Issues | |
| | B. Delta Plan, Delta Stewardship Council | |
| | C. SWRCB Delta Flow Objectives | |
| | D. Other | |
| IV. | Bond Update | Tim Quinn and Cindy Tuck |
| V. | Local Government Committee - | |
| | Review of Governor's Twelve Point Pension Plan | Cindy Tuck and Whitnie Henderson |
| VI. | Review Of Bill Packets # 1 and #2 | Cindy Tuck |
| VII. | Other Business | |
| VIII. | Adjourn | |

Next Meeting: Friday, April 13, 2012
Location: ACWA Board Room

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ASSEMBLY BILLS:

ACA 22 Public employees retirement

Author: Smyth and
Conway

Introduced: 02-22-12

Amended:

Sponsor: Author

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes various public agency retirement systems, including the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937, among others, and these systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation. The California Constitution permits a city or county to adopt a charter for purposes of its governance that supersedes general laws of the state in regard to specified subjects, including compensation of city or county employees. The California Constitution also establishes the University of California as a public trust with full powers of organization and government, subject only to specified limitations. Charter cities and the University of California may establish pension plans under their respective independent constitutional authority. These pension systems are funded by employee and employer contributions and investment returns. Existing law provides that public employee pension benefits are a form of deferred compensation, the right to which vests in the employee on contractual principles and is protected from impairment by the California Constitution and the United States Constitution.

This measure would require each public retirement system, as defined in statute, to provide one or more hybrid pension plans meeting the requirements of this measure to each public employer that provides its employees a defined benefit pension plan administered by the public retirement system. The measure would require that a hybrid pension plan consist of a defined benefit component and a defined contribution or alternative plan design component, as specified. The measure would require, among other things, that a hybrid pension plan be designed with a goal of providing annually during retirement, based on a full career in public service, as defined, replacement income of 75% of a public employee's final compensation. The measure would require the Director of Finance, on or before January 1, 2013, to establish initial criteria and requirements for one or more hybrid pension plans, as specified. The measure would require, on and after July 1, 2013, each public retirement system to administer, and make available to each public employer that provides a defined benefit pension plan, one or more hybrid pension plans, except as specified, for public employees hired in each member classification in the public retirement system.

Summary of Amendments: N/A

Staff Comments: ACA 22 puts forth the Governor's 12-point pension reform plan. ACA 22 would ask California voters to approve amending the state's constitution to reform the pension

structure in order to address current deficiencies as well as stabilize the system into the future. Specifically, ACA 22 does the following:

1. Equalizes contribution levels: Requires new and current employees to contribute to at least 50% of the annual cost of their pension benefit.
2. Mandatory hybrid plan: New employees' retirement will combine a reduced defined benefit component and a defined contribution component with Social Security to make up 75% of an employee's salary.
3. Increase in retirement age: New employees retirement age would be set by Social Security, currently set at 67. For safety employees, the age will be commensurate with the ability to perform their duties.
4. Ends pension spiking in two ways:
 - a. New employees' retirement will be based on highest annual compensation over a three year period.
 - b. New employees' retirements will be calculated based on regular pay and will exclude special bonuses, unplanned overtime, and payouts for unused vacation or sick leave and any other pay perks.
5. Increase work service for health benefits: New employees will be required to work at least 15 years for the state to pay a portion of health benefits and 25 years for the state to pay a maximum of health benefits.
6. Limits post-retirement employment: Limits new and current employees to working 960 hours or 120 days per year upon retirement.
7. Felonies: Requires new and current employees to forfeit their pensions should they commit a felony while carrying out their official duties.
8. Prohibits current and new employees from receiving retroactive pension benefits for work already performed.
9. Pension holidays: Bars employers from suspending employer and/or employee contributions to fund annual pension costs.
10. Bars purchase of airtime: Current and new employees would be prohibited from purchasing service credit for time not worked.
11. Reforms the CalPERS Board: Adds two independent, public members with financial expertise to the Board and replaces the representative from the State Personnel Board with the Director of Finance.

Recommended Position: Watch

AB 1961 Coho Salmon: habitat		
Author: Huffman	Introduced: 02-23-12	Amended:
Sponsor: CalTrout, TroutUnlimited, and The Nature Conservancy	Supporters: Sonoma County Water Agency	Opposition:
Assigned to: Wendy Ridderbusch / Antonio Alfaro		Current Position: NYC

Summary: Existing law requires the Department of Fish and Game to develop and implement a recovery strategy pilot program for the coho salmon and repeals that authority on January 1,

2014, but requires any recovery strategy that has been approved or implemented prior to that date to remain in effect.

Existing law also establishes the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act to protect and increase the naturally spawning salmon, steelhead trout, and anadromous, as defined, fishery resources of the state.

This bill would establish the Coho Salmon Habitat Enhancement Leading to Preservation Act (Coho HELP Act) and require the department to approve a coho salmon habitat enhancement project, as defined, if specified conditions are met as determined by the director of the department, as prescribed. This bill would create the Coho Salmon Recovery Account within the Fish and Game Preservation Fund and permit the department to enter into an agreement to accept funds to achieve the purposes of the Coho Act and deposit those funds into that account. This bill would authorize the department to adopt emergency regulations for the implementation of the Coho Act. This bill would repeal the provisions of the Coho Act on January 1, 2018.

Summary of Amendments:

Staff Comments: This bill would expedite the approval of projects designed to provide permanent habitat enhancement for Coho salmon, which are native to California. According to the Author's office Coho salmon have virtually disappeared in some areas of California; in other areas they are teetering on the brink of extinction. They are currently listed under both the federal and state endangered species acts. The California Department of Fish and Game could more efficiently and effectively work with governmental and non-governmental partners to approve immediate on-the-ground habitat restoration projects (such as planting trees to provide more shade) to aid California's struggling Coho salmon populations.

As long as this bill continues to allow for the voluntary involvement of folks who want to help restore the Coho Salmon habitat it could be supportable by the larger water agency community. The potential concern with this concept is that it would somehow evolve into a mandatory participation requirement for Coho needing deep, cool pools of water. Voluntary contribution of water is fantastic, the spectre of forced contribution of water not so much.

Recommended Position: Favor

AB 2069 Sanitation, Sewerage, and Water Charges: Collection

Author: Solorio

Introduced: 02-23-2012

Amended:

Sponsor: Author

Supporters: Irvine Ranch
Water District (Lead
Proponent); California
Association of Sanitation
Agencies

Opposition:

Assigned to: Wendy Ridderbusch / Rick Morin

Current Position: NYC

Summary: Existing law authorizes various local public entities to prescribe fees or other charges for services and facilities furnished by them in connection with their water, sanitation, storm drainage, or sewerage system, as well as for the privilege of connecting to these sanitation or sewerage facilities. These charges, under specified circumstances, may be collected on the tax roll in the same manner as property taxes and the amount of the charges constitutes a lien against the lot or parcel against which the charge has been imposed, unless the real property has been transferred or conveyed to a bona fide purchaser for value, or a lien of a bona fide encumbrancer for value has been created and attached prior to the date upon which the first installment of the property taxes would become delinquent.

Existing law requires the charges for the above described services and facilities to remain delinquent for 60 days and the imposing entity to provide the assessee with notice of the delinquency, in order for the charges to constitute a lien against the lot or parcel of land for which the service was provided.

This bill would instead require the transfer, conveyance, or attachment to occur during the year preceding the date on which the first installment of property taxes that evidence the charges appears on the tax roll, in order to preclude the local public entity's lien from attaching to the real property of the bona fide purchaser or encumbrancer for value.

This bill would delete the 60 day delinquency and notice requirements and, instead, authorize the amount of unpaid charges to be secured at any time by filing a specified certificate with the County Recorder's Office. This bill would provide that the amount required to be paid, with interest and a penalty, constitutes a lien on all real property owned by the person or afterwards acquired by him or her before the lien expires.

Summary of Amendments: N/A

Staff Comments: AB 2069 contains various technical changes to existing law that allows sanitation and sewerage systems to collect delinquent charges, unpaid installments of fees or charges, and interest on the general tax rolls.

According to the author's office, AB 2069 would reduce the risk to public agency collections by narrowing the bona fide encumbrance exception, and would give sewer and water agencies the same collection tools that irrigation agencies and public utility districts are already authorized to use. AB 2069 would clarify and limit the bona fide encumbrance exception by declaring in

statute that the exception would only apply to the “gap period” after an agency submits the charge for placement on the tax bill and before the tax bill becomes due. Property purchasers use the bona fide encumbrance exception to avoid paying the unpaid tax bills of prior owners that they were unaware of when they purchase the property.

The lead proponent of this bill is the Irvine Ranch Water District (IRWD), an ACWA member agency. IRWD is attempting to get the contents of this bill into the annual Senate Committee on Governance and Finance omnibus bill (SB 1090). If successful with that effort, they would not move forward with AB 2069.

Recommended Position: Favor

AB 2183 Joint exercise of powers.

Author: Smyth

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law provides that in addition to other powers, any agency, commission, or board provided for by a joint powers agreement between an irrigation district and a city, is authorized to issue revenue bonds to pay the cost and expense of acquiring, constructing, improving, and financing a project for specified purposes. Existing law makes this provision inoperative after December 31, 1973, except as specified.

This bill would repeal this provision.

Summary of Amendments: N/A

Staff Comments: The author’s office states that the bill simply removes an inoperable section of the Government code.

Recommended Position: Watch

AB 2224 Public employees’ retirement.

Author: Smyth and
Conway

Introduced: 02-22-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes the Public Employees’ Retirement System (PERS) and the State Teachers’ Retirement System (STRS) for the purpose of providing pension benefits to their employees. Existing law also establishes the Judges’ Retirement System II which provides

pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees. The Regents of the University of California have established the University of California Retirement System as a trust for this purpose. Existing law permits members of PERS, STRS, and county, city, and district retirement systems that have adopted specified provisions, to purchase up to five years of additional retirement service credit by making specified contributions to the system. Existing law authorizes retirement benefits to be increased.

This bill, on and after January 1, 2013, would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above. The bill would except from this prohibition an official application to purchase this type of service credit received by the retirement system prior to January 1, 2013. The bill would prohibit any member who does not have at least five years of service credit before the operative date of this bill, or any person hired on or after that date, from purchasing additional retirement service credit. This bill would provide that any enhancement to a public retirement system's retirement formula or benefit that is adopted on or after January 1, 2013, would apply only to service performed on or after the operative date of the enhancement, except under specified circumstances. The bill would also provide that, if a change to a member's classification or employment results in an increase in the retirement formula or benefit applicable to that member, the increase would apply only to service performed on or after the operative date of the change. This bill would require a public employer to offer to its employees first hired on or after July 1, 2013, a hybrid pension plan or alternative pension plan option, as specified. The bill would require that each hybrid pension plan be designed with the goal of providing at normal retirement age, based upon a full career in public service of 30 years for safety employees and 35 years for all other public employees, replacement income of 75% of a public employee's final compensation.

Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This bill would require that a public employee, as defined, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, or service retirement, or other benefits, forfeit retirement benefits earned or accrued from the earliest date of the commission of the felony to the forfeiture date, as specified. The bill would also require any contributions to the public retirement system made by the public employee on or after the earliest date of commission of the felony to be returned, without interest, to the public employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension administrator. The bill would also make related, conforming changes.

Existing law defines final compensation for various employment classifications in connection with the benefits provided by the retirement systems.

The bill for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2013, would require that final compensation be calculated by multiplying the member's years of service credit by a percentage of the member's final compensation based on age at retirement using the member's pay rate during a period of at least 36 consecutive months, as specified.

Existing state and local public employee retirement systems are funded by investment returns and employer and employee contributions. The California Constitution provides that the retirement board of a public pension or retirement system has the exclusive power to provide for actuarial services in order to ensure the competency of the assets of the system. Existing law, with respect to PERS, requires the Governor to include in the annual Budget Act the contribution rates submitted by the system actuary of the liability on account of employees of the state.

This bill would require public employees who contribute to a defined benefit plan or component to contribute at least 1/2 of the annual actuarially determined normal costs, and would prohibit a public employer from contributing in any fiscal year, in combination with employer contributions, less than the plan normal cost. The bill would also prohibit an employer from paying the member's share of the employee contribution, except as specified.

Existing law generally prohibits any person who has been retired from being employed in any capacity with the same public employer unless he or she is first reinstated from retirement, except as authorized.

This bill would prohibit a person who retires from a public employer from serving without reinstatement, except during an emergency to prevent stoppage of public business or because the retired employee has skills needed to perform work of limited duration, as specified.

The California Constitution prohibits changing the composition of the retirement board of certain public pension systems, including the number, terms, and method of selection and removal of members, unless the change is ratified by a majority vote of the electors of the jurisdiction in which the participants of the pension system are or were prior to retirement, employed. Existing law creates the Board of Administration of PERS for the purpose of governing the system and prescribes the composition of the board. Existing law requires that one member of the board of administration be a member of the State Personnel Board, serving at the pleasure of the State Personnel Board, and that a member representing the public be chosen jointly by the Speaker of the Assembly and the Senate Committee on Rules. Existing law further requires that an official of a life insurer be appointed to the board of administration by the Governor.

This bill would revise the composition of the Board of Administration of PERS. The bill would eliminate the position of the member of the State Personnel Board and would replace that position with the director of finance. The bill would add to the board two persons, appointed at the pleasure of the governor, who represent the public, have financial expertise, and are not interested in the system, as specified. The bill would also replace the official of a life insurer, whom the governor is currently authorized to appoint, with a gubernatorial appointee who has expertise in health insurance and is not interested in the system.

The Public Employee's Medical and Hospital Care Act (PEMHCA) requires the employer contribution, with respect to each employee or annuitant who is in employment or retired from state service, to be adjusted by the Legislature in the annual Budget Act, as specified. Those

adjustments are required to be based on the principle that the employer contribution for each employee or annuitant shall be an amount equal to 100% of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous year. For each employee or annuitant with enrolled family members, the employer is required to contribute an additional 90% of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest state enrollment, excluding family members, during the previous year.

This bill for employees first hired on or after January 1, 2013, would limit the employer contribution amount to no greater than the lowest premium formula paid for a current employee enrolled for self-alone health benefit coverage year during the benefit year to which the formula is applied multiplied by the weighted average of the health benefit plan premiums, as specified. The bill would further require an employer, for each enrolled family member of a retired employee, to contribute an additional percentage that is no higher than the lowest premium formula paid for enrolled family members multiplied by the weighted average of the additional health benefit plan premiums required for enrollment of those family members.

Under PEMHCA, a state employee is required to have a certain number of years of state service, depending on hiring date and other factors, before he or she may receive any portion of the employer contribution payable for annuitants for postretirement health benefits.

This bill would prohibit a state employee who becomes a state member of the system on or after January 1, 2013, from receiving any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement. The bill would further specify that the percentage of the employer contribution payable for postretirement health benefits for an employee shall be based on the number of completed years of credited state service at retirement, with 50% after 15 credited years of service, and 100% after 25 or more years of service.

The bill would also declare that ensuring the statewide integrity of local government pension systems and ensuring the sufficiency of local public safety services are matters of statewide concern and not a municipal affair, and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill.

The bill would also declare that these provisions apply to the University of California.

The bill would delay the operation of its provisions until January 1, 2013, contingent on voter approval of an unspecified Assembly Constitutional Amendment by voters at the November 6, 2012, statewide election.

This bill would declare that it is to take effect immediately as an urgency statute.

Summary of Amendments: N/A

Staff Comments: AB 2224 puts forth the Governor's 12-point pension reform plan. AB 2224 would implement the reform package, and ACA 22 would place the reforms on the ballot as an

initiative to amend the constitution and keep future legislators from rolling back the reforms. AB 2224 does the following:

1. Equalizes contribution levels: Requires new and current employees to contribute to at least 50% of the annual cost of their pension benefit.
2. Mandatory hybrid plan: New employees' retirement will combine a reduced defined benefit component and a defined contribution component with Social Security to make up 75% of an employee's salary.
3. Increase in retirement age: New employees retirement age would be set by Social Security, which is currently 67. For safety employees, the age will be commensurate with the ability to perform their duties.
4. Ends pension spiking in two ways:
 - a. New employees' retirement will be based on highest annual compensation over a three year period.
 - b. New employees' retirements will be calculated based on regular pay and will exclude special bonuses, unplanned overtime, and payouts for unused vacation or sick leave and any other pay perks.
5. Increase work service for health benefits: New employees will be required to work at least 15 years for the state to pay a portion of health benefits and 25 years for the state to pay a maximum of health benefits.
6. Limits post-retirement employment: Limits new and current employees to working 960 hours or 120 days per year upon retirement.
7. Felonies: Requires new and current employees to forfeit their pensions should they commit a felony while carrying out their official duties.
8. Prohibits current and new employees from receiving retroactive pension benefits for work already performed.
9. Pension holidays: Bars employers from suspending employer and/or employee contributions to fund annual pension costs.
10. Bars purchase of airtime: Current and new employees would be prohibited from purchasing service credit for time not worked.
11. Reforms the CalPERS Board: Adds two independent, public members with financial expertise to the Board and replaces the representative from the State Personnel Board with the Director of Finance.

Recommended Position: Watch

AB 2238 Public Water Systems: Drinking Water

Author: Perea

Introduced: 02-24-2012

Amended:

Sponsor: California Rural
Legal Assistance (CRLA)

Supporters:

Opposition:

Assigned to: Cindy Tuck / Rick Morin

Current Position: NYC

Summary: Existing law requires the State Department of Public Health (DPH) to administer programs to fund improvements and expansion of small community water systems using specified priorities. Existing law requires the DPH to **encourage** the consolidation of small

community water systems that serve disadvantaged communities if consolidation will help the affected agencies and the state meet specified goals. Existing law allows funding of studies regarding the feasibility of consolidating two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community. Existing law requires the DPH to give funding priority to projects involving physical restructuring of two or more community water systems into a single, consolidated system when it is shown that the consolidation would further specified goals.

Existing law requires Local Agency Formation Commissions (LAFCOs) to conduct a service review of the municipal services provided in the county. Existing law **authorizes** LAFCOs to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery and **authorizes** the LAFCOs to include a review of whether the agencies are in compliance with the California Safe Drinking Water Act.

Under existing law, the DPH provides grants and revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Existing law requires the DPH to administer the Safe Drinking Water State Revolving Fund (Revolving Fund), which is continuously appropriated for the design and construction of public water systems.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Prop 84) provides funding for safe drinking water and other programs. Existing law establishes the Strategic Growth Council and appropriates \$500,000 from the funding provided by Prop 84 to support the Council and its activities. Existing law requires the Council to manage and award grants and loans to support the planning and development of sustainable communities.

This bill would make the following changes to the law:

1. Explicitly state that a LAFCO serving a severely disadvantaged community would be authorized to seek funding to enable it to study of the feasibility of, or provide funding for, the consolidation, merger or extension of services of public water systems.
2. In conducting a municipal service review (MSR), a LAFCO would be **required** to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to an agency's sphere of influence (SOI), including the consolidation of government agencies.
3. In conducting a MSR, a LAFCO would be **required** to include a review of whether any public water system is in compliance with the Safe Drinking Water Act.
4. In administering programs to fund improvements and expansions of small community water systems, the DPH would be required to **promote** the consolidation or merger of those systems in instances where consolidation or merger would help at least one of the affected agencies meet specified goals.
5. DPH would have to require that funding for feasibility studies performed prior to a construction project include studies of the feasibility of consolidating two or more community water systems or merging a community water system with a city waster system, when at least one of the water systems is a small community water system that serves a disadvantaged community, unless, the DPH makes a written determination that consolidation or merger is not feasible under the circumstances.
6. If DPH finds that the consolidation or merger of a small community water system would further specified goals, it would be required to give priority to funding construction projects that involve the physical restructuring and managerial consolidation of two or more community water systems or merger of one or more community water systems.

7. The DPH would be authorized to provide Safe Drinking Water State Revolving Fund (Revolving Fund) funds to fund the LAFCO feasibility studies for consolidation or merger of small public water systems.
8. The bill would require the DPH, when prioritizing proposed projects, to determine if merger, consolidation or extension of services of public water systems is necessary to provide pure, wholesome and potable water.
9. A proposed study or project being necessary to assist a LAFCO to provide long-term water needs, including the consolidation or merger of public water systems, would be added to the list of determinations that allow DPH to approve a Revolving Fund application.
10. When looking at an application for Revolving Fund funding for project design and construction, the DPH would be required to assess whether the applicant would be able to meet the long-term water needs of its community.

Summary of Amendments: N/A

Staff Comments: AB 2238 is aimed at increasing access to water and wastewater services in disadvantaged communities.

The bill would **require** LAFCOs to assess, through the MSR process, various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the SOI, including, but not limited to, the consolidation of governmental agencies. SB 244 (Wolk, 2011) gave LAFCOs the authority to conduct that assessment. Senator Wolk had proposed to require the assessment, but ACWA opposed that proposal on the basis that requiring the analysis outside of the SOI in every MSR would be overly burdensome. It was changed to an authorization during the negotiations with Senator Wolk. This bill would change the law to a mandatory process, without giving the just-enacted SB 244 provisions an opportunity to work.

Similarly, LAFCOs are already authorized to include reviews of Safe Drinking Water Act compliance in the MSRs. Mandatory review in every MSR is not necessary and will expend limited resources.

Further, the bill would create an unfunded mandate for LAFCOs. Because LAFCOs are funded by local agencies, it would place a financial burden on all local agencies. While the bill does provide LAFCOs with the ability to seek funds from the Revolving Fund, such funding is not guaranteed.

ACWA, CALAFCO and the League of California Cities worked hard to negotiate the language in SB 244 in 2011. The provisions of that bill only became operational as of January 1, 2012.

Other provisions of the bill related to DPH funding appear to be reasonable. Assembly Member Perea (D – Fresno) is attempting to address real issues in his district related to the service of clean water to disadvantaged communities.

Recommended Position: Pending Committee Input

AB 2283 Fish and Game.

Author: Portantino

Introduced: 02-24-12

Amended:

Sponsor: Author

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes the Department of Fish and Game and sets forth the duties of that department. This bill would rename the Department of Fish and Game the Department of Fish and Wildlife, and would make related changes.

The bill would prohibit existing supplies, forms, insignias, signs, logos, uniforms, or emblems from being destroyed or changed as a result of changing the name of the Department of Fish and Game to the Department of Fish and Wildlife, and would require their continued use until exhausted or unserviceable.

Summary of Amendments: N/A

Staff Comments: According to the author, while the genesis of the Department of Fish and Game originally came from regulating the taking of fish and animals (game) in California in order to protect species from being over-fished or over-hunted, the mission of the Department has changed.

While the Department still regulates the taking of fish, fowl, mammals and other animals, the focus is now on managing these populations and the environments in which they live. Having the word “game” in the name of the Department implies that its purpose is to only oversee the killing of animals in the state.

The author argues that times have changed and so should the name of the Department of Fish and Game. The name, the Department of Fish and Wildlife more accurately reflects the purpose and vision of this agency of government.

ACWA should watch this bill with considerable attention due to the fact that it could serve as an attractive vehicle for other DFG issues to be amended into the existing bill or it could be a gut and amend candidate later this year.

Recommended Position: Watch

AB 2310 Unemployment insurance benefits: governmental

Author: Morell

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law provides for unemployment compensation benefits to eligible persons who are unemployed through no fault of their own. Existing law also provides that, insofar as federal law requires that state unemployment insurance law contains such a provision of certification, the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual in a period with respect to which that individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment shall be reduced by an amount equal to the amount of the pension, retirement or retired pay, annuity, or other payment reasonably attributable to that week, as specified.

This bill would provide that the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after January 1, 2013, in a period with respect to which that individual is receiving a governmental pension, retirement or retired pay, annuity, or any other similar periodic payment, and which is based on the previous work of the individual, shall be reduced by an amount equal to the amount of the pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to that week, without a requirement from federal law, as specified.

Summary of Amendments: N/A

Staff Comments: According to the author, existing law extends public employees the luxury of supplementing their pension benefits with part time employment as retired annuitants. However, if a retired annuitant is laid off from their position with the state, losing that supplemental income, current law allows those individuals to collect unemployment benefits while at the same time receiving full pension benefits.

AB 2310 is intended to stop this practice by reducing the amount received from a retirement plan by the amount taken in unemployment.

Recommended Position: Watch

AB 2398 Water Recycling

Author: Hueso

Introduced: 02-24-2012

Amended:

Sponsor: WateReuse

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Rick Morin

Current Position: NYC

Summary: Existing law establishes the State Water Resources Control Board (SWRCB) and the California Regional Water Quality Control Boards (Regional Boards) as the principal state agencies with authority over matters relating to water quality. Existing law requires the State Department of Public Health (DPH) to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge, as defined, by December 31, 2013. Existing law requires the DPH to develop and adopt uniform water recycling criteria for surface water augmentation, as defined, by December 31, 2016, if a specified expert panel convened by the DPH finds that the criteria would adequately protect public health. Existing law requires the DPH to investigate the feasibility of developing uniform water recycling criteria for direct potable reuse, as defined, and to provide a final report on that investigation to the Legislature by December 31, 2016. Existing law requires the DPH, in consultation with the SWRCB, to report to the Legislature from 2011 to 2016, inclusive, as part of the annual budget process, on the progress towards developing and adopting the water recycling criteria for surface water augmentation and its investigation of the feasibility of developing water recycling criteria for direct potable reuse. Existing law requires the SWRCB to enter into an agreement with the DPH to assist in implementing the water recycling criteria provisions.

This bill would enact the Water Recycling Act of 2012 (the Act) to revise and consolidate those and other provisions relating to recycled water, and make other conforming changes to existing law. The Act would establish a statewide goal to recycle a total of 1.5 million acre-feet of water per year by the year 2020 and 2.5 million acre-feet of water per year by the year 2030. The Act would require the SWRCB and Regional Boards, the DPH, the Public Utilities Commission (PUC), the Department of Water Resources (DWR), and other state agencies to exercise the authority and discretion granted to them by the Legislature to encourage the use of recycled water and meet the goals of the act. The act would state that it is the intent of the Legislature that the DPH permit potable reuse projects using advanced treated purified water and that the SWRCB and Regional Boards permit nonpotable reuse projects and potable reuse projects using potable water other than advanced treated purified water. The Act would establish the Water Recycling Research Fund (WRRF) and require that certain civil penalties be deposited into the fund, to be expended by the SWRCB, upon appropriation by the Legislature, to conduct or fund research necessary to support the continued and safe use of recycled water in the state. The bill would also authorize the DPH to issue permits for raw water augmentation projects utilizing advanced treated purified water in conformance with the uniform drinking water criteria established pursuant to the Act.

Summary of Amendments:

Staff Comments: WateReuse is the sponsor of this bill which is currently in what they are dubbing a “skeleton” form. WateReuse’s board decided to move this skeleton form forward now and amend it further this spring to include several major concepts including:

- Removing recycled water from the definition of waste in both the Water and Health and Safety Codes and distinguish recycled water by level of treatment and type.
- Establishing a clear and unique permitting system for most types of recycled water that preserves most of the current functions of the water boards and funds the CA Dept. of Public Health's workload related to recycled water, which is currently unfunded.
- Specifying that the most highly treated recycled water – the advanced treated purified water that is blended with drinking water – will be permitted by the CA Dept. of Public Health in accordance with specifically-developed criteria to protect public health.

ACWA supports the increased use of water recycling to help meet the state's water supply needs. Our Blueprint contains language in bullet six of the Action Plan stating "Support and fund local efforts to expand recycled water use..." Unfortunately the legislature has proven in the past to be unwilling to take the significant steps necessary to accomplish the goal of increasing the use of water recycling by two million feet above the current levels.

SB 1391 (Padilla) from 2008, sponsored by the Metropolitan Water District, was the last major attempt to drive change by requiring the State Water Resources Control Board to develop a plan to assist the state in reaching the water reuse goal consistent with state and federal water quality laws. The bill was significantly amended in order to move it along through the legislative process and even so it was vetoed by Governor Schwarzenegger. The restriction to recharging groundwater basins with recycled water that meets all public health standards has been seen as one of the main roadblocks to reaching the goal.

Water agencies involved in water recycling have complained that there is also a need for consistent and fair regulation. The Senate Natural Resources and Water Committee analysis for AB 1391 sums up the dilemma: *"The problem posed by a recycled groundwater recharge policy is reconciling the need to promote the reuse of water in a manner that is consistent with protecting water quality including the (federal) Clean Water Act's goal of eliminating the discharge of pollutants to waters of the U.S. and California's Porter-Cologne Act and its provision to not degrade the state's waters. While specific proposals have been advanced to expedite groundwater recharge, many such proposals fall short when it comes to providing water quality protections."*

While it has been four years since the last effort to change current water recycling law the question will be whether or not the State Legislature and their staff have changed enough in that period of time to allow for the needed alterations in water recycling law to successfully take place. This bill will take significant coalition effort and staff resources amongst WaterReuse, ACWA, CASA, and other water and wastewater agencies that want to increase the use of recycled water in California.

Recommended Position: Favor

AB 2402 Department of Fish and Game: Strategic Visioning

Author: Huffman

Introduced: 02-24-12

Amended:

Sponsor: Huffman

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: (1) Existing law establishes the Department of Fish and Game and the Fish and Game Commission and sets forth the powers and duties of that department and commission. This bill would make findings and declarations of the Legislature concerning the process of developing a strategic vision for the Department of Fish and Game and the Fish and Game Commission pursuant to Chapter 424 of the Statutes of 2010, as specified. This bill would rename the Department of Fish and Game the Department of Fish and Wildlife, and would make related changes.

The bill would prohibit existing supplies, forms, insignias, signs, logos, uniforms, or emblems from being destroyed or changed as a result of changing the name of the Department of Fish and Game to the Department of Fish and Wildlife, and would require their continued use until exhausted or unserviceable. The bill would require the Director of Fish and Game, in consultation with the Natural Resources Agency, to establish an independent science advisory panel to provide advice and recommendations to the department and the commission. The bill would require the department to develop and adopt a method to impose and collect entry pass fees onsite for visitors that are engaging in nonconsumptive uses, as defined, at state wildlife refuges and other lands managed by the department that are open to the public. The bill would require the department to modify its online processes for purchase of entry passes and warden stamps to make these systems user-friendly for nonconsumptive users. The bill would require the director, at least 30 days before submitting the department's proposed annual budget requests to the Governor, to give the commission an opportunity to review and provide comment on the proposed annual budget requests.

(2) Under existing law, the changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services is used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, and tags. Under existing law, the department issues lifetime hunting licenses, abalone report cards, and marine aquaria collector's permits, and existing law establishes base fees for those entitlements, adjusted annually pursuant to the index.

This bill would require the commission to establish base fees for lifetime hunting licenses, as specified, and for abalone report cards and marine aquaria collector's permits for the 2013 license year, and would require those fees to be adjusted annually thereafter according to the index.

(3) Existing law, except as expressly provided otherwise, makes violations of the Fish and Game Code, or of any rule, regulation, or order made or adopted under that code, a misdemeanor. Existing law sets prescribed fines and penalties for specified violations.

This bill would require the department to modify its Automated License Data System to include information on all violations of the code and regulations adopted pursuant to the code. The bill

would require electronic field equipment utilized by fish and game wardens to be modified to give fish and game wardens access to Automated License Data System information in the field.

(4) Existing law requires, unless otherwise provided, that all money collected under the provisions of the Fish and Game Code and of any other law relating to the protection and preservation of birds, mammals, fish, reptiles, or amphibia be paid into the State Treasury to the credit of the Fish and Game Preservation Fund. Existing law establishes specific accounts within the fund, including the Big Game Management Account, and the department has established other accounts within the fund.

This bill would require the Augmented Deer Tags Account, Bighorn Sheep Permit Account, and Wild Pig Account within the fund to be consolidated and any remaining funds in these accounts transferred to the Big Game Management Account. The bill would require the department, after consultation with the Department of Finance and the Legislative Analyst's Office, to provide recommendations to the Legislature for consolidation of additional dedicated accounts within the fund if, in the determination of the department, consolidation would serve to reduce administrative costs to the department and enhance its ability to meet current needs, while still preserving the stated purposes of the dedicated accounts.

Summary of Amendments: N/A

Staff Comments: This bill contains the beginning changes to the Fish and Game Code that have arisen from the wide-ranging mandate to examine changes to the Department of Fish and Game as a result of the Governor's signature on AB 2376 (Huffman) from 2011.

ACWA opposed AB 2376 and requested a Governor's veto. Here is an excerpt of our letter: *"The bill would require the Secretary of the Natural Resources Agency to convene a committee, to develop and submit by January 1, 2012 to the Governor and Legislature, a strategic vision for the department of Fish and Game (DFG) and the Fish and Game commission that addresses matters relating to state fish and wildlife resource management.*

*The mission of the DFG is to 'manage California's fish, wildlife and plants, and the habitats upon which they depend, for their ecological values and for their use and **enjoyment by the public.**' AB 2376 directs the commission that would be formed by the bill to "identify stable funding options to fulfill the mission of the department while reducing dependency on the General Fund." We believe that the mission statement of the DFG illustrates the fact that there is a public benefit derived from the protection of the state environmental resources. As such there should be a general fund component as part of the funding sources to achieve that mission.*

We believe that the "stable funding sources" sought in the bill would most likely include higher fees in various forms on those who work with the DFG through the department's regulatory functions. For ACWA water agency members AB 2376 could mean higher regulatory fees as agencies fulfill their mission in providing high quality water to the ratepayers they serve."

The Natural Resources Agency appointed an executive committee, a blue ribbon commission, and a broad-based stakeholder group, and established a public process that is focused on improving and enhancing the capacity of both the Department of Fish and Game and the Fish and Game Commission to protect and manage California's fish and wildlife as a result of AB 2376. According to the Dept. of Fish and Game *"All groups and individuals with an interest in improving the work of the department and the commission have been invited to participate in the stakeholder group process. Numerous public meetings have been held and*

*extensive information on the process and the comments received to date are available on the Internet Web site of the Department of Fish and Game. The process is still underway and a final report is due to the Legislature by June 2012. The policy chairs of the committees of the Legislature with subject matter jurisdiction shall consider proposed legislation to address many of the draft recommendations of the California Fish and Wildlife Strategic Vision and other reforms necessary to satisfy the mandate of Assembly Bill 2376. **Some** of the content of the proposed legislation reflects suggestions contained in the draft interim strategic vision report released by the department and the commission on November 22, 2011. The proposed legislation **may be amended from time to time to reflect additional recommendations** as the stakeholder and blue ribbon commission process and final reports of the executive committee are completed.”*

ACWA needs to watch this bill like a hawk to ensure that water agencies don't become one of the alternative sources of funding the Department of Fish and Game looks to in lieu of the General Fund as a result of this strategic visioning process. The Department has created a separate website for this endeavor: www.vision.ca.gov.

Recommended Position: Watch

AB 2428 Public employees' retirement: elected local officials.

Author: Hagman

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitnie Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law creates the Public Employees' Retirement System (PERS) which provides a defined benefit to their members based on age at retirement, service credit, and final compensation. Existing law establishes the criteria for membership in PERS and may exclude certain employment classifications from membership. Existing law authorizes any public agency to make its employees members of PERS by contracting with the Board of Administration of PERS. The California Constitution provides for the division of the state into counties and requires that a county have an elected sheriff, elected district attorney, elected assessor, and elected governing body. Existing law provides for the incorporation of cities in various forms and requires that certain city offices be filled pursuant to elections, as prescribed. Existing law provides for the creation of districts, the governing bodies of which may be elected.

This bill would prohibit a person who is publicly elected to a local office of any kind, on and after January 1, 2013, from becoming a member of PERS by virtue of that service or from acquiring any retirement right or benefit for serving in that elective local office. The bill would also apply these prohibitions to a person who is appointed to fill the term of a person so elected, but would not apply them to a person who obtained membership by virtue of holding an elective local office prior to January 1, 2013, for so long as he or she holds that office or is reelected to that office.

Summary of Amendments: N/A

Staff Comments: According to the author, pension underfunding carries large consequences not only for the systems and their administrators, but the systems' members and California's taxpayers who are ultimately called upon to foot the bill. The Public Policy Institute of California recently found that 83% of Californians are concerned with the amount of money government spends on public pensions. Considering the state is about to spend over \$5 billion a year on unfunded education liabilities, it is imperative we begin reforming government and pension systems to focus funds where they really belong.

In addition, AB 2428 is not a new idea. State legislators were excluded from membership in CalPERS in 1990. This bill would apply the exclusion to local elected officials as well, who have been characterized as those most guilty of pension abuses such as double-dipping and spiking.

Recommended Position: Watch

AB 2429 Public employees' retirement: local appointed and elected officials.

Author: Hagman

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law authorizes the creation of retirement systems for public employees by counties, cities, and districts. Existing law creates the Public Employees' Retirement System and the State Teachers' Retirement System, which provide a defined benefit to their members based on age at retirement, service credit, and final compensation. Existing law establishes the criteria for membership in the various public employee retirement systems and may exclude certain employment classifications from membership. The California Constitution provides for the division of the state into counties and requires that a county have an elected sheriff, elected district attorney, elected assessor, and elected governing body. Existing law provides for the incorporation of cities in various forms and requires that certain city offices be filled pursuant to elections, as prescribed. Existing law provides for the creation of districts, the governing bodies of which may be elected.

This bill would prohibit a person who is appointed or publicly elected to a local office of any kind that is less than full time, as defined, on and after January 1, 2013, from becoming a member of a retirement system by virtue of that service or acquiring any retirement right or benefit for serving in that elective office. The bill would except from this prohibition a person who obtained membership by virtue of holding an appointive or elective local public office prior to January 1, 2013, and remains in that office or is reappointed or reelected to it.

Summary of Amendments: N/A

Staff Comments: According to the author, acknowledging the need for pension and government reform has become unanimous and urgent. A result of massive underfunding, municipal governments would have to contribute amounts equal to payrolls over the next 18 years in order to account for shortfalls, tying up the majority of their budgets.

While the recession has contributed to government underfunding, another major cause is politician benefit abuses, of which local elected officials are often most guilty. Such abuses can consist of retiring from one public office and collecting benefits, and then returning to a part-time office to receive additional benefits. AB 2429 would prevent part-time politician pensions for this reason, in addition to prohibiting them from receiving additional perks such as health benefits and taxpayer-funded vehicles.

After scandals such as the one that occurred in the City of Bell, California voters and officials have pushed for reform in these areas for elected officials. Last year, State Controller John Chiang demanded local governments publically release detailed executive compensation reports, which showed that most local government agencies give pension and health benefits to part-time elected officials on city councils and boards. In some of the expensive cases, health benefits ranged from \$16,000 to \$21,000 a year.

Recommended Position: Watch

AB 2567 Sewer collection agency: schedule of fees.

Author: Carter

Introduced: 02-24-12

Amended:

Sponsor: Ross Valley
Sanitary District

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Articles XIII C and XIII D of the California Constitution, generally requires that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution. Existing law establishes notice, protest, and hearing procedures for the levying of new or increased fees and charges by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution. Existing law authorizes an agency that provides water, sewer, or refuse collection service to adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water or adjustments for inflation, if it complies with specified procedures.

This bill would additionally authorize a sewer collection agency that charges a fee that includes a pass through increase in water treatment fees charged by a water treatment agency to adopt a schedule of fees or charges authorizing automatic adjustments in the amount of that fee, if that agency complies with specified procedures.

Summary of Amendments: N/A

Staff Comments: According to the author this bill would enable ratepayers of a wastewater collection agency to adopt a schedule of fees that includes automatic adjustments that pass through increases in the amounts associated with wastewater treatment. The addition of

“wastewater collection” to the list of agencies that have the flexibility and “wastewater treatment” to the list of property related services would save local agency and ratepayer monies while preserving the protections afforded by Proposition 218.

Current law, articles XIII C and XIII D of the California Constitution, generally requires that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. In 1996, Californians passed Proposition 218 – The Right To Vote On Taxes Act which created elements relating to voter and taxpayer control over local taxes.

Government Code 53756 authorizes an agency providing water, sewer, or refuse collection service to adopt a schedule of fees or charges that provides for automatic adjustments that pass through increases in wholesale charges for water or adjustments for inflation, if the schedule of fees or charges does not exceed a period of 5 years and that the schedule be adopted pursuant to existing law providing notice, protest, and hearing procedures for the levying of new or increased fees and charges by local government agencies.

In 2008, AB 3030 (Brownley) created Government Code section 53756 which added a new section to the Government Code to allow any agency providing water, wastewater, or refuse collection services to automatically pass through *wholesale* rate increases by authorizing a schedule of fees or charges for a property-related service.

AB 3030 was sponsored by Las Virgenes Municipal Water District to try and help them recover unanticipated inflationary costs and pass through costs without having to go through a full rate-setting process for wholesale rate increases imposed upon them by Metropolitan Water District. ACWA asked for and received amendments and ultimately took a favor position.

Recommended Position: Favor

AB 2595 Desalination

Author: Hall

Introduced: 02-24-2012

Amended:

Sponsor: CalDesal

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Rick Morin

Current Position: NYC

Summary: The Cobey-Porter Saline Water Conversion Law authorizes the Department of Water Resources (DWR), either independently or in cooperation with public or private entities to conduct a program of investigation, study, and evaluation in the field of saline water conversion, to provide assistance to persons or entities seeking to construct desalination facilities, and after submission of a written report and upon appropriation from the Legislature, to finance, construct, and operate saline water conversion facilities. Existing law required the DWR, not later than July 1, 2004, to report to the Legislature, on potential opportunities and impediments for using seawater and brackish water desalination, and to examine what role, if any, the state should play in furthering the use of desalination technology. Existing law required the DWR to convene a Water Desalination Task Force, comprised of representatives from listed agencies and interest groups, to advise the DWR in carrying out these duties and in making recommendations to the

Legislature.

The California Ocean Protection Act (the Act) establishes the Ocean Protection Council (the Council) in state government. Existing law requires the Council to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies, and to identify and recommend to the Legislature changes in law needed to achieve these goals.

This bill would require the Council to report to the Legislature, by December 31, 2013, on opportunities for streamlining the current statewide permitting processes for seawater desalination facilities, including an evaluation of impediments to desalination projects relative to the current permitting process and to recommend potential administrative and legislative actions for streamlining the permitting process *while maintaining current regulatory protections*. The bill would require the Council to convene the Seawater Desalination Permit Streamlining Task Force to review the current permitting processes required by all state regulatory agencies for the planning, design, construction, monitoring, and operation of seawater desalination facilities, to identify opportunities for streamlining the permitting process, and to advise the council in making the report.

Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Prop 84), authorizes the issuance of general obligation bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the DWR, upon appropriation by the Legislature, for grants for projects that assist local public agencies to meet the long-term water needs of the state, including the delivery of safe drinking water and the protection of water quality and the environment. Eligible projects are required to implement integrated regional water management plans that meet certain requirements.

This bill would appropriate \$250,000 of these funds to the DWR to pay the costs of convening the Seawater Desalination Permit Streamlining Task Force and preparation of the report.

Summary of Amendments:

Staff Comments: AB 2595 would direct the Ocean Protection Council to establish a task force to review and assess all currently required permitting processes for the planning, design, construction and operation of desalination facilities. The task force would be required to report back to the Legislature by December 31, 2013, with recommendations to streamline such processes without changing the regulatory standards that protect the environment. The bill would also direct \$250,000 from Prop 84 to the task force to pay for the report.

CalDesal, the sponsors of this bill, cite over 30 major permits or processes that are required from numerous state and federal agencies or departments for an ocean desalination project in California.

Recommended Position: Favor

SENATE BILLS:

SCA 18 Public employees retirement

Author: Huff

Introduced: 02-22-12

Amended:

Sponsor: Author

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes various public agency retirement systems, including the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937, among others, and these systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation. The California Constitution permits a city or county to adopt a charter for purposes of its governance that supersedes general laws of the state in regard to specified subjects, including compensation of city or county employees. The California Constitution also establishes the University of California as a public trust with full powers of organization and government, subject only to specified limitations. Charter cities and the University of California may establish pension plans under their respective independent constitutional authority. These pension systems are funded by employee and employer contributions and investment returns. Existing law provides that public employee pension benefits are a form of deferred compensation, the right to which vests in the employee on contractual principles and is protected from impairment by the California Constitution and the United States Constitution.

This measure would require each public retirement system, as defined in statute, to provide one or more hybrid pension plans meeting the requirements of this measure to each public employer that provides its employees a defined benefit pension plan administered by the public retirement system. The measure would require that a hybrid pension plan consist of a defined benefit component and a defined contribution or alternative plan design component, as specified. The measure would require, among other things, that a hybrid pension plan be designed with a goal of providing annually during retirement, based on a full career in public service, as defined, replacement income of 75% of a public employee's final compensation. The measure would require the Director of Finance, on or before January 1, 2013, to establish initial criteria and requirements for one or more hybrid pension plans, as specified. The measure would require, on and after July 1, 2013, each public retirement system to administer, and make available to each public employer that provides a defined benefit pension plan, one or more hybrid pension plans, except as specified, for public employees hired in each member classification in the public retirement system. This bill contains other existing laws.

Summary of Amendments: N/A

Staff Comments: SB 1176 & SCA 18 reflect the governor's 12-point pension plan. The proposal provides *new* public employees a hybrid pension plan consisting of defined benefit and defined contribution components. The legislation will also:

- Increase retirement age to 67 except for public safety employees.
- Restrict the granting or purchasing of “Airtime” – credits that are purchased for service not yet performed.
- Redefine final compensation to stop retirement gimmicks like “spiking.”
- Curtail the amount of time employees can work after retirement, also known as “double dipping.”
- Prohibit employees who commit felonies during their tenure from collecting benefits.

According to the author, these reforms will unlock tens of billions of dollars for state and local governments, which can be allocated to top priorities like educating our children and protecting public safety.

SB 1176 would be the legislative component which could be implemented immediately. SCA 18 would be a ballot initiative to be placed before the voters which would lock into the constitution the public pension reforms and keep future legislators from rolling back the reforms.

Recommended Position: Watch

SB 1099 Regulations.		
Author: Wright	Introduced: 02-16-12	Amended:
Sponsor: NFIB	Supporters:	Opposition:
Assigned to: Whitney Henderson / Antonio Alfaro		Current Position: NYC

Summary: The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The Act specifically provides that a regulation or order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing, subject to certain exceptions.

This bill would instead provide that a regulation or order of repeal is effective on either January 1 or July 1, as specified, subject to the same exceptions. This bill contains other related provisions and other existing laws.

Summary of Amendments: N/A

Staff Comments: According to the author, every year businesses face a barrage of new regulations promulgated by numerous agencies. These regulations go into effect 30 days after being filed with the Secretary of State’s office and this happens year round. The rules cover a broad spectrum of issues and sometimes are the direct result of recently passed legislation. Other times agencies are addressing issues as they arise under authority granted in the distant past.

It is difficult if not impossible for a small business with minimal staff to keep track of the regulatory process involving multiple departments and agencies. This often has the effect of guaranteeing that many businesses will be out of compliance with some of the new rules. A small business owner may be complying with a regulation passed by one agency and be entirely

unaware of another agency's new requirements. This is muddled even further when agencies do not consult with each other and may pass conflicting regulations – complying with one set of rules puts a business out of compliance with others.

SB 1099 simply states that all regulations will take effect annually on one of two days: January 1 or July 1, depending on the date of the regulations introduction. It also allows for the adoption of emergency regulations necessary for the protection of the public good if there is need for immediate action. Additionally, the bill requires the Office of Administrative Law to post on its website a list of proposed regulations awaiting implementation.

Recommended Position: Favor

SB 1110 Public Records

Author: Rubio

Introduced: 02-17-12

Amended:

Sponsor: Ca Sheriffs
Association

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.

This bill would authorize a state or local agency to charge a fee to cover the direct costs of duplication of a public record that may include personnel costs associated with that duplication. The bill would also authorize a state or local agency to collect a deposit from an entity or individual requesting records prior to engaging in the collection of the records.

Summary of Amendments: N/A

Staff Comments: The sponsor claims this bill is simply clarifying existing law which states that the public agency has the authority to charge a fee in order to comply with a public record request. In addition the bill clarifies that the public entity may hold a deposit in order to comply with the request. The issue has arisen out of situations in which a public records request is made but never picked up. In such a situation the public agency loses both the time and money spent fulfilling the request.

Recommended Position: Favor

SB 1141 Public Employees: postemployment health care benefits.

Author: Walters

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, establishes provisions governing postemployment health care benefits for members and their families, upon meeting vesting requirements and subject to various limitations. Existing law also establishes various postemployment health care benefits under other benefit systems, including those offered by counties, districts, cities, and the University of California.

This bill would prohibit a public employer, for employees first hired on or after January 1, 2013, from entering into a memorandum of understanding or other collective bargaining agreement that provides for defined postemployment health care benefits unless each employee pays at least 50 percent of the actuarially required contributions to fund those health care benefits. The bill would also declare that ensuring the statewide integrity and security of state and local government health care plans is a matter of statewide concern and not a municipal affair, and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill. The bill would also declare that these provisions apply to the University of California to ensure the financial security of the university.

Summary of Amendments: N/A

Staff Comments: According to the author's office, in California, retiree health benefits have risen rapidly over the years for two specific reasons:

1. Health care premiums risen faster than the rate of inflation.
2. The aging baby boomer population combined with longer life expectancy has increased the number of retirees receiving these benefits.

In addition, as retiree health care costs rise faster than the rate of growth of tax revenues, a growing percentage of government revenues must be devoted to providing these benefits and fewer revenues are available for other critical state functions, such as, public safety, education and infrastructure.

According to the most recent figures from the OPEB Actuarial Valuation Report released by the Controller, California's Unfunded Actuarial Accrued Liability was \$62.1 billion as of June 30, 2011, more than two thirds of our annual state budget.

Current law requires state contributions for retiree health benefits on the basis of a "100/90 formula." Under the formula, the state's contributions are equal to 100% of retiree health premiums for the employee and 90% of the premiums for eligible family members.

This bill would require the employees' share of the cost to rise to 50%.

Recommended Position: Watch

SB 1142 Public Employees: postemployment health care benefits.

Author: Walters

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, establishes provisions governing postemployment health care benefits for members and their families, upon meeting vesting requirements and subject to various limitations. That law permits a contracting agency to be subject to the act for its employees and annuitants, upon meeting specified criteria. Existing law also establishes various postemployment health care benefits under other benefit systems, including those offered by counties, districts, and cities.

This bill would prohibit a public employer, as defined, for employees first hired on or after January 1, 2013, from providing postemployment health care benefits on behalf of its employees unless it fully funds those benefits, as determined by an actuary.

Summary of Amendments: N/A

Staff Comments: According to the author this bill will be amended significantly. The proposed bill language would propose that rather than funding retiree health benefits on a 'pay-as-you-go' basis, a sound pre-funding policy could greatly improve the way California funds OPEB in the following ways:

- A higher discount rate could be used and actuarial accrued liabilities would be lower
- Assets would accumulate
- The unfunded liability could be significantly lower when compared to the pay-as-you-go policy
- Annual OPEB costs would be lower
- The growth in balance sheet liability could be controlled

According to the Controller's OPEB Actuarial Valuation Report, a full-funding policy implemented by the state could be based on a discount rate of 7.61% and would produce a fiscal year 2012 Annual Required Contribution of \$3.31 billion, cash contributions of \$3.31 billion and an actuarial liability of \$40.73 billion (compared to the \$62.1 billion liability under current policy).

The current pay-as-you-go system used to finance retiree health benefits is unsustainable. It shifts the costs to future generations and exponentially increases the unfunded liability. Requiring public employers to pre-fund their defined retiree medical benefits would improve the state's fiscal health and dramatically reduce OPEB costs over the long term. Further, pre-funding begins the process of lowering the unfunded liability and better securing

SB 1142 would require public employers offering defined retiree medical benefits to fund its obligations actuarially in accordance with generally accepted accounting principles for governments, allowing them to incrementally increase their contributions to the plan over a five year phase-in period

Recommended Position: Watch

SB 1143 Public employees' benefits: postemployment health care.

Author: Walters

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, establishes provisions governing postemployment health care benefits for members and their families, upon meeting vesting requirements and subject to various limitations. Existing law also establishes various postemployment health care benefits under other benefit systems, including those offered by counties, districts, and cities.

This bill would require a public employer, as defined, to fund actuarially postemployment health care benefits to its public employees, in accordance with generally accepted accounting principles for governments to ensure that those benefits are fully funded.

Summary of Amendments: N/A

Staff Comments: According to the author's office SB 1143 will be amended to eliminate an implied right to future retirement benefit arrangements for new public employees hired on or after January 1, 2013, allowing public employers to amend retirement benefits except when prohibited by federal law. The actuarial value of vested accrued benefits earned for prior service would remain an enforceable right and could not be reduced without written consent.

Recommended Position: Watch

SB 1146 Wells: Reports: public availability.

Author: Pavley

Introduced: 02-21-12

Amended:

Sponsor: Author

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law requires a person who digs, bores, or drills a water well, cathodic protection well, or a monitoring well, or abandons or destroys a well, or deepens or re-perforates a well, to file a report of completion with the Department of Water Resources. Existing law prohibits those reports from being made available to the public, except under certain circumstances. This bill would instead require the department to make the reports available to the public.

The bill would require the department to provide specified disclaimers when providing the reports to the public. The bill would also allow the department to charge a reasonable fee to recover the cost of reproducing the report and for compliance with the Information Practices Act of 1977.

Summary of Amendments: N/A

Staff Comments: This bill is the attempt to address the governor's concerns with SB 263 (Pavley) from 2011 which was vetoed. The governor's veto message read, "I am returning SB 263 without my signature. The original intent of this bill recognized that wise management and use of groundwater supply requires public disclosure of well logs. Unfortunately, as amended, this bill now unduly restricts the use of these reports and imposes severe criminal penalties for disclosure. California is the only western state that does not provide ready access to well reports. That should be changed. I am directing the Department of Water Resources to work with the author to ensure responsible public access to well logs."

SB 263 originated from a problem encountered in 2010, when a community group that was seeking information about existing and future groundwater contamination sought to compel DPH to provide them with well location information after DPH invoked the "public interest" exemption in the California Public Records Act to deny them the information. In evaluating the case, the court found that the public interest was significant in knowing exact well location as necessary to "identify sources of existing and potential future groundwater contamination, analyze the impact of potentially contaminating land activities on groundwater and persuading the parties conducting the land activities to take actions to prevent groundwater contamination." In addition, the court also found that "citizens who know the location of drinking wells can advocate for their protection from existing sources of contamination or planned developments in the area." Ultimately however, the court ruled that even though the public interest in the exact location for wells is significant, it is clearly outweighed by the public interest in keeping the locations confidential based on critical security concerns.

According to the supporters of SB 263, the Groundwater Resources Association of California (GRA), "Well completion reports contain critical information for groundwater managers, consulting hydrologist, academics, and others interested in conducting studies on the geologic

and hydrologic characteristics of groundwater basins, earthquake risk assessments, and other geologic hazards. Unfortunately, those who would benefit from and need this information for these critical studies cannot currently have access.”

In addition GRA argues that “well completion reports can also be used to construct detailed underground aquifer maps. These maps along with other hydrogeological data are critical to developing and implementing sustainable groundwater management programs. For example, such data can be used to determine possible locations for efficient and effective groundwater banking, identify key recharge areas, and to protect and improve groundwater quality.”

GRA continues on to state, “For over 50 years, the law has restricted access to well completion reports to just government agencies, with minor exceptions related to groundwater contamination studies. Add that the information obtained from well completion reports cannot be published in reports and studies, unless individual well owners sign a release form. No other western state restricts access to well completion reports as in California; most western states even provide internet access to these reports. This bill would bring California’s outdated law on well completion report confidentiality up to current industry standard in western states, and help meet the need for further transparency and availability of groundwater information statewide.”

Some members within ACWA have raised concerns about providing well log information to the public. Currently the federal government through various security bulletins encourages public entities to limit the disclosure of such information. In addition the Department of Public Health has concluded that there are credible threats to the state public water system and as such has implemented a policy of withholding public well log information from the public. For this reason the SLC took an “Oppose unless amended” position on SB 263 at its July 8, 2011 meeting. Ultimately ACWA ended up with a watch position taken by the SLC at the August 12, 2011, meeting.

ACWA, through its Board-approved Groundwater Framework, makes several recommendations regarding groundwater data collection and transparency. Specifically, the framework calls for accessibility of information and transparency of information which will provide education about the resource, but ultimately will help provide protection to all groundwater users, ensuring a high quality, reliable water supply in each basin. In addition the framework calls for “appropriate local monitoring, measurement and reporting of groundwater basin activity are the only ways to assess whether groundwater basin objectives are being achieved.”

The second policy principle of the ACWA Policy Principles on Groundwater Management states that, “Local management of groundwater resources requires accountability, stewardship and transparency; and appropriate local monitoring, measurement and reporting of groundwater basin activity to assure groundwater basin objectives are being achieved.”

The question then is what is appropriate information sharing? Are the objectives of ACWA member agencies in securing a high quality reliable water supply threatened by the bill? Or is the bill an appropriate measure to advance transparency?

Last year, ACWA opposed SB 263, then later moved to a watch position.

Recommended Position: Watch

SB 1176 Public employees' retirement.

Author: Huff

Introduced: 02-22-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) for the purpose of providing pension benefits to their employees. Existing law also establishes the Judges' Retirement System II which provides pension benefits to elected judges and the Legislators' Retirement System which provides pension benefits to elective officers of the state other than judges and to legislative statutory officers. The County Employees Retirement Law of 1937 authorizes counties to establish retirement systems pursuant to its provisions in order to provide pension benefits to county, city, and district employees. The Regents of the University of California have established the University of California Retirement System as a trust for this purpose. Existing law permits members of PERS, STRS, and county, city, and district retirement systems that have adopted specified provisions, to purchase up to five years of additional retirement service credit by making specified contributions to the system. Existing law authorizes retirement benefits to be increased.

This bill, on and after January 1, 2013, would prohibit a public retirement system from allowing the purchase of additional retirement service credit, as described above. The bill would except from this prohibition an official application to purchase this type of service credit received by the retirement system prior to January 1, 2013. The bill would prohibit any member who does not have at least five years of service credit before the operative date of this bill, or any person hired on or after that date, from purchasing additional retirement service credit. This bill would provide that any enhancement to a public retirement system's retirement formula or benefit that is adopted on or after January 1, 2013, would apply only to service performed on or after the operative date of the enhancement, except under specified circumstances. The bill would also provide that, if a change to a member's classification or employment results in an increase in the retirement formula or benefit applicable to that member, the increase would apply only to service performed on or after the operative date of the change. This bill would require a public employer to offer to its employees first hired on or after July 1, 2013, a hybrid pension plan or alternative pension plan option, as specified. The bill would require that each hybrid pension plan be designed with the goal of providing at normal retirement age, based upon a full career in public service of 30 years for safety employees and 35 years for all other public employees, replacement income of 75% of a public employee's final compensation.

Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction, as specified.

This bill would require that a public employee, as defined, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in

pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, or service retirement, or other benefits, forfeit retirement benefits earned or accrued from the earliest date of the commission of the felony to the forfeiture date, as specified. The bill would also require any contributions to the public retirement system made by the public employee on or after the earliest date of commission of the felony to be returned, without interest, to the public employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension administrator. The bill would also make related, conforming changes.

Existing law defines final compensation for various employment classifications in connection with the benefits provided by the retirement systems.

The bill for the purposes of determining a retirement benefit paid to a person who first becomes a member of a public retirement system on or after January 1, 2013, would require that final compensation be calculated by multiplying the member's years of service credit by a percentage of the member's final compensation based on age at retirement using the member's pay rate during a period of at least 36 consecutive months, as specified.

Existing state and local public employee retirement systems are funded by investment returns and employer and employee contributions. The California Constitution provides that the retirement board of a public pension or retirement system has the exclusive power to provide for actuarial services in order to ensure the competency of the assets of the system. Existing law, with respect to PERS, requires the Governor to include in the annual Budget Act the contribution rates submitted by the system actuary of the liability on account of employees of the state.

This bill would require public employees who contribute to a defined benefit plan or component to contribute at least 1/2 of the annual actuarially determined normal costs, and would prohibit a public employer from contributing in any fiscal year, in combination with employer contributions, less than the plan normal cost. The bill would also prohibit an employer from paying the member's share of the employee contribution, except as specified.

Existing law generally prohibits any person who has been retired from being employed in any capacity with the same public employer unless he or she is first reinstated from retirement, except as authorized.

This bill would prohibit a person who retires from a public employer from serving without reinstatement, except during an emergency to prevent stoppage of public business or because the retired employee has skills needed to perform work of limited duration, as specified.

The California Constitution prohibits changing the composition of the retirement board of certain public pension systems, including the number, terms, and method of selection and removal of members, unless the change is ratified by a majority vote of the electors of the jurisdiction in which the participants of the pension system are or were prior to retirement, employed. Existing law creates the Board of Administration of PERS for the purpose of governing the system and prescribes the composition of the board. Existing law requires that one member of the board of administration be a member of the State Personnel Board, serving at the pleasure of the State Personnel Board, and that a member representing the public be chosen jointly by the Speaker of the Assembly and the Senate Committee on Rules. Existing law further requires that an official of a life insurer be appointed to the board of administration by the Governor.

This bill would revise the composition of the Board of Administration of PERS. The bill would eliminate the position of the member of the State Personnel Board and would replace that position with the Director of Finance. The bill would add to the board two persons, appointed at the pleasure of the Governor, who represent the public, have financial expertise, and are not interested in the system, as specified. The bill would also replace the official of a life insurer, whom the Governor is currently authorized to appoint, with a gubernatorial appointee who has expertise in health insurance and is not interested in the system.

The Public Employee's Medical and Hospital Care Act (PEMHCA) requires the employer contribution, with respect to each employee or annuitant who is in employment or retired from state service, to be adjusted by the Legislature in the annual Budget Act, as specified. Those adjustments are required to be based on the principle that the employer contribution for each employee or annuitant shall be an amount equal to 100% of the weighted average of the health benefit plan premiums for an employee or annuitant enrolled for self-alone, during the benefit year to which the formula is applied, for the four health benefit plans that had the largest state enrollment, excluding family members, during the previous year. For each employee or annuitant with enrolled family members, the employer is required to contribute an additional 90% of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four health benefit plans that had the largest state enrollment, excluding family members, during the previous year.

This bill, for employees first hired on or after January 1, 2013, would limit the employer contribution amount to no greater than the lowest premium formula paid for a current employee enrolled for self-alone health benefit coverage year during the benefit year to which the formula is applied multiplied by the weighted average of the health benefit plan premiums, as specified. The bill would further require an employer, for each enrolled family member of a retired employee, to contribute an additional percentage that is no higher than the lowest premium formula paid for enrolled family members multiplied by the weighted average of the additional health benefit plan premiums required for enrollment of those family members.

Under PEMHCA, a state employee is required to have a certain number of years of state service, depending on hiring date and other factors, before he or she may receive any portion of the employer contribution payable for annuitants for postretirement health benefits.

This bill would prohibit a state employee who becomes a state member of the system on or after January 1, 2013, from receiving any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement. The bill would further specify that the percentage of the employer contribution payable for postretirement health benefits for an employee shall be based on the number of completed years of credited state service at retirement, with 50% after 15 credited years of service, and 100% after 25 or more years of service.

The bill would also declare that ensuring the statewide integrity of local government pension systems and ensuring the sufficiency of local public safety services are matters of statewide concern and not a municipal affair, and that, therefore, all cities, including charter cities, would be subject to the provisions of the bill.

The bill would also declare that these provisions apply to the University of California.

The bill would delay the operation of its provisions until January 1, 2013, contingent on voter approval of an unspecified Assembly Constitutional Amendment by voters at the November 6, 2012, statewide election. This bill would declare that it is to take effect immediately as an urgency statute.

Summary of Amendments: N/A

Staff Comments: SB 1176 & SCA 18 reflect the governor's 12-point pension plan. The proposal provides *new* public employees a hybrid pension plan consisting of defined benefit and defined contribution components. The legislation will also:

- Increase retirement age to 67 except for public safety employees.
- Restrict the granting or purchasing of "Airtime" – credits that are purchased for service not yet performed.
- Redefine final compensation to stop retirement gimmicks like "spiking."
- Curtail the amount of time employees can work after retirement, also known as "double dipping."
- Prohibit employees who commit felonies during their tenure from collecting benefits.

According to the author, these reforms will unlock tens of billions of dollars for state and local governments, which can be allocated to top priorities like educating our children and protecting public safety.

SB 1176 would be the legislative component which could be implemented immediately. SCA 18 would be a ballot initiative to be placed before the voters which would amend into the constitution the public pension reforms and keep future legislators from rolling back the reforms.

Recommended Position: Watch

SB 1251 Invasive aquatic species: quagga mussels.

Author: Evans

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law, until January 1, 2017, generally prohibits a person from possessing, importing, shipping, or transporting, in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, including, but not limited to, quagga mussels, and authorizes the Director of Fish and Game or his or her designee to engage in various enforcement activities.

This bill would state the intent of the Legislature to enact legislation to require the Department of Fish and Game to develop a new statewide quagga mussel prevention and management plan dependent on criteria, including, but not limited to, inspection protocols and the tracking of vessels.

Summary of Amendments: N/A

Staff Comments: Currently this is a spot bill although the author's office indicates that it will be amended with major revisions that will create a statewide quagga mussel prevention program.

As you may recall ACWA sponsored SB 215 (Huff) in 2011 which extended the sunset provision on the existing program scheduled to cease on January 1, 2012. The original bill, AB 1683 (Wolk) 2007, authorized the Department of Fish and Game (DFG) to conduct inspections, order quarantines, and take other actions necessary to prevent the spread of invasive dreissenid mussels, including quagga and zebra mussels. SB 215 successfully passed through the Legislature and was signed into law by Governor Brown last year.

Before deciding on the language in SB 215 (Huff), ACWA's State Legislative Committee originally considered a proposal to sponsor legislation which would have:

- Established a consistent and uniform statewide boat inspection program in California to reduce the risk of introducing mussels and other invasive species into any reservoir
- Established a gate fee to offset costs related to implementing the boat inspection program by the Dept. of Fish and Game and other related state agencies
- Eliminated the sunset clause in existing law that authorizes the mussel inspection program

ACWA's State Legislative Committee settled on sponsoring the third prong of this three-pronged approach and did not embrace the other two prongs due to dual concerns about implementing a statewide inspection program when many member agencies already had their own, locally-controlled, inspection programs underway and the language requiring that a statewide fee be created for recreational boaters to pay for mussel inspections. The latter was deemed to be too risky for an association that has continually battled back unwanted water agency fee proposals made by organizations like the Legislative Analyst's Office (LAO) to sponsor. ACWA did not want to be viewed as advocating for a fee on another constituency while at the same time fending off fee proposals foisted on its own members.

The choice a year ago was whether to sponsor a bill that contained the creation of a statewide boat inspection program along with a new fee on recreational boaters that would go to the Dept. of Fish and Game. The decision this year will be whether to support or oppose those same concepts in a bill, or bills, that ACWA is not sponsoring. It would be beneficial to have the State Legislative Committee give some thought now about the direction ACWA should go when these bills are amended to include this language.

Recommended Position: Watch

SB 1255 Employee compensation: itemized statement.

Author: Wright

Introduced: 02-23-12

Amended:

Sponsor:
Foundation

CRLA **Supporters:**

Opposition:

Assigned to: Whitnie Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee an accurate itemized statement in writing showing specified information, including, among other things, the name of the employee and the last four digits of his or her social security number or an employee identification number, the gross wages earned, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, and the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined, the name and address of the legal entity that secured the services of the employer. Existing law provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this requirement is entitled to recover the greater of all actual damages or a specified sum, not exceeding an aggregate penalty of \$4,000, and is entitled to an award of costs and reasonable attorney's fees.

This bill would provide that an employee is deemed to suffer injury for purposes of the above-referenced penalty if the employer fails to provide a wage statement or fails to provide a wage statement showing the name of the employee and the last four digits of his or her social security number or employee identification number. The bill would also provide that an employee is deemed to suffer injury for that penalty if the employer fails to provide accurate and complete information, as specified, and the employee cannot promptly and easily determine from the wage statement alone the amount and manner in which the employer calculated the gross and net wages paid to the employee during the pay period, the deductions the employer made from the gross wages to determine the net wages paid to the employee during the pay period, and the name and address of the employer or legal entity that secured the services of the employer, as specified.

Summary of Amendments: N/A

Staff Comments: Since 1943, Labor Code Section 226 has required that employers provide a detailed wage statement to workers at the time they are paid. According to the author of this bill, the courts have interpreted section 226 in several different ways, some of which go against the legislative intent of the law.

The author goes on to state that SB 1255 provides a statutory definition of what constitutes "suffering injury" for purposes of recovering damages in a lawsuit alleging a violation of section 226.

Under SB 1255, a worker generally would be deemed to "suffer injury" if she is unable to readily and easily determine from the wage statement alone: 1) how the employer calculated her gross and net wages; 2) what deductions were made to her pay; and 3) what is the name and address of

the employer issuing the wage statement, and, if the employer is an farm labor contractor, the name and address of any entity that has furnished labor during the pay period.

The definition of “suffering injury” provided by SB 1255 codifies according to the author a commonsense understanding of the term consistent with the legislative history of section 226, and provides the courts with an appropriate framework for addressing these issues in the future.

Recommended Position: Watch

SB 1306 State Water Resources Control Board

Author: Blakeslee

Introduced: 02-23-2012

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Cindy Tuck / Rick Morin

Current Position: NYC

Summary: Under existing law, the Porter-Cologne Water Quality Control Act (Porter-Cologne), the State Water Resources Control Board (SWRCB) and the nine California Regional Water Quality Control Boards (Regional Boards) are the principal State Agencies with responsibility for the regulation of water quality in the State. Porter-Cologne requires the SWRCB to formulate and adopt State policies for water quality control and requires the Regional Boards to adopt regional water quality control plans in compliance with the State policies.

Existing law prohibits a board, department or office within Cal/EPA from adopting the final version of a “rule” unless it has complied with specified scientific peer review requirements. Existing law includes within this definition of “rule” a policy that the SWRCB adopts that has the effect of a regulation and that is adopted in order to implement or make effective a statute.

Under existing law, the Cal/EPA boards, departments and offices generally must enter into an agreement with a qualified institution (such as the University of California or the National Academy of Sciences) or a qualified scientist or group of scientists for the peer review of the scientific basis of a rule.

This bill would include in the definition of “rule” for purposes of the peer review requirements the issuance, denial, or revocation, on a statewide, regionwide, or industrywide basis, of waste discharge requirements, permits, and waivers, by the SWRCB.

Summary of Amendments: N/A

Staff Comments: The existing peer review requirements are intended to ensure that the scientific basis of a regulation adopted by a Cal/EPA board, department or office is based on sound scientific knowledge and methods. (Under state law, a “regulation” is a rule, regulation, order, or standard *of general application* adopted by the state agency to implement, interpret, or make specific the law.) A permit (in the traditional meaning of “permit”) is different than a regulation in that a permit applies specific conditions to a specific entity and is not a standard of general application. In addition to “regulations,” the existing peer review requirements apply to

SWRCB-adopted policies that have the effect of a regulation and that are adopted in order to implement or make effective a statute.

The issue raised by this bill is whether the peer review requirements should apply to SWRCB-adopted “general permits.” This term includes waste discharge requirements and permits that the SWRCB develops and issues on a statewide, region-wide or industry-wide basis.

Instead of having a Regional Board develop individual permits one at a time for substantially similar types of sources, the state has found it to be efficient in many cases for the SWRCB to develop general permits.

The author has a point in that general permits are applied more generally (usually within some type of geographical boundary) than a traditional permit is applied. (For example, a storm water general permit might apply to the construction industry.) That is the logic underlying the bill.

Dischargers are often frustrated by SWRCB requirements, including requirements in general permits. However, it may be the cost and difficulty of compliance that most often cause the frustration with general permits as opposed to the scientific basis.

Although there would likely be benefits in some situations, applying the peer review requirements to general permits would certainly add more time and costs to the development of the general permit. In some cases industry has found the existing general permit process to be a streamlined and more certain means of permitting when compared with the issuance of one permit at a time. As with other bills aimed at improving processes at the SWRCB (see SB 964 (Wright) and SB 965 (Wright) from 2012), there are pros and cons to this measure.

ACWA has requested additional information from the Author’s Office but has not received a response at this time. It is possible that the current proposal is a placeholder.

Recommended Position: Watch

SB 1364 Water Corporations		
Author: Huff	Introduced: 02-24-2012	Amended:
Sponsor: Author	Supporters:	Opposition:
Assigned to: Wendy Ridderbusch / Rick Morin		Current Position: NYC

Summary: This bill would amend sections of the Public Utilities Code to extend certain provisions to water utilities that presently apply only to gas, electric and telephone utilities. It would also allow the Public Utilities Commission (PUC) to audit a private water company’s financial statements and would widen the definition of a customer to include a local government that receives water from a water utility.

(1) Under existing law, the PUC has regulatory authority over public utilities. The Public Utilities Act authorizes the PUC, each commissioner, and each officer and person employed by the PUC at any time to inspect the accounts, books, papers, and documents of any public utility.

This authorization applies to inspections of the accounts, books, papers, and documents of any business that is a subsidiary or affiliate of, or a corporation that holds a controlling interest in, an electrical, gas, or telephone corporation.

This bill would make the authorization to inspect the accounts, books, papers, and documents of any business that is a subsidiary or affiliate of, or a corporation that hold a controlling interest in, a water corporation.

(2) Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law, with certain exceptions, prohibits a public utility from changing any rate, except upon a showing before the PUC and a finding by the PUC that the new rate is justified. With certain exceptions, whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to change any rate for the services or commodities furnished by it, existing law requires that the corporation furnish its customers notice of its application to the PUC for approval of the new rate. This notice requirement does not apply to any rate change proposed by a corporation pursuant to an advice letter submitted to the PUC filed pursuant to PUC established procedures for advice letters.

This bill would make the above-described advice letter filing exception inapplicable to an advice letter filed by a water corporation.

(3) Existing law requires every electrical, gas, and telephone corporation to annually prepare and submit to the PUC a report describing all significant transactions between the corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in, the electrical, gas, or telephone corporation. Existing law requires that the report identify the nature of the transactions and the terms and conditions applying to them, including the basis upon which cost allocations and transfer pricing were established for the transactions. Existing law requires the PUC to periodically audit all significant transactions between an electrical, gas, or telephone corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in, that electrical, gas, or telephone corporation.

This bill would make these requirements applicable to water corporations.

(4) If the PUC finds and determines that any electrical, gas, or telephone corporation has willfully made an imprudent payment to, or received a less than reasonable payment from, any subsidiary or affiliate of, or corporation holding a controlling interest in, the electrical, gas, or telephone corporation in violation of any rule or order of the PUC, and the corporation has sought to recover the payment in any proceeding before the PUC, existing law authorizes the PUC, following a hearing, to levy a penalty against the corporation not to exceed three times the required or prohibited payment if the PUC finds that the payment was made or received by the corporation for the purpose of benefiting its subsidiary, affiliate, or holding corporation.

This bill would extend this authority to water corporations.

(5) Existing law authorizes any party to an action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected by an order or decision of the PUC, to apply for a rehearing with respect to any matter determined in the action or proceeding and specified in the application for rehearing. Existing law prohibits a cause of

action arising out of any order or decision of the PUC from accruing in a court to a corporation or person unless the corporation or person has filed an application to the PUC for a rehearing within a specified amount of time after the date of issuance of the order or decision. Existing law generally authorizes an aggrieved party to petition for a writ of review of an order or decision of the PUC within 30 days after the commission issues its decision denying an application for a rehearing, or, if the PUC grants the application, within 30 days after the PUC issues its decision on rehearing. Under existing law, a petition for a writ of review may be brought in a court of appeal or the Supreme Court, except with respect to certain decisions of the PUC pertaining to a water corporation, which are required to be brought in the Supreme Court.

This bill would eliminate the requirement that certain decisions of the PUC pertaining to a water corporation be brought in the Supreme Court.

(6) Existing law provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers, as defined, for participation or intervention in any proceeding of the PUC involving the public utility. The existing definition of a customer, for these purposes, excludes any state, federal, or local government agency.

This bill would include in the definition of a customer, for these purposes, a local government agency that is a customer of a water corporation when participating in a proceeding involving the water corporation.

Summary of Amendments: N/A

Staff Comments: According to Senate Republican Leader Huff's office, SB 1364 is intended to bring PUC regulation and audits to private water companies. The bill is in response to a situation in the Senator's district related to the Golden State Water Company, a private water company that is not a member of ACWA. Golden State plans to raise water rates 27% beginning next year if the PUC approves their request. This would come on the heels of a 20% increase approved in 2010. A decision by the PUC is expected in October.

Senator Huff's constituents are concerned about the rates they are being charged for their water service. The ultimate goal of the bill is to allow more transparency in the water rates charged by private water companies, with the hope of rate relief as well. Senator Huff is in negotiations with the private water industry on this bill. The Senator's office indicated that the bill will not likely move forward in its current form.

Recommended Position: Watch

SB 1380 Environmental Quality: environmental impact report: standards

Author: Rubio

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the lead agencies to make specified findings in an EIR.

This bill would require a public agency to disclose in an EIR the environmental standards established by specified statutes and the regulations, plans, policies, and permitting programs promulgated, adopted, or issued pursuant to those statutes that are applicable to the project. Because a lead agency would be required to make this additional disclosure in an EIR, this bill would impose a state-mandated local program.

Summary of Amendments: N/A

Staff Comments: According to the author's office, one of the most important purposes of the California Environmental Quality Act (CEQA) is to collect and organize information about a project's environmental impacts and facilitate its public review and informed consideration by the lead agency. To this end, it is important that both the public and the lead agency clearly understand the scope of a project's mitigation obligations and the laws and regulations that govern the project development. While CEQA requires an analysis of a project's potential impacts on a wide range of resources, the information provided under CEQA frequently does not include a clear description of the legal and regulatory obligations of the project.

In the 40 years following the enactment of CEQA, Congress and the California Legislature have adopted dozens of laws to protect environmental quality. Disclosure of these laws as part of the environmental review process will assist the public and stakeholders in understanding project obligations and support more informed public participation.

Recommended Position: Watch

SB 1387 Metal Thefts.

Author: Emmerson

Introduced: 02-24-12

Amended:

Sponsor: Eastern
Municipal Water District

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law governs the business of buying, selling, and dealing in secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, also known as "junk." Existing law requires junk dealers and recyclers to keep a written record of all sales and purchases made in the course of their business, including the name and address of each person to whom junk is sold or disposed of, and to preserve the written record for at least 2 years after making the final entry of any purchase or sale of junk. Existing law provides that the failure to keep a written record as required is punishable as a misdemeanor.

This bill would prohibit any junk dealer or recycler from possessing a public fire hydrant, fire department connection including bronze or brass fittings or parts, a public manhole cover or lid, or any part of that cover or lid, or a public backflow device and connections to that device without a written certification from a public agency or utility on their letterhead that owns or previously owned the material and that the entity has sold or is offering the material for sale, and that the person possessing the certificate and identified in the certificate is authorized to negotiate the sale of the material. The bill would make junk dealers and recyclers civilly liable and would also provide that if a junk dealer or recycler lacks the certification described above, the lack of that certification would give rise to the presumption that the property was stolen for purposes of the provisions proscribing receiving stolen property. This bill contains other related provisions and other existing laws.

Summary of Amendments: N/A

Staff Comments: The issue of metal theft first arose as a serious and costly problem within California as a rash of material was being purloined and then sold to recyclers in 2006. The agricultural industry took the brunt of the initial thefts of irrigation pumps with copper wiring in the Central Valley but then other areas of the state were impacted as well. Then-Assemblyman Tom Berryhill (R-Stanislaus) and Then-Senator Chuck Calderon (D-Whittier) went to war for a year with Berryhill representing the farmers and Calderon representing the recyclers. As a result of the non-productive standoff the two members were eventually able to form a bipartisan coalition and pushed AB 844 through the legislative process after almost a year of intense negotiations with a large and diverse group including law enforcement, local government, agriculture, the recyclers, and....The bill which was considered a major accomplishment at the time to curb metal thefts contained several changes to the law at that time including

- the requirement to have sellers show a current i.d. as well as a thumbprint; a photo or video of the seller with the item sold;
- a three-day hold on payment to seller after date of sale; requirement to retain the photo/video of customer on file for two years;
- requirement of recyclers to send copy of all transactions involving this type of material to law enforcement if requested;

- new penalties of not less than \$1,000 (double the previous \$500 fine) or by county jail imprisonment for a minimum of 30 days if a recycler fails to follow the above provisions or who is proven to be knowingly receiving stolen goods. Second failure to adhere to the law would force a \$2,000 fine (again double the previous fine) and imprisonment. Third failure would lead to a \$4,000 fine, county jail, and revocation of the recycler's business license for at least one year.
- New civil penalties allowed by permitting metal theft victims to file against the thief for the actual value of metal stolen and any damage done to property in the act of the theft.

The bill was signed into law by then Governor Schwarzenegger and the heavy news coverage of metal thefts petered out as the law went into effect. As the price of certain metals including copper continued to rise last year, however, metal thefts were catapulted back into the news. In spite of all the mandated reporting requirements and increased penalties and county jail time metal thefts are still occurring and are proving to be quite costly – especially the repetitive nature of the thefts – to water agencies.

Eastern Municipal Water District is sponsoring this measure which seeks to further protect specific items such as fire hydrants, public manholes, and backflow devices by requiring written authorization to sell and make recyclers civilly liable themselves. Water agencies have jurisdiction over backflow devices other local government like fire districts and cities or counties have jurisdiction over most fire hydrants and manholes in the state. While the bill makes narrow, targeted amendments it is possible that this first attempt to make changes to the groundbreaking 2008 law will attract the original diverse and opinionated coalition and create an opportunity even among the recyclers to reopen this complicated legislative deal.

Recommended Position: Support

SB 1498 Local Agency Formation Commission: Powers		
Author: Emmerson	Introduced: 02-24-2012	Amended:
Sponsor: League of CA Cities	Supporters:	Opposition:
Assigned to: Cindy Tuck / Rick Morin		Current Position: NYC

Summary: (1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act) authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if the city or district **requests** and receives permission to do so from the Local Agency Formation Commission (LAFCO) in the affected county. Existing law authorizes the LAFCO to authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization, or outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, under specified circumstances.

The bill would authorize a LAFCO to delegate approval of the following requests to its executive officer:

1. A request by a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence (SOI) in anticipation of a later change of organization.

2. A request by a city or district to provide new or extended services outside of its jurisdictional boundary and outside of its SOI to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, as specified.

This bill would additionally authorize the LAFCO to authorize a city or district to provide new or existing services outside its jurisdictional boundaries and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing, in which the following determinations are made:

1. The extension was contemplated in a municipal service review (MSR);
2. The extension will not result in adverse impacts on open space, agricultural lands or growth; and
3. A later change of organization is not expected or desired based on local policies.

(2) The Act prohibits a LAFCO from approving an annexation to a city of any territory greater than ten acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, **unless** an application has also been filed to annex that disadvantaged community to the city. The Act provides that such an application to annex a disadvantaged contiguous community is not required if: 1) a prior application for annexation of the same community had been made in the preceding five years; or 2) the LAFCO finds that a majority of the residents within the affected territory are opposed to annexation.

This bill would repeal these provisions related to annexation.

Summary of Amendments: N/A

Staff Comments: The League of California Cities (the League) is sponsoring SB 1498. The League is suggesting the deletion of a new section of law from 2011 (from SB 244 (Wolk)) which is aimed at increasing annexations of disadvantaged communities. The League would replace that language with a different approach relative to the service needs of disadvantaged communities.

SB 244 was aimed at having planning processes take into account disadvantaged unincorporated communities, including their lack, in some instances, of basic services. The League explains its concerns with the annexation provisions of SB 244 as follows:

1. In addition to the annexation requirement in SB 244, the Legislature and the Governor also enacted SB 89 (Senate Budget and Fiscal Review Committee, Chapter 35, Statutes of 2011) which shifted \$130 million of city Vehicle License Fund (VLF) revenue to save the state law enforcement grant programs. Part of that funding historically went to cities with population added as a result of the annexation of an inhabited area. This was critical funding for the municipal services that must be provided to the new area.
2. One of the unintended consequences of the SB 244 annexation provision is that negotiations for annexations become much more complicated which results in fewer annexations.

The League suggests that a better approach is to give LAFCOs the authority proposed in this bill to approve service expansions, including expansions to disadvantaged unincorporated areas.

The SB 1498 language regarding LAFCOs was originally written by the California Association of Local Agency Formation Commissions (CALAFCO). CALAFCO shared the language with

ACWA, the League and other organizations in January. The bill would provide LAFCOs with more flexibility in accommodating service extensions beyond a SOI.

It is important to note that this bill would **not** mandate out-of-agency services. Rather, it would **allow** a city or district to seek authority from its LAFCO to provide new or extended services outside its jurisdictional boundary. The city or district wishing to provide the out-of-agency services would have to make the **request** to LAFCO before LAFCO could take up the issue.

Recommended Position: Watch

SB 1557 Joint power agreements: delegation of authority.

Author: Negrete McLeod **Introduced:** 02-24-12

Amended:

Sponsor: State Treasurer

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Joint Exercise of Powers Act authorizes the governing body of an agency or entity formed pursuant to a joint powers agreement to delegate its functions to an advisory body or administrative entity for the purposes of program development, policy formulation, or program implementation under specified circumstances.

This bill would require a joint powers agency or entity, or its governing board, prior to delegating the responsibility for administering the joint powers agreement to another entity, or prior to delegating its functions to an advisory body or administrative entity for the purposes of program development, policy formation, or program implementation, to utilize the competitive bidding process to select the entity that will receive the delegation, unless the entity that will receive the delegation is a member of the joint powers agency or entity. This bill would also limit a delegation of authority to three years, and would prohibit reimbursement to the entity that received the delegation based upon a percentage of revenues, or on a contingency basis.

Summary of Amendments: N/A

Staff Comments: According to the author, some JPAs, which act as conduit bond issuers, contract with private entities to administer the JPAs. These entities essentially act as staff for the JPAs. The contracts are not competitively bid. This reduces transparency and lessens the assurance the JPAs are getting these services at the best possible price. Additionally, the private entities are compensated based on the amount of bond issuance fees and other revenues the JPA generates. Since the private entity acts as staff and makes recommendations to the governing board whether to approve revenue-generating projects, such a compensation arrangement creates potential conflicts of interest which state laws seek to prevent.

Recommended Position: Watch

SPOT BILLS:

AB 2090 Regulations.

Author: Berryhill

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies, and for review of those regulatory actions by the Office of Administrative Law.

This bill would declare the intent of the Legislature to enact legislation that would provide greater oversight over the regulatory process.

Summary of Amendments:

Staff Comments: This is a spot bill.

Recommended Position: Watch

AB 2099 Employment: wage and hour violations.

Author: Cedillo

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Under existing law, every employer or other person acting either individually or as an officer, agent, or employee of another person, who requires or causes an employee to work for longer hours than those fixed or to work under conditions of labor prohibited by an order of the Industrial Welfare Commission, who pays or causes to be paid to an employee a wage less than minimum wage fixed by an order of the commission, or who violates or refuses or neglects to comply with any specified provision of the Labor Code or any order or ruling of the commission is guilty of a misdemeanor, punishable by a fine of not less than \$100 or by imprisonment for not less than 30 days, or both.

This bill would increase the fine for a violation of this provision from not less than \$100 to not less than \$250. The bill would also make technical, nonsubstantive changes.

Summary of Amendments: N/A

Staff Comments: The author has provided no information on why this change is being sought or is necessary.

Recommended Position: Watch

AB 2103 Employment: wages and hours: overtime.

Author: Ammiano

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law, with certain exceptions, establishes eight hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by 2/3 of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek. Existing law also includes definitions of terms used in these provisions.

This bill would make a non-substantive change to those definitions.

Summary of Amendments:

Staff Comments: This is a spot bill.

Recommended Position: Watch

AB 2105 Junk Dealers: scrap metal.

Author: Grove

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law defines a junk dealer to include any person engaged in the business of buying, selling, and dealing in junk. Existing law defines junk to include, among other things, ferrous and nonferrous scrap metals and alloys. Existing law requires a junk dealer in this state to keep written records of all sales and purchases of junk made in the course of his or her business and to report daily to the chief of police or to the sheriff, as specified. A junk dealer that fails to keep these records is guilty of a misdemeanor.

This bill would express the intent of the Legislature to enact legislation regarding scrap metals and recycling.

Summary of Amendments:

Staff Comments: This is one of three bills regarding metal theft introduced in the state Legislature this year. This particular one is currently in spot bill form. We will watch this bill to

see what amendments may be added and bring it back to the State Legislative Committee with a new recommendation and a vote if it gets some meat on its bones.

Recommended Position: Watch

AB 2167 Bay Area Water Supply and Conservation Agency.

Author: Hill

Introduced: 02-23-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Under existing law, the City and County of San Francisco operates the Hetch Hetchy Project as a regional water delivery system, supplying water to persons and entities in San Francisco and the Counties of Alameda, San Mateo, and Santa Clara. Existing law, the Bay Area Water Supply and Conservation Agency Act, governs the formation and operation of the Bay Area Water Supply and Conservation Agency by 24 public entities that purchase water from San Francisco. The act authorizes the agency to acquire water and water rights, and to take other specified actions relating to the regional water system.

This bill would state the intent of the Legislature to enact legislation to update the laws governing the agency relative to its authority to incur indebtedness and issue notes and bonds in order to carry out its functions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

AB 2208 Community Water Systems: Consolidation and Merger

Author: Perea

Introduced: 02-23-2012

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Cindy Tuck / Rick Morin

Current Position: NYC

Summary: Existing law requires the State Department of Public Health (DPH) to administer programs to fund improvements and expansion of small community water systems using specified priorities. Existing law requires the DPH to “encourage” the consolidation of small community water systems that serve disadvantaged communities in instances that consolidation will help the affected agencies and the state meet specified goals. Existing law allows funding of feasibility studies before construction to include the feasibility of consolidating two or more community water systems, at least one of which is a small community water system that serves a

disadvantaged community. Existing law requires the DPH to give funding priority to projects involving physical restructuring of two or more community water systems into a single, consolidated system when it is shown that the consolidation would further specified goals.

This bill would require the DPH to “promote” the consolidation and merger of small community water systems that serve disadvantaged communities, as specified. This bill would **require** the feasibility studies described above to include the feasibility of consolidating community water systems or merging a community water system with a city water system, as specified, unless the DPH makes a written determination that consolidation or merger is not feasible.

This bill would also require the DPH to give priority to funding projects involving the physical restructuring and managerial consolidation of two or more community water systems or the merger of community water systems into a single, consolidated system when it is shown that the small community water system consolidation or merger would further specified goals.

Summary of Amendments: N/A

Staff Comments: According to the Author’s Office, AB 2208 is a spot bill. AB 2208 will be gutted and amended to resolve a current problem with the water systems in the towns of Lanare and Riverdale in the Author’s district.

The Author’s Office provided a summary of the issues facing Lanare and Riverdale: Lanare is a small community that depends on arsenic-contaminated water. In 2007, an arsenic treatment facility was completed so that residents could have safe drinking water. After about six months, the small community could no longer afford the overhead costs to keep the facility open. The plant is now non-operational, and the community is back to drinking water contaminated with arsenic. Riverdale is another community that is only three miles away from Lanare. Riverdale also has drinking water issues. Riverdale was just awarded a half million dollar feasibility study to identify solutions to arsenic contamination in their water. Based on funding requirements from DPH, the consolidation of the two water systems will not be considered as an option to the Riverdale study. According to the DPH, consolidation should only be considered when it will help the grant recipient. Because consolidation would help both systems, consolidation was not included in the Riverdale study.

AB 2208 bill will be amended to resolve the issues presented by these two water systems.

AB 2238 (Perea) is a related bill regarding the consolidation of small water systems, but AB 2208 will be worded to address to the specific situation in Lanare and Riverdale, while AB 2238 will deal with the consolidation issue on a statewide basis. ACWA does not yet have a position on AB 2238.

Recommended Position: Watch

AB 2298 Theft: scrap metal and alloys.

Author: Achadjian and Ma

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Wendy Ridderbusch / Antonio Alfaro

Current Position: NYC

Summary: Existing law defines and proscribes various forms of theft, including grand theft.

This bill would express the intent of the Legislature to enact legislation to specifically proscribe the theft of ferrous and nonferrous scrap metals and metal alloys.

Summary of Amendments: N/A

Staff Comments: This is one of three bills regarding metal theft introduced in the state Legislature this year. This particular one is currently in spot bill form. We will watch this bill to see what amendments may be added and bring it back to the State Legislative Committee with a new recommendation and a vote if it gets some meat on its bones.

Recommended Position: Watch

SB 1093 Employment: alternate workweek.

Author: Wyland

Introduced: 02-16-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitnie Henderson / Antonio Alfaro

Current Position: NYC

Summary: Under existing law, an alternative workweek schedule proposed by an employer may be adopted through a 2/3 majority vote of the employer's employees in a secret ballot. Existing law provides that any alternative workweek schedule that was authorized pursuant to specified provisions and in effect on January 1, 2000, may be repealed by the affected employees.

This bill would make technical, nonsubstantive changes to those provisions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1152 Workers' compensation: official medical fee schedule

Author: Wyland

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing workers' compensation law authorizes the Workers' Compensation Appeals Board to determine and allow specified expenses as liens against any sum to be paid as compensation. Existing law requires, before issuing an award or approval of any compromise of claim, the determination of whether any benefits have been paid or services provided by specified entities.

This bill would make technical, nonsubstantive changes to existing law.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1232 Retirement.

Author: Walters

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Public Employees' Retirement Law (PERL) vests the management and control of the Public Employees' Retirement System (PERS) in the Board of Administration of PERS. PERL requires the board to appoint and fix the compensation of an executive officer, a general counsel, a chief actuary, a chief investment officer, and other investment officers and portfolio managers, as specified. PERL also requires the board to be guided by specified principles when fixing those compensations.

This bill would make technical, nonsubstantive changes to those provisions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1294 Public employees' retirement.

Author: Berryhill

Introduced: 02-21-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law provides for the payment of preretirement survivor benefits to the beneficiary of a deceased member of the Public Employees' Retirement System. Existing law also provides that no person shall receive more than one allowance of the preretirement survivor benefits.

This bill would make technical, nonsubstantive changes to those provisions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1348 Regulations: major regulations.

Author: Gaines

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That Act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. That Act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000.

This bill would make a technical, nonsubstantive change to that provision.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1565 Environmental quality: California Environmental Quality Act. (CEQA)

Author: Strickland

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would make technical, nonsubstantive changes to those provisions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch

SB 1573 Employment: meal periods.

Author: Cannella

Introduced: 02-24-12

Amended:

Sponsor:

Supporters:

Opposition:

Assigned to: Whitney Henderson / Antonio Alfaro

Current Position: NYC

Summary: Existing law requires an employer to provide an employee with one meal period during a work period of more than five hours and two meal periods during a work period of 10 hours, as prescribed.

This bill would make nonsubstantive changes to these provisions.

Summary of Amendments: N/A

Staff Comments: This is a spot bill.

Recommended Position: Watch



Twelve Point Pension Reform Plan

October 27, 2011

The pension reform plan I am proposing will apply to all California state, local, school and other public employers, new public employees, and current employees as legally permissible. It also will begin to reduce the taxpayer burden for state retiree health care costs and will put California on a more sustainable path to providing fair public retirement benefits.

1. Equal Sharing of Pension Costs: All Employees and Employers

While many public employees make some contribution to their retirement – state employees contribute at least 8 percent of their salaries – some make none. Their employers pay the full amount of the annual cost of their pension benefits. The funding of annual normal pension costs should be shared equally by employees and employers.

My plan will require that all new and current employees transition to a contribution level of at least 50 percent of the annual cost of their pension benefits. Given the different levels of employee contributions, the move to a contribution level of at least 50 percent will be phased in at a pace that takes into account current contribution levels, current contracts and the collective bargaining process.

Regardless of pacing, this change delivers real near-term savings to public employers, who will see their share of annual employee pension costs decline.

2. “Hybrid” Risk-Sharing Pension Plan: New Employees

Most public employers provide employees with a defined benefit pension plan. The employer (and ultimately the taxpayer) guarantees annual pension benefits and bears all of the risk of investment losses under those plans. Most private sector employers, and some public employers, offer only 401(k)-type defined contribution plans that place the entire risk of loss on investments on employees and deliver no guaranteed benefit.

I believe that all public employees should have a pension plan that strikes a fair balance between a guaranteed benefit and a benefit subject to investment risk. The “hybrid” plan I am proposing will include a reduced defined benefit component and a defined contribution component that will be managed professionally to reduce the risk of employee investment loss. The hybrid plan will combine those two components with Social Security and envisions payment of an annual retirement benefit that replaces 75 percent of an employee’s salary. That 75 percent target will

be based on a full career of 30 years for safety employees, and 35 years for non-safety employees. The defined benefit component, the defined contribution component, and Social Security should make up roughly equal portions of the targeted retirement income level. For employees who don't participate in Social Security, the goal will be that the defined benefit component will make up two-thirds, and the defined contribution component will make up the remaining one-third, of the targeted retirement benefit.

The State Department of Finance will study and design hybrid plans for safety and non-safety employees, and will fashion a cap on the defined benefit portion of the plans to ensure that employers do not bear an unreasonable liability for high-income earners.

3. Increase Retirement Ages: New Employees

Over time, enriched retirement formulas have allowed employees to retire at ever-earlier ages. Many non-safety employees may now retire at age 55, and many safety employees may retire at age 50, with full retirement benefits. As a consequence, employers have been required to pay for benefits over longer and longer periods of time.

The retirement age for non-safety workers in 1932, when the state created its retirement system, was 65. The retirement age for a state highway patrol officer in 1935 was 60. The life expectancy of a twenty-year old who began working at that time was mid-to-late 60s, meaning that life expectancy beyond retirement was a relatively short period of time. Now with a growing life expectancy, pensions will pay out not just for a few years, but for several decades, requiring public employers to pay pension benefits over much longer periods of time. Under current conditions, many years can separate retirement age from the age when an employee actually stops working. No one anticipated that retirement benefits would be paid to those working second careers.

We have to align retirement ages with actual working years and life expectancy. Under my plan, all new public employees will work to a later age to qualify for full retirement benefits. For most new employees, retirement ages will be set at the Social Security retirement age, which is now 67. The retirement age for new safety employees will be less than 67, but commensurate with the ability of those employees to perform their jobs in a way that protects public safety.

Raising the retirement age will reduce the amount of time retirement benefits must be paid and will significantly reduce retiree health care premium costs. Employees will have fewer, if any, years between retirement and reaching the age of Medicare eligibility, when a substantial portion of retiree health care costs shift to the federal government under Medicare.

4. Require Three-Year Final Compensation to Stop Spiking: New Employees

Pension benefits for some public employees are still calculated based on a single year of "final compensation." That one-year rule encourages games and gimmicks in the last year of employment that artificially increase the compensation used to determine pension benefits. My plan will require that final compensation be defined, as it is now for new state employees, as the highest average annual compensation over a three-year period.

5. Calculate Benefits Based on Regular, Recurring Pay to Stop Spiking: New Employees

Where not controlled, pension benefits can be manipulated by supplementing salaries with special bonuses, unused vacation time, excessive overtime and other pay perks. My plan will require that compensation be defined as the normal rate of base pay, excluding special bonuses, unplanned overtime, payouts for unused vacation or sick leave, and other pay perks.

6. Limit Post-Retirement Employment: All Employees

Retirement with a pension should not translate into retiring on a Friday, returning to full-time work the following Monday, and collecting a pension and a salary. Retired employees often have experience that can deliver real value to public employers, though, so striking a reasonable balance in limiting post-retirement employment is appropriate. Most employees who retire from state service, and from other CalPERS member agencies, are currently limited to working 960 hours per year for a public employer, and do not earn any additional retirement benefits for that work. My plan will limit all employees who retire from public service to working 960 hours or 120 days per year for a public employer. It also will prohibit all retired employees who serve on public boards and commissions from earning any retirement benefits for that service.

7. Felons Forfeit Pension Benefits: All Employees

Although infrequent, recent examples of public officials committing crimes in the course of their public duties have exposed the difficulty of cutting off pension benefits those officials earned during the course of that criminal conduct. My plan will require that public officials and employees forfeit pension and related benefits if they are convicted of a felony in carrying out official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits.

8. Prohibit Retroactive Pension Increases: All Employees

In the past, a number of public employers applied pension benefit enhancements like earlier retirement and increased benefit amounts to work already performed by current employees and retirees. Of course, neither employee nor employer pension contributions for those past years of work accounted for those increased benefits. As a result, billions of dollars in unfunded liabilities continue to plague the system. My plan will ban this irresponsible practice.

9. Prohibit Pension Holidays: All Employees and Employers

During the boom years on Wall Street, when unsustainable investment returns supported “fully-funded” pension plans, many public employers stopped making annual pension contributions and gave employees a similar pass. The failure to make annual contributions left pension plans in a significantly weakened position following the recent market collapse. My plan will prohibit all employers from suspending employer and/or employee contributions necessary to fund annual pension costs.

10. Prohibit Purchases of Service Credit: All Employees

Many pension systems allow employees to buy “airtime,” additional retirement service credit for time not actually worked. When an employee buys airtime, the public employer assumes the full risk of delivering retirement income based on those years of purchased service credit. Pensions are intended to provide retirement stability for time actually worked. Employers, and ultimately taxpayers, should not bear the burden of guaranteeing the additional employee investment risk that comes with airtime purchases. My plan will prohibit them.

11. Increase Pension Board Independence and Expertise

In the past, the lack of independence and financial sophistication on public retirement boards has contributed to unaffordable pension benefit increases. Retirement boards need members with real independence and sophistication to ensure that retirement funds deliver promised retirement benefits over the long haul without exposing taxpayers to large unfunded liabilities.

As a starting point, my plan will add two independent, public members with financial expertise to the CalPERS Board. “Independence” means that neither the board member nor anyone in the board member’s family, who is a CalPERS member, is eligible to receive a pension from the CalPERS system, is a member of an organization that represents employees eligible to or who receive a pension from the CalPERS system, or has any material financial interest in an entity that contracts with CalPERS. My plan also will replace the State Personnel Board representative on the CalPERS board with the Director of the California Department of Finance.

True independence and expertise may require more. And while my plan starts with changes to the CalPERS board, government entities that control other public retirement boards should make similar changes to those boards to achieve greater independence and greater sophistication.

12. Reduce Retiree Health Care Costs: State Employees

The state and the nation have seen the costs of health care skyrocket. The state’s retiree health care premium costs have increased by more than 60 percent in the last five years and will almost double over ten years. This approach has to change.

My plan will reduce the taxpayer burden for health care premium costs by requiring more state service to become eligible for health care benefits at retirement. New state employees will be required to work for 15 years to become eligible for the state to pay a portion of their retiree health care premiums. They will be required to work for 25 years to become eligible for the maximum state contribution to those premiums. My plan also will change the anomaly of retirees paying less for health care premiums than current employees.

Contrary to current practice, rules requiring all retirees to look to Medicare to the fullest extent possible when they become eligible will be fully enforced.

Local governments should make similar changes.

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CSDA Board of Directors Meeting Friday, January 27, 2012 10 AM – 3 PM

Earl Sayre Board Room
1112 I Street, Suite 380
Sacramento, California

Directors in Attendance

Dewey Ausmus, President
Stanley Caldwell, Vice President
Ginger Root, Treasurer
Pete Kampa, Secretary
Jo MacKenzie, Past President
Jim Acosta
Mark Bryant
Jack Curtis
Pete Kampa
James Kohnen
Noelle Mattock
William Nelson
Steve Perez
Timothy Ruiz
Phil Schoefer
Norman Shopay
Sherry Sterrett
Kathy Tiegs

Staff in Attendance

Neil McCormick, Executive Director
Greg Hall, SDRMA
Megan Hemming, Education Director
Iris Herrera, Legislative Advocate
Scott Keyport, Administrative & Technology
Cathrine Lemaire, Membership Director
Charlotte Lowe, Executive Assistant
Bill Luikart, Controller
Kyle Packham, Legislative Director
Todd Winslow, Publications Director

Consultants

Kevin Eckery, Eckery Associates
Ralph Heim, Legislative Advocate
David McMurchie, Legal Counsel

Guests

Steve Barber, Barber & Gonzales Consulting Group

Not in Attendance

Adrienne (Ann) Mathews

1. CALL TO ORDER:

President Dewey Ausmus called the January 27, 2012 CSDA Board of Directors meeting to order at 10:00 AM.

2. PLEDGE OF ALLEGIANCE

Board members and staff present participated in the pledge of allegiance.

3. DETERMINATION OF A QUORUM

President Ausmus established that a quorum was present.

4. INTRODUCTIONS

Board members, staff and guests in attendance individually introduced themselves.

5. CONSENT CALENDAR

MOTION: Jim Acosta moved to pull the Policy 2.10 update from the Consent Calendar and approve the remaining items (a through c).

SECOND: Ginger Root

VOTE: Kathy Tiegs abstained from vote on item a (November 17-18, 2011 minutes); the motion carried.

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5d. Policy 2.10 Update – Sherry Sterrett suggested changing the language throughout the policy from “his” to “their.” Jo Mackenzie also suggested deleting the reference to the policy number (2.09) – Board Member Reimbursement.

MOTION: Ginger Root moved to approve the updated policy 2.10 – Board Member Recognition with amendments as noted by fellow Board members.

SECOND: Pete Kampa

VOTE: unanimous

6. AFFILIATE ORGANIZATIONS & LIAISONS

6a. CSDA Finance Corp. – CSDA Finance Corporation Administrator Neil McCormick stated that the Finance Corp. Board met yesterday and reviewed 2011 activities including the report that a good number of small lease financings have been closed. Mendocino Coast Recreation & Park District was the first default the Corporation has done business with. Unfortunately they declared bankruptcy and the Finance Corporation agreed to give the fees they received from the financing back to the bank as a good will gesture.

6b. SDRMA – SDRMA CEO Greg Hall stated that this year marks the 25th anniversary for the organization and an article featuring their history and services was included in the most recent CSDA Magazine publication. SDRMA e-News will start being sent to all CSDA Board members as well so that directors may be kept up to date on current SDRMA programs and issues. At their January meeting, the SDRMA Board voted to approve the organization’s Longevity Distribution program for the third year in a row, which recognizes districts who have maintained a long running membership with SDRMA. Labor law posters were sent out free of charge to members and a new loss prevention allowance fund (up to \$1,000/district per year for safety equipment reimbursement) was approved as well. SDRMA’s annual report for 2010-11 has been released and was passed out to CSDA Board members for review. Greg Hall also stated that he would love the opportunity to give any CSDA Board members a great quote for their districts if they are not already members of SDRMA.

6c. CAPC – CAPC Executive Director Dewey Ausmus stated that the association is getting prepared for their upcoming annual conference in March held at the San Luis Obispo Embassy Suites. Ethics and Sexual Harassment Prevention training will be offered at the event and this year’s theme night is “Favorite cartoon or fictitious character.” CAPC is glad to have the opportunity to once again co-sponsor the Special District Legislative Days even in May and their Board is currently considering involvement with the newly developed communications plan being spearheaded by CSDA.

6d. SDLF – SDLF Administrator Neil McCormick reported that the Foundation held a planning session with the new Board earlier in the month. Geoffrey Neill from the California State Association of Counties (CSAC) and April Manatt (April Manatt Consulting) were appointed at 2 of the three public members to serve on the Board. Currently, the Board is looking to fill the third vacancy. The next meeting is scheduled for March and new requirements for the 3 programs under SDLF will be brought to the Board for review. SDRMA also credits districts that complete SDLF programs CIP points.

6e. CARPD – Dewey Ausmus stated that CARPD recently sent out a RFP for a new Executive Director, however they was not a representative present to give a report on behalf of the association.

6f. FDAC – No report

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6g. MVCAC – MVCAC representative Jim Kohnen reported that the association's annual conference is next week at the Hyatt in Burlingame, and it should be a good and profitable event.

7. LEGISLATIVE DEPARTMENT

7a. Committee Report – Legislative Committee Chair Jo MacKenzie stated that the committee has not held their first meeting yet, but did report that the senate and assembly have gone through the suspense files.

7b. Legislative & State Budget Update – Legislative Advocate Ralph Heim reported that February 24th is the deadline for introducing new bills and the request for such are up by a significant amount this year. The 2012-13 Budget was released on January 9th and the Governor's tax initiative, which would plan for a 5 year increase, will be featured on the November ballot. The Governor is currently focusing on getting business support and clearing the November ballot of any other tax proposals. There are 60 initiatives that have already been cleared for the ballot and 17 that are pending. If the Governor's main tax initiative does not pass, then more trigger cuts will be made, possibly including education.

Legislative Advocate Heim also reported that redevelopment agencies (RDA's) will cease to exist on February 1st as the California Supreme Court rejected the second bill that was passed by the Legislature and the Governor sees no reason for delay. Provisions for successor agencies were released, and \$170 million is the predicted amount that districts will get back. Staff will continue to stay engaged and involved with any negotiations on proposals for redevelopment. Legislative Director Kyle Packham stated that there will be one oversight board per RDA until it evolves in to one oversight board per county in 2016. Each RDA will have a successor agency, and that agency will each have an oversight board. Each oversight board will have a balance of representatives from various sectors that contribute money to the agency. Those who contribute the most in property taxes to the agency will have a seat on the oversight board. He also reported that the Supreme Court denied the redistricting issue and district boundary lines that were drawn by the Citizen's Commission maps will hold.

Legislative Director Packham stated that a copy of the LAO Report is included in the packet for review and is overall reflected as a fairly neutral report. Three main areas of concern for special districts included in the report are 1. Uncontested election in special districts, 2. Compensation – special district General Managers have a higher paid salary than city or state department heads and 3. LAFCO gaining more power in purposes of consolidation.

Legislative Advocate Iris Herrera stated that CSDA has adopted a set of pension reform policy principles to give staff direction for acting efficiently on behalf of the association. There have been two pension reform conference committee hearings at the Capitol which Legislative Advocate Herrera attended and stressed the need for local government flexibility when it comes to the issue of pension reform. CSDA also hosted a pension reform webinar last week with panelists from CalPERS, Liebert Cassidy Whitmore and CSDA Legislative staff. The Governor released language on his pension reform 12 point plan as well.

8. EXECUTIVE DIRECTOR/ADMINISTRATION

8a. 2012-13 Strategic Plan Approval – Executive Director Neil McCormick stated that the drafted plan is included in the packet for review. Facilitator Steve Barber and CSDA staff has met twice since the Board Planning Session in November 2011 to draft a plan based on the consolidation of idea generated at the planning session. The concept of a regional approach is the centerpiece of all goal areas outlined in the plan. Steve Barber stated that the philosophy behind the plan is that the Board is responsible for policy and staff is responsible for operations,

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to be consistent with what is taught in the Special District Leadership Academy. CSDA staff identified themes and trends from the flip charts that were developed at the planning session and generated a plan based off of those.

MOTION: Pete Kampa moved to approve the 2012-13 CSDA Strategic Plan as presented.

SECOND: Steve Perez

This item was then opened up to the Board for clarifying questions. Feedback included:

- Thought there was going to be another step between planning session and plan approval – more discussion and involvement from the Board
- The plan seems more management focused rather than Board focused
- The plan is extremely simple, a short read and doesn't go down to a tactical level – gives management good flexibility, good job
- Impressed but would like the opportunity to review the plan again before approval
- Delaying this plan would delay the 3 year staffing and funding plan

The Board decided that holding a workshop to further discuss the details of the plan would be most beneficial as there was not enough time to go through it at this meeting with a full agenda ahead of them.

Pete Kampa withdrew his motion and Steve Perez withdrew his second.

MOTION: Jim Acosta moved to table the strategic plan discussion and approval and direct staff to send out potential meetings dates for a workshop to further discuss plan details.

SECOND: Ginger Root

VOTE: unanimous

Skipping item 8b

8c. Document Destruction – Executive Director McCormick stated that per policy 5.07 – Records Retention, there are past employee records and other documentation that should be destroyed, as presented in the packet, and needs approval by the Board.

MOTION: Ginger Root moved to authorize the destruction of the records, as presented, as allowed in policy 5.07.

SECOND: Jack Curtis

VOTE: unanimous

Skipping item 8d

8e. PR/Communications Campaign Report – PR Consultant Kevin Eckery stated that his company is a month behind developing the web page for the new special districts communications and outreach plan. Unfortunately they had two crisis communication pieces that occurred in December and took precedence over the CSDA outreach pieces. To resolve the issue, CSDA is not going to be billed for the work that is pushed back, and two additional staff members were added to Kevin's team so he could focus solely on CSDA's projects. Executive Director McCormick will be provided with weekly tracking reports and all program delays should be resolved by the end of February. Executive Director McCormick stated that ACWA contributed \$30,000 to the communication plan efforts, ACHD contributed \$10,000 and CASA and CAPC are both currently considering contributions as well.

Back to item 8b

DRAFT – DRAFT – DRAFT

8b. Authorize Finance Manager Position – Executive Director McCormick stated that he met with CSDA Controller Bill Luikart and they discussed the need for the association to have a full time in-house finance manager. Currently CSDA is in contract with CRWA to share Controller Luikart's services. The position description is included in the packet for review by the Board and also a proposed timeline for filling the position. Bill Nelson passed around a revised version of the finance manager job description and reviewed his proposed changes with the Board.

MOTION: Pete Kampa moved to authorize and approve adding the position of Finance Manager with the job description as amended by Bill Nelson.

SECOND: Jo MacKenzie

VOTE: Mark Bryant and Jo MacKenzie opposed; the motion carried.

9. FISCAL COMMITTEE

Skipping item 9a

9b. Review 2011 Financial Reports – Controller Luikart stated that the association had a great financial year in 2011. He also stated that the 2012 budget has taken in to account all staff salaries for the year.

MOTION: Jim Acosta moved to accept the 2011 year-end financial reports as presented.

SECOND: Tim Ruiz

VOTE: unanimous

Back to item 8d

8d. Employee Recognition – Executive Director McCormick recognized years served by CSDA staff as presented in the report.

10. PUBLICATIONS DEPARTMENT

10a. Publication and Advertising – Publications Director Todd Winslow reviewed the list of publications and recently approved projects as presented. The CSDA Board Secretary brochure and website has been completed as well as the Alliance marketing “skins” which were also on display during the meeting. Emphasis is being placed on each of the three Alliance partners, highlighting them individually, hopefully to eliminate any confusion of the Alliance brand.

10b. CSDA Style Guide – Publications Director Winslow stated that the association is starting to become more involved with adhering to a style guide. Ideally all materials coming from the association will be consistent in appearance and style guide compliant.

10c. Introducing Diana Granger – Ad Sales Representative – Publications Director Winslow reported that CSDA has hired a new advertising representative for the magazine, Diana Granger. Since she has started, advertisement revenue has increased well over 100% and the back cover of the magazine was sold, a first for CSDA.

10d. CRWA Project List for 2012 – Publications Director Winslow stated that CRWA is hosting their second conference of the year a week apart from the CSDA Annual Conference, so that time will be extremely busy for the Publications Department as they do work for both associations. He also reviewed the project list as presented.

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10e. SDLF Project Lists – Publications Director Winslow attended the SDLF Planning Meeting earlier in the month. Out of which a project list of newly revised messages and marketing pieces was generated which he reviewed as presented.

10f. Mission Statement – Branding Efforts to Remain Consistent – Publications Director Winslow stated that if the association approves department title changes as presented in the 2012-13 strategic plan, which is going to be further reviewed by the Board for approval, CSDA's mission statement might have to be revisited to revise the language for consistency with those changes.

10g. CSDA Guides – Publications Director Winslow reported that in addition to the 2012 publications list, CSDA will be developing three new informational pieces for Propositions 218 and 26, SB 90 (Mandate Reimbursement) and the Brown Act. With the success of the Grassroots Advocacy Guide that CSDA put out last year, staff anticipates these will also be extremely informative and a great benefit to the membership.

10h. Outreach to Newly Elected/Appointed Board Members – Publications Director Winslow stated that the Publications Department took a more active role in developing the New Board Member mailings for 2012. As a result, the mailer was CSDA style guide compliant and utilized a newly developed CSDA folder.

11. EDUCATION DEPARTMENT

11a. Committee Report – Education Department Chair Jim Kohnen reported that the committee held their first meeting of the year on January 6th and there were nearly 20 attendees including 12 new committee members.

11b. Review of 2011 Attendance & Financials – Education Director Megan Hemming stated that the Board Secretary/Clerk Conference was a highlight in 2011 for the Education Department and staff is currently planning the second one for March of this year. The General Manager Leadership Summit is a new event that was recently approved by the Board and will be held in Napa Valley in July. She also reported that there were almost 3,000 registrants in 2011 for educational events. An up to date 2012 education and budget tracker was passed out to the Board and reflected which courses qualify for CIP points, new classes are highlighted and include topics such as pension reform, the Brown Act, incident writing, emergency preparedness, and a Proposition 218/26 webinar.

Education Director Hemming also stated that a sub-committee was formed to review potential conference key note speakers and after their conference call earlier in the month, the list has been narrowed down to 6 speakers. A sub-committee to review proposed annual conference schedules has been formed as well and will be meeting via conference call in February. Membership Director Cathrine Lemaire stated that membership packets are given to non-members who attend CSDA's educational events.

12. MEMBERSHIP

12a. Committee Report – Membership Committee Vice-Chair Norman Shopay stated that the committee met on the 6th and expectations for the year were presented from staff. The committee was given a very informative overview presentation of member benefits and generated a lot of new ideas for potential incentives.

12b. 2011 Recruitment & Retention Year-End Report – Membership Director Lemaire gave a recap of membership recruitment efforts in 2011 as presented. There was a net increase of 21 members from the previous year and a total of 65 new members that joined the association.

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The number one reason districts gave for having to cancel their memberships with CSDA were budgetary restrictions. CSDA put a number of new programs in place to try and assist in increasing retention.

12c. 2011 Marketing Efforts – Membership Director Lemaire gave an overview of 2011 marketing efforts as presented. The final cost of the marketing firm's efforts ended under-budget at \$50,618.00. In 2011, there was a lot of outreach through various ways including email, phone, and personal contact with the most effective strategies being discounted dues and personalized contacts with a CSDA spokesperson. Membership Director Lemaire acknowledged Board members Bill Nelson, Jo MacKenzie, Pete Kampa, Stanley Caldwell and Jim Kohnen who all helped to bring in new members. Using the most productive methods for obtaining new members, a 2012 Membership Recruitment Calendar was developed and presented to the Board outlining the Member-Get-A-Member, 20% off first year dues, trial membership and 15 for 12 programs and timelines they would run throughout the year.

12d. 2012 Member-Get-A-Member Program – Membership Director Lemaire stated that the Member-Get-A-Member program focuses on personal contact for recruitment. The person who refers a new member to the association will receive a small incentive/credit to be used for any CSDA service of their choice. The membership committee voted to eliminate the cap of \$300/district and give districts a \$100 credit from the 3rd district recruited up.

MOTION: Pete Kampa moved to approve the Member-Get-A-Member program as presented.

SECOND: Mark Bryant

VOTE: unanimous

12e. 2012 Member Ambassador Program – Membership Director Lemaire stated that this program was put in to place towards the end of 2011. It is a "reminder" item for the Board to please sign up if they have not already. Travis Wills, CSDA Membership & Chapters Coordinator, will send out guidelines to those who sign up to be an Ambassador for communicating to new members.

12f. Chapter Affiliation Agreement – Membership Director Lemaire reported that the Chapter Affiliation Agreement discussion has evolved over the last few years with various edits from staff, Board, chapter roundtables and CSDA attorney David McMurchie. There was no agreement in place between CSDA and chapters when they began forming and it is wise to have something in writing to formalize the relationship between the association and affiliated chapters and to protect both parties as well. The most recent version of the agreement was reviewed at the Membership Committee meeting and they have recommended it for approval to the Board.

MOTION: Ginger Root moved to approve the Chapter Affiliation Agreement with the amendment of eliminating "*Chapter shall maintain at least one active CSDA member as a member of the Chapter,*" under section I, subsection D, condition 5 of the agreement.

SECOND: Pete Kampa

VOTE: unanimous

13. EXECUTIVE COMMITTEE

13a. Committee Report – President Ausmus stated that the committee has not yet met this year so there is nothing to report.

14. OTHER COMMITTEE REPORTS

DRAFT – DRAFT – DRAFT

14a. Audit Committee – Audit Committee Chair Jack Curtis stated that the in-house work by the audit firm has been completed and a draft will be sent to the committee for review.

14b. Elections/Bylaws Committee – Elections & Bylaws Committee Chair Noelle Mattock stated that their first meeting of the year will be on February 9th as a conference call to review and approve the Board election timeline for 2012.

14c. Alliance Executive Council – AEC Representative Jim Kohnen stated that the AEC has not met yet this year, so there is nothing new to report.

14d. CSDA/CRWA Liaison Committee – CSDA/CRWA Liaison Committee representative Noelle Mattock stated that she has nothing new to report.

15. OTHER BUSINESS

There were no additional items brought forward from the Board or staff.

16. COMMENTS BY EXECUTIVE DIRECTOR

None

17. COMMENTS BY BOARD MEMBERS

None

18. NEXT MEETING DATE

Potential meeting dates will be emailed to the Board for consideration to further review the 2012-13 strategic plan. Following this workshop, the next regularly scheduled Board meeting will be on April 13, 2012.

The Board adjourned the regular meeting at 2:13PM and proceeded with closed session.

Action Items:

- Send out potential strategic plan workshop dates to the Board
- Board members to send Neil questions on the plan prior to the workshop
- Email planning session notes to the Board
- Update Finance Manager position with draft Bill Nelson provided

Prepared By:

Charlotte Lowe, Executive Assistant

Approved By:

Dewey Ausmus, President

Membership Director Lemaire reviewed the 2012 Recruitment Calendar as presented.

MOTION: Jo MacKenzie moved to extend the 20% discount to July 31, 2012.

SECOND: Debbie Dunn

VOTE: unanimous

5b. 2012 Retention Efforts – Membership Director Lemaire reviewed the Ambassador Program application as presented and asked that more committee members please sign up. The program will match up a committee member to a new district, follow-up with them on a regular basis, answer questions and meet them at the annual conference or other events. Staff will send out sample emails and timelines to those participating in the program so that they may utilize for communication with their assigned district. Membership and Chapters Coordinator Travis Wills gave an overview of the Google doc program committee members and staff will be using to track the renewal follow-ups. A list of districts which have not yet paid dues was handed out to the committee and staff stated they have sent emails out to all Board member and committee member districts whose dues are currently outstanding. Membership Director Lemaire also stated that districts who are also members of SDRMA are not a priority to contact because they will most likely pay in June when SDRMA premiums are due.

6. Chapters Update

6a. Chapter Affiliation Agreement – Membership Director Lemaire stated that currently there is no formal agreement between chapter members and the association. As new chapters are being developed, staff and legal counsel advise that an agreement should be in place defining the relationship between both parties, further protecting them from any liability. A new agreement was proposed last year and concepts were introduced at the Chapter Roundtable Discussion at the 2011 Annual Conference. A revised agreement is included in the packet for review. Executive Director McCormick stated that the agreement does need to go back to the Board of Directors for final approval.

Jo Mackenzie stated that the agreement might be too convoluted and she would recommend that her chapter's legal counsel also review the language. Debbie Dunn stated that it would be beneficial for staff should include a cover letter with the agreement outlining the key points to make it appear less intimidating. Membership Director Lemaire asked committee members to not present the agreement to their chapters yet.

MOTION: Jane Rozanski moved to recommend the approval of the Chapter Affiliation Agreement by the CSDA Board of Directors.

SECOND: Mark Bryant

VOTE: Jo MacKenzie, Al Morrisette and Kathy Tiegs opposed; the motion carried.

7. Additional Items/Comments

There were none.

8. 2012 Meeting Schedule

Membership Director Lemaire stated that the next scheduled committee meeting is June 15th and asked for feedback from the committee on potentially adding another meeting before then. The committee asked staff to determine if an additional meeting will be needed, based on the discussion at the CSDA Board meeting on January 27. The committee suggested a tentative date of March 23, 2012

9. Adjourn

MOTION: Stanley Caldwell moved to adjourn the January 6, 2012 Membership Committee meeting at 12:00 PM.

SECOND: Kathy Tiegs

VOTE: unanimous

ACTION ITEMS:

- Jane Rosanski volunteered to share her district's recently done policy manual "Legally Correct" to the sample policy section on the CSDA website.
- Jo MacKenzie asked committee members to please submit their district's capital improvement budgets to staff in the event that the CSDA Finance Corporation could be of assistance.
- Staff to email committee a copy of the member benefits and programs power point.
- Staff to calculate current average dues amount and compare with previous years.
- Staff to determine renewal numbers for specific incentive programs
- Staff to email out "thank you/free ethics training" to all districts who paid dues prior to January 1, 2012.
- Staff to develop additional recruitment/retention ideas based off of committee discussion.
- Staff to generate list of members who have sustained a long membership with CSDA (5, 10, 15, 20, etc. years) and see which ones have not yet renewed their dues for 2012.
- Staff mention at next Board meeting the idea of including meeting agendas and/or draft minutes in their district's board packets for information.
- Staff to send Board and committee members updates and announcements for their board packets (i.e. screen shot of an e-blast, etc.)
- Email Google doc link to committee
- Staff asked committee to commit to 3 districts and update the Google doc spreadsheet accordingly.

Prepared By:

Approved By:

Charlotte Lowe, Executive Assistant

Pete Kampa, Chair



Robert's Rules Made Simple



A Workshop

For members of Boards, electeds, and
anyone with an interest in using Robert's Rules of Order at meetings

Without rules there is chaos, the constituents' rights are trampled, and an association's objectives are defeated. By adhering to the Constitution, the Brown Act, governing policies and Robert's Rules of Order, a Board of Directors can accomplish its goals. It takes only a little time and effort to learn these rules, and thus to succeed as a board member.

Workshop Fee:
\$25.00

2 sessions offered

Please Circle the session you would like to attend:

#1

Monday, March 26, 2012
1:00 p.m. to 4:00 p.m.

#2

Tuesday, March 27, 2012
9:00 a.m. to 12:00 p.m.

Workshops will be held at:

Azalea Hall
1620 Pickett Rd.
McKinleyville, CA 95519

Name: _____ Phone: _____

Address: _____
Street City State Zip Code

Email: _____



PRE-REGISTRATION REQUIRED

Submit registration form and payment to:
MCSD Parks & Recreation office
1656 Sutter Rd., McKinleyville 95519
or by Fax: 839-5964



Call 839-9003 for more information



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Pre-Registration Required

Limited Class sizes

Registration information available at
www.mckinleyvillecsd.com
and at the MCSD Parks & Recreation office
1656 Sutter Rd., McKinleyville, CA 95519
707-839-9003



McKinleyville Community Services District

BOARD OF DIRECTORS

April 4, 2012

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 – The following is a summary of some of the recent cost savings opportunities District staff has identified.

- | | |
|------------------------------------|---------------|
| • Volunteers: | \$500 (labor) |
| • High Rock Camp Crew | \$1,680 |
| • SWAP crews: | \$3,000 |
| • CalWORKS: Parks | \$5,000 |
| • Paving leak repair trenches | \$2,000 |
| • Compressor/Generator repairs | \$ 750 |
| • New wiring and conduit, Holly St | \$ 600 |

Total cost savings for February 2012 is \$13,530

The cumulative cost saving to the District to date from July 1, 2011 is \$165,755

District staff are acknowledged and commended for their continued efforts in looking for cost savings opportunities that result in real savings for the District and our rate payers.

2. Norton Tank Painting - The tank painting project started on March 20, 2012 when the contractor began to mobilize to the site. A project kick-off meeting was held. It is anticipated that the project will be completed by May 1, 2012

3 Emergency Water Line Crossing over the Mad River – Construction continues on the bridge. One vault has been constructed. The second vault will be constructed in the spring. After this is completed the entire water line in the bridge will be tested.

4. Water and Sewer Rate Study – Notices were mailed to the public on Friday March 16, 2012. A copy of the notice was also placed on the MCSD Web site. The item will be brought back to the Board on May 2, 2012.

5. Alternate Water Tank Location – Staff has identified a potential alternate water tank location other than Murray Road. The Murray Road site was determined to have significant potential seismic risk based on the proximity to active faults. It is

not a good location to place a water tank. We have identified a more suitable site location at Hewitt Ranch.

6. Measure B, Teen Center – The RFP for design and preparation of plans and specification has been issued in order to solicit bids for the project. Bids have been received and we have completed preliminary interviews and will be bringing a recommendation to the Board in May.

7. Fiscal Year 2012/2013 budget – Staff continues to work on next year's budget and anticipates bringing the Parks and Recreation Budget to the Board at the next Board meeting. It is anticipated that the complete budget will be brought to the Board at a May or June Board meeting for approval.

8. CSDA Membership Committee Meeting – Attended and chaired CSDA membership committee meeting.

9. CSDA Board of Directors Meeting – Attended and participated in CSDA Board meeting as representative from Region 1.

10. CSDA Education Committee Meeting – No meeting scheduled.

11. ACWA Legislative Committee Meeting – Attend and participated in ACWA legislative committee meeting.

12. Roberts Rules of Order Training – A successful training was conducted on March 26 and 27, 2012. The training was attended by MCSD staff, Board of Directors, and a number of other organizations and Districts.

13. CSDA Legislative bill Summary – Attached is a legislative summary provided by CSDA