

RECEIVED

OCT - 6 2014

RWQCB-CVR
FRESNO, CALIF.

**Table 22
Capital Improvements Plan**

Improvement Type	Funding Source	Total	Fiscal Year					
			2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Sewer Collection System								
Briarwood Lift Station Rehab [1]	Rates	\$60,000		\$60,000	\$0			
SCADA at Lift Stations	Rates	\$110,000		\$30,000	\$20,000	\$20,000	\$20,000	\$20,000
Centrifugal Water Pump	Rates	\$10,900		\$10,900				
Utility Vehicles [2]	Rates	\$31,500		\$31,500				
Miscellaneous Equipment [3]	Rates	\$10,610		\$9,000	\$1,610			
Subtotal Sewer Collection		\$223,010	\$0	\$141,400	\$21,610	\$20,000	\$20,000	\$20,000
Treatment Plant								
Drying Bed Analysis	Rates	\$10,000		\$10,000				
Levee Improvements/Repair [4]	Rates	\$0		\$0			\$0	\$0
Scada System Upgrade and Server	Rates	\$63,200		\$63,200				
Subtotal Treatment Plant		\$73,200	\$0	\$73,200	\$0	\$0	\$0	\$0
Total Wastewater Infrastructure - 2013 \$s		\$296,210	\$0	\$214,600	\$21,610	\$20,000	\$20,000	\$20,000
Debt Financed		\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash Funded		\$296,210	\$0	\$214,600	\$21,610	\$20,000	\$20,000	\$20,000
Total Infrastructure Costs in Future \$ [5]		\$315,800	\$0	\$222,800	\$23,300	\$22,400	\$23,200	\$24,100
Debt Financed		\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash Funded		\$315,800	\$0	\$222,800	\$23,300	\$22,400	\$23,200	\$24,100
Sewer Collection	<i>Rates</i>			66%	100%	100%	100%	100%
Treatment Plant	<i>Rates</i>			34%	0%	0%	0%	0%
Total				100%	100%	100%	100%	100%

Source: City of Livingston and HEC.

[1] To complete this facility requires an estimated \$300,000 in today's dollars.

[2] Cost-share 50% with other City departments for a 1 ton 2014 Ford truck total estimated cost of \$63,000.

[3] Sewer department City allocated costs of public works replacement of computers, upgrades of City Hall networks, software and computers.

[4] To complete this facility requires an estimated \$400,000 in today's dollars.

[5] Cost estimates have been escalated by the past 5-year California Construction Index annual incre 3.82%

4.2.2 Existing Debt Service

The City has two outstanding loans with the United States Department of Agriculture (USDA). The combined annual debt service for these loans is \$520,000 per year, including principal and interest. Per covenants with the USDA the City is to maintain a reserve fund of one year's debt service. If the City has to draw on the reserve fund to make a payment it must replenish the fund within a 3-year period. The City has been out of compliance with this requirement therefore \$520,000 must be collected in addition to the debt service payments over the next three years.

4.2.3 Operations Expenses and Reserves

Fiscal year 2014 budgeted expenditures are presented in Table 23. Adjustments to the figures were made to determine a 'Base Year' of financials for purposes of projecting expenditures over the Study period and comparing alternative rate structures. Similar to the water fund, the wastewater fund has had to reduce service levels and corresponding expenditures due to insufficient funding levels.

The fiscal year 2014 budgeted expenditures were adjusted upward by the City to account for vacant positions being refilled and increasing the level of service to a long-term sustainable level. In addition, the wastewater treatment plant is no longer operated by a

Att. 2

From: Gerri Martin <gerri_martin@yahoo.com>
To: <jkipps@waterboards.ca.gov>
Date: 3/3/2008 7:15:21 AM
Subject: oak tree leaf analysis

My neighbor Colette Alvernaz asked that I send to you the results of a leaf analysis we had done on the oak trees next to Livingston's DWWTP percolation ponds. We had it done because we farm walnuts one parcel over and we wonder what the effect of percolation ponds will have on our trees. The city of Livingston has bought the parcel these oak trees for on for the purpose of water discharge from the treatment plant. (According to the City staff report prepared for the purchase of the property.)

Two elements were found in abnormal amounts in the oak trees. One was Molybdenum and the other was Aluminum. Neither one of these elements are found in this area in large quantities. It is very likely these elements come from an outside source. I believe they are coming from the percolation ponds. The aluminum levels were 3 times normal and molybdenum was 10 times normal. The lab made it clear that the most likely source of the aluminum was from some source or organic matter. The most likely source of molybdenum is from manufacturing processes that can be left in the wastewater.



A# 2



DENELE ANALYTICAL, INC.

1232 South Ave. • Turlock, CA 95380 • Ph. (209)634-9055 • Fax (209) 634-9057 • www.denelelab.com

Plant Tissue Analysis

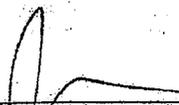
Date: 10/11/2007

Received from: JAKE BRANNAN
 Company: MID VALLEY AG
 City: LIVINGSTON

Grower: JERRY MARTIN
 Crop: OAK

Lab Number:	L716928			
Sample I.D.:	HORTA			
Nitrogen (%)	2.40			
Phosphorus (%)	0.14			
Potassium (%)	0.88			
Sulfur (%)	0.13			
Calcium (%)	1.20			
Magnesium (%)	0.37			
Sodium (%)	0.05			
Boron (ppm)	75			
Zinc (ppm)	14			
Iron (ppm)	173			
Manganese (ppm)	132			
Copper (ppm)	6			
Chlorides (ppm)	1100			
Aluminum (ppm)	180.00			
Cobalt ppm	0.60			
Molybdenum ppm	1.00			
Nickel ppm	0.40			

Reviewed and Approved by _____


 JOSHUA C. HUOT



CONDOR EARTH TECHNOLOGIES INC
21663 Brian Lane
Sonora CA 95370
Phone 209.532.0361
FAX 209.532.0773
www.condorearth.com

Att. 3
1 of 5

Condor Project No. 4762B

June 11, 2008

Richard Warne
City Manager
City of Livingston Department of Public Works
1416 C Street
Livingston, CA 95334

Subject: WWTP Pond Perimeter Levee Failure
Geotechnical Evaluation

Dear Mr. Creighton:

This letter summarizes the results of a preliminary geotechnical evaluation of the May 14, 2008 failure of the northern levee of Percolation Pond 2 at the City of Livingston's Domestic Wastewater Treatment Plant (WWTP). The location of the WWTP is shown on Figure 1. The intent of this geotechnical evaluation is to assess the probable cause of the failure and provide recommendations for additional work for developing and designing an appropriate repair.

For this geotechnical evaluation, Condor Earth Technologies, Inc. (Condor) completed the following work:

1. We met on-site with WWTP staff to discuss their observations, made a site reconnaissance to familiarize ourselves with site conditions, collected photographs, and obtained samples of foundation and embankment soils.
2. We tested the soil samples in the laboratory. Tests included grain-size analysis, hydrometer testing, and Atterberg limits.
3. We reviewed geologic and geotechnical data relevant to the site, including logs of nearby soil borings made for an earlier geotechnical study at the treatment plant (Wallace Kuhl and Associates, 1989).
4. We prepared this letter summarizing our findings, conclusions and recommendations.

BACKGROUND

According to Mr. Dan Manchester, Chief Plant Operator, immediately prior to the failure Percolation Pond No. 2 was in the process of being filled with secondary treated wastewater. After about 10 days of filling, a pond depth of 2.8 feet was indicated by the pond gauge adjacent the failed levee. A plant employee had driven along the levee top on the afternoon of Tuesday, May 13, 2008, and saw no signs of apparent distress. By Wednesday morning, the perimeter levee had failed and released an estimated 3 million gallons of secondary treated wastewater into the nearby Merced River.

Att. 3
2 of 95

The resulting erosion scour carved a channel across the northern perimeter levee discharging to the river (Photos 1 and 2). The location of this erosion scar is approximately N37° 23.544" and W120° 45.463" as shown on Figure 2. This channel was approximately 15 feet wide at the pond perimeter widening to about 30 feet wide at the middle of the levee. Near the pond shoreline, this erosion channel was incised roughly 2 to 3 feet below the level of the pond bottom, deepening to about 8 feet below the levee top. Between the levee and the Merced River, the erosion channel depth increased to an estimated 15 to 20 feet below the original ground surface and steepened in gradient as it descended the bank to the river (Photo 2). The erosion scour of the levee exposed a feeder pipe and return pipe buried at depths of 2 and 4 feet, respectively, paralleling the levee embankment (Photo 1). According to Mr. Manchester, both pipes have been abandoned for years and carry no flow. An old, abandoned Cat D7 dozer parked on the levee was undermined by the erosion and dropped to the bottom of the erosion channel (Photo 1). We understand from Mr. Manchester that there were no buried pipes, structures, or underground utility trenches coincident with the levee failure and erosion channel.

FINDINGS

At the time of our site visit, May 21, 2008, the near-vertical sides of the erosion channel provided a cross-sectional exposure of the levee fill and the upper few feet of underlying foundation soil. Samples of fill and foundation soils were tested and found to have nearly identical gradation and plasticity characteristics. Both the foundation soil and levee fill (Fill 1) consist of relatively uniform, non-plastic, fine-grained sandy Silt (see attached laboratory test results). Well-developed tension cracks in the embankment fill were present along the levee crest adjacent to the near-vertical sidewalls of the erosion channel (Photos 2, 3, and 4). The channel bottom had a relatively uniform gradient in the vicinity of the levee (Photo 1), but became steeper and irregular as it descended the bank to the Merced River (Photo 2). New sediments blanketing the channel bottom and forming a sandbar in the Merced River (Photo 5) support the claim that the failure was caused by scour resulting from discharge of running water from the pond.

Regional geologic maps indicate the treatment plant site occupies an area underlain by eolian (wind-blown) deposits of the upper Modesto Formation estimated to be about 9,000 to 14,000 years old (Marchand and Allwardt, 1981). Unconsolidated deposits of interbedded alluvial sand, gravel and silt occur along the adjacent Merced River. Boring logs dating from an earlier investigation by Wallace Kuhl and Associates (1989) suggest that near-surface soils underlying the ponds generally consist of silt and fine sand becoming more sandy and less silty with depth. Several borings located within about 300 to 500 feet of the levee failure encountered relatively clean sands at depths of 10 to 15 feet below the ground surface with depth to groundwater ranging from 23 to 26 feet at the time of drilling (November 1988). These groundwater depths roughly correspond to flow levels in the Merced River.

We observed numerous animal burrows in and around the inside and outside slopes of the perimeter levees of Ponds 2 and 3 at the time of our site visit (Photos 6 and 7). Between Pond 2 and the Merced River, the walls of the erosion channel exposed extensive interconnected voids apparently formed by the decomposition of old tree roots (Photos 8 and 9). Near the Merced River shoreline, about 8 feet above the river level and some 18 feet below the former ground surface, the deeply incised channel exposed discontinuous pockets of clean, friable, medium grained sand (Photos 10 and 11). We observed no evidence of erosion piping (subsurface erosion) of these clean sand deposits. Our examination of the nearby river bank failed to identify any obvious signs of piping cavities or seepage. It should be noted that this field inspection was brief and further inspection is warranted.



DISCUSSION AND CONCLUSIONS

As is usually the case with levee failures, evidence of pre-existing conditions and failure causes are largely destroyed by the resulting erosion scour. Consequently, the contributory causes to failure must be inferred from limited evidence and judgment. Based on our field observations, laboratory testing, and review of the available documents, including geologic maps and boring logs, it is our opinion that the immediate cause of the levee failure was piping (subsurface erosion). The uniform non-plastic fine sandy silt composing the Pond 2 levee fill and foundation has a particularly low resistance to piping (Navfac DM 7.2-42, 1982). Small concentrated leaks on the outside slopes usually lead to levee failure shortly after seepage from the downstream face commences. These foundation and fill soils are likewise particularly vulnerable to cracking in response to tensile strain or deformation (Navfac DM 7.2-43). Cracks in the embankment soil may have contributed to the initial pathway along which piping occurred.

Since the recent levee failure occurred in sudden response to a very low hydraulic head (less than 3 feet), we suspect that on-going subsurface erosion had been occurring, undetected, for many years, as an interconnected underground pathway gradually developed. The final filling of Pond 2 in May apparently caused enough additional piping erosion to complete a subsurface pathway and trigger the concentrated flow to emerge from the outside slope face. Once the flow commenced, additional piping occurred rapidly, and flow volume and velocity increased rapidly with failure occurring within hours. As the piping cavity enlarged, the overlying soils dropped into the developing void and the erosion gully rapidly developed.

Experience shows that piping can usually be mitigated if the ratio of the flow seepage path length (l) to the imposed hydraulic head (h) exceeds about 5 for fine-grained soils to 10 for more pervious sandy soils (Spangler and Handy, 1982). Considering the maximum pond depth was intended to be no more than about 6 feet, the levee width at the failure point should have been adequately safe from piping failure. Consequently, it is our opinion that other factors, like animal burrows, rotted tree roots, or embankment cracking, contributed to the levee failure.

RECOMMENDATIONS

In our opinion, levees constructed from the eolian fine-sandy silt found on-site are especially vulnerable to piping erosion. Repair of the levee failure can be made by using a more suitable soil having greater cohesion (clay) and exhibiting wider gradation of particle grain-sizes that is adequately compacted as engineered fill. If the levee is repaired using on-site soils, the design should incorporate specific measures to control piping. Some alternative measures that may be considered include some combination of: replacement of loose and disturbed foundation soils with engineered fill, careful compaction of new engineered fill, adequate levee width, use of a low-permeability clay pond liner or embankment core, or use of a downstream drainage such as a toe drain or horizontal drainage blanket composed of coarse permeable material.

Frequent inspection and timely maintenance is essential for both new and existing levee embankments. It is critical to identify and fill animal burrows or visible ground cracks having the potential to compromise the ponds. The downstream face of perimeter levees of filled ponds, should be regularly and carefully checked for any evidence of seepage. Vegetation on and near the levee should be planned and trimmed to facilitate the visual inspection of the levee faces.

Once a repair material source and the layout of embankment repair has been determined, we recommend that foundation conditions be explored by means of geotechnical borings to develop geotechnical guidelines for foundation preparation, levee design, and earthwork.



Att. 3
4 of 5

Should you have any questions or comments, please contact Lee Morse at Condor 209.388.9601.

Respectfully submitted,

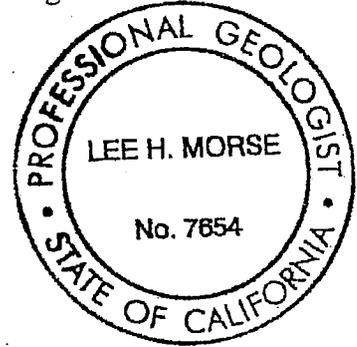
CONDOR EARTH TECHNOLOGICAL, INC.

Mark Petersen
Mark Petersen GE 2220
Geotechnical Engineer



Reviewed by:

Lee H. Morse
Lee Morse PG 7654
Professional Geologist



REFERENCES

Marchand, D.E., and Allwardt, A., 1981, Late Cenozoic Stratigraphic Units, Northeastern San Joaquin Valley, California, U.S. Geological Survey Bulletin 1470.

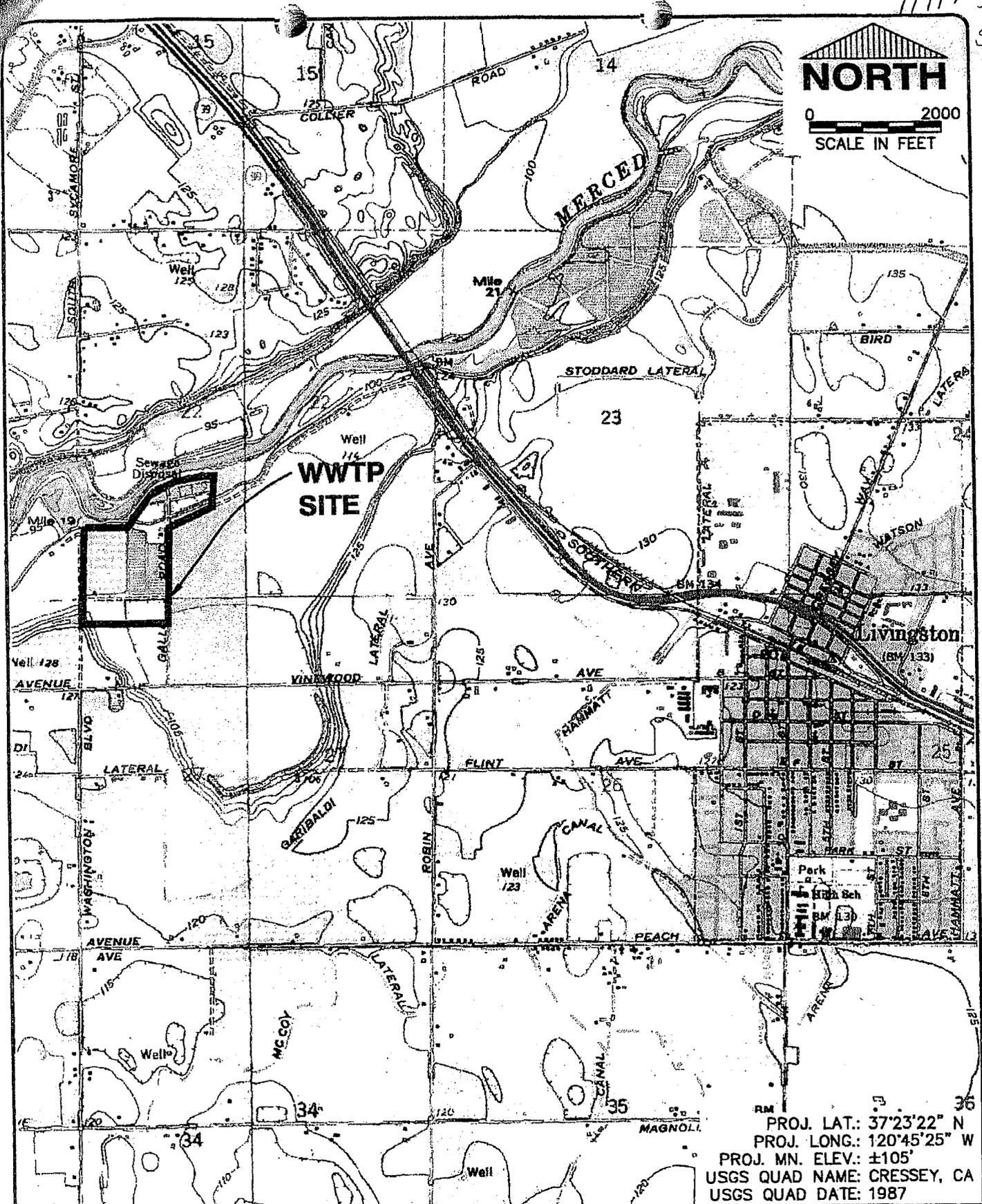
NAVFAC (Naval Facilities Engineering Command), 1982, Foundations and Earth Structures Design Manual DM-7.2, pp. 7.2 - 42 to 43.

Spangler, M.G., and Handy, R.L., 1982, Soil Engineering, 4th Edition, Harper and Row, p. 521.

Wallace Kuhl & Associates, 1989, Soils Evaluation and Monitoring Well Installation, Livingston, California, WKA No. 88-420, unpublished consultant's report, 4 pp. and Appendix.



Att. 3
SofS



PROJ. LAT.: 37°23'22" N
 PROJ. LONG.: 120°45'25" W
 PROJ. MN. ELEV.: ±105'
 USGS QUAD NAME: CRESSEY, CA
 USGS QUAD DATE: 1987

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CONDOR

Job No.	4762
Published Date	9 JUNE 2008
Scale	AS SHOWN
Drawn	Chk'd
MTM	JK

VICINITY MAP
LIVINGSTON MUNICIPAL
WASTEWATER TREATMENT PLANT
CITY OF LIVINGSTON
LIVINGSTON, MERCED COUNTY, CALIFORNIA

FIGURE
1
 File No.
 4762F1

Att. 4



J L ANALYTICAL SERVICES, INC.

217 Primo Way • Modesto, California 95358 • Office (209) 538-8111 • FAX (209) 538-3966

May 20, 2008

EMS Livingston
Attn: Dan Manchester
1416 C Street
Livingston, CA 95334

Dear Dan,

On May 14th JL Analytical received 3 river water samples for coliform analysis. These samples were analyzed using an incorrect dilution scheme that had 23 /100mls as its upper limit of quantitation. This procedure was appropriate for drinking water samples, but not at all appropriate for river water samples. As a result we are only able to report that the coliform results for the samples were greater than 23 per 100mls.

We are in the process of investigating to determine the root cause of this error. Once the root cause has been determined, corrective actions will take place to prevent it or similar errors from occurring in the future. We take pride in the quality of our service, and it is deeply disturbing when an error such as this causes problems for our clients. If there is anything that we can do to mitigate the problems caused by this error, please let us know.

If you have any questions about this or any other matter, please contact me.

Sincerely,

Michael Wolf
Lab Director

Att. 5

CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

RECORD OF COMMUNICATION

Phone Call (checked), Meeting, Other (specify)

PARTIES

Denise Soria, Central Valley Water Board; Dave Davidson, Contract Operator, City of Livingston

DATE: 4 June 2014; TIME: 1410

* Party Initiating Communication

SUBJECT: City of Livingston Wastewater Treatment Facility

Phone Number: (209) 756-3269

SUMMARY OF COMMUNICATION:

I called Mr. Dave Davidson, Contract Operator for the City of Livingston to inquire about sampling of the new groundwater monitoring wells (MW-6 and MW-7), sampling of the sludge, and the facility where it is hauled to off-site, and industrial dischargers connected to the City's sewer system.

In 30 September 2008, two groundwater monitoring wells (MW-6 and MW-7) were installed at the WWTF. I asked Mr. Davidson why there was not groundwater monitoring data for MW-6 and MW-7. He stated that up until early 2013, Environmental Management Services was responsible for the operation and sampling of the WWTF. According to Mr. Davidson, the City took over the WWTF in mid-2013 and was not aware of the new monitoring wells. Mr. Davidson said the wells were discovered a couple months ago and when he asked the lab to sample, the lab would not sample the wells because there were no construction details on the wells. I told Mr. Davidson that a Monitoring Well Installation Report dated 28 October 2008 was submitted to the Regional Water Board and that he needs to contact Condor Earth Technologies for a copy of the report and begin monitoring the wells immediately.

I asked Mr. Davidson where the dry sludge is being hauled to, and if the City samples the sludge prior to hauling it off-site. Mr. Davidson said the sludge is hauled off-site to Jim Brisbo Enterprises, and the sludge is sampled before being hauled off-site. I asked Mr. Davidson if he can submit a copy of the analytical results. Mr. Davidson said he will submit copies of the results.

I also asked Mr. Davidson if there were any industrial dischargers connected to the City. Mr. Davidson said that Fresenius Medical Care was discharging to the City until it recently went out of business. I asked Mr. Davidson if there is any documentation proving this. Mr. Davidson said he will get in contact with the City to provide the Regional Water Board documentation.

CONCLUSIONS, ACTION TAKEN OR REQUIRED:

I will follow up with Mr. Davidson regarding groundwater data for the new wells and confirm that the City is hauling sludge to a permitted facility.

REVIEWED BY:

[Handwritten signature]

WRITTEN BY: Denise Soria



California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair

Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Fresno Branch Office
1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

Att. 6

1 of 3

28 December 2005

Paul Creighton, Director of Public Works
City of Livingston
P.O. Box 308
Livingston, CA 95334

INCOMPLETE GROUNDWATER MONITORING WORK PLAN, CITY OF LIVINGSTON DOMESTIC WWTF, MERCED COUNTY

We reviewed *Groundwater Monitoring Work Plan for the City of Livingston Wastewater Treatment Facility*, dated 18 October 2005, prepared by Condor Earth Technologies and certified by Lee H. Morse (RG No. 7654). The Work Plan proposes to modify the groundwater monitoring well network, currently comprised of five wells (MW-1 through MW-5), at the City's municipal wastewater treatment facility (WWTF) and monitor groundwater in wells that comprise the modified network. Specifically, the Work Plan proposes to destroy three existing wells and install three replacement wells and one new well.

Effluent is discharged primarily to Ponds 7 and 8, and to Ponds 1, 2, and 3 when maintenance is performed on Ponds 7 and 8. The Work Plan does not indicate whether effluent is still discharged to Ponds 4, 5, and 6. MW-1 monitors groundwater downgradient of Pond 7, and MW-2 and MW-4 monitor groundwater between the WWTF and Merced River. Depth to groundwater ranged from about 20 to 30 feet below ground surface (bgs) during 2003 and 2004. Decreasing groundwater levels have limited or precluded groundwater monitoring in MW-1, MW-2, and MW-4. These three wells will be replaced by deeper wells. A new well, MW-6, is proposed south of Ponds 7 and 8 to serve as an upgradient well.

Well Placement. The proposed upgradient well is very close to the effluent disposal pond and will likely monitor groundwater influenced by the discharge. This well should either be relocated, or another well installed, further upgradient. A mounding analysis should be performed to estimate how far upgradient from the effluent disposal pond groundwater will be influenced by the discharge and the upgradient well should be located beyond the area of the discharge's influence. The replacement well for MW-2, MW-2R, while downgradient of the sludge drying beds, monitors groundwater that appears to be influenced by the former sludge lagoon. An additional well further upgradient from MW-2R and immediately downgradient of the sludge drying beds is necessary to evaluate the effectiveness of the sludge drying bed design and construction.

Well Destruction. Monitoring wells proposed for destruction should be sounded to ensure they are open to the total depth of the casing installed prior to grouting, and cleaned out if necessary.

Well Construction. The proposed depth of new wells is 10 feet below first-encountered groundwater. Figure 3, *Typical Monitoring Well Construction Diagram*, depicts a 20-foot screen interval. The Work

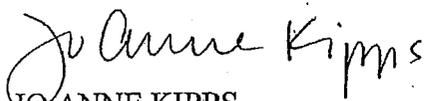
A.H.G.
2 of 3

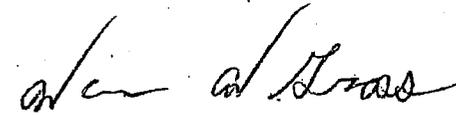
Plan does not provide technical justification for this screen placement. The proposed interval is appropriate if there is little fluctuation of water table. The Work Plan should provide a summary of water table fluctuations over the period of available record, and base the proposed interval on that information. Additionally, the Work Plan states that all new wells will be equipped with a concrete apron, but Figure 3 does not depict this detail.

Monitored Constituents. The Work Plan proposes to monitor groundwater in accordance with the Monitoring and Reporting Program No. 89-066 (MRP). The MRP currently requires monthly monitoring of groundwater depth and elevation and quarterly monitoring of groundwater chemical oxygen demand, nitrate-nitrogen, total Kjeldahl nitrogen, specific conductance, total and fecal coliform, and odors. In order to achieve the Work Plan's objective, stated on page 1 as "to identify and evaluate potential impacts to groundwater quality resulting from the WWTF," the list of monitored constituents should be expanded to include, at a minimum, general minerals and metals. We intend to revise the MRP, in part, to expand the list of monitored constituents in effluent and groundwater. While the City must continue to comply with the MRP requirements until the MRP is revised, the Work Plan should propose to monitor groundwater quarterly (January, April, July, and October) for the additional constituents identified in the enclosed recommended supplemental groundwater monitoring and reporting program.

The Work Plan is incomplete. Please submit a revised Work Plan or a supplement to the Work Plan that satisfactorily addresses the above comments.

If you have any questions regarding our review of the Work Plan, please call Warren Gross at (559) 445-5128. We will send the City under separate cover a tentative revised MRP for your review and comment.


JO ANNE KIPPS
Senior Engineer
RCE No. 49278


WARREN W. GROSS
Engineering Geologist
CEG No. 1528, HG No. 681

Enclosure: RECOMMENDED SUPPLEMENTAL GROUNDWATER MONITORING AND REPORTING PROGRAM

cc w/encl: Lee H. Morse, Condor Earth Technologies, 1739 Ashby Road, Suite B, Merced, CA 95348

Att.
3 of 3

ENCLOSURE
RECOMMENDED SUPPLEMENTAL
GROUNDWATER MONITORING AND REPORTING PROGRAM

Prior to collecting samples and after measuring the water level, purge each monitoring to remove water that has been standing within the well screen and casing that may not be chemically representative of formation water. Depending on the hydraulic conductivity of the geologic setting, the volume removed during purging is typically from 3 to 5 volumes of the standing water within the well casing and screen, or additionally the filter pack pore volume. Analyses should be made in accordance with the Standard Provisions, which are incorporated by reference in the discharger's waste discharge requirements.

The results of the supplemental monitoring should be provided in self-monitoring reports for the month in which the sampling was performed. In reporting the results of the first sampling event performed pursuant to this recommended supplemental program, include a detailed description of the procedures and techniques for: (a) sample collection, including purging techniques, sampling equipment, and decontamination of sampling equipment; (b) sample preservation and shipment; (c) analytical procedures; and (d) chain of custody control. Report deviations from these procedures and techniques in self-monitoring reports.

Monitor groundwater at least monthly for groundwater depth (to 0.01 foot) and elevation (feet above mean sea level, to 0.01 foot) and at least monthly (i.e., in January, April, July, and October) for the following:

<u>Constituent/Parameter</u>	<u>Units</u>	<u>Type of Sample</u>
Total Organic Carbon	mg/L	Grab
Nitrogen compounds:		
Nitrate (as NO ₃ -N)	mg/L	Grab
Ammonia (as NH ₃ -N)	mg/L	Grab
Total Kjeldahl Nitrogen	mg/L	Grab
General Minerals ²	mg/L	Grab ³
Sodium Adsorption Ration (SAR) ⁴	None	Calculated
Metals (dissolved)	µg/L	Grab ⁴

¹ January, April, July, and October

² General minerals means the following constituents commonly found in water: total dissolved solids (volatile, inorganic, and total), calcium, magnesium, sodium, potassium, iron, manganese, chloride, and sulfate, and the following characteristics: pH, electrical conductivity at 25°C, hardness (as CaCO₃), alkalinity (CaCO₃), and anion/cation balance.

³ Groundwater samples placed in an acid-preserved bottle must first be filtered through a 0.45-µm nominal pore size filter. If field filtering is not feasible, samples shall be collected in unpreserved containers and submitted to the laboratory within 24 hours with a request (on the chain-of-custody form) to immediately filter then preserve the sample.

⁴ $SAR = Na / \{ [Ca + Mg] / 2 \}^{1/2}$, where Na, Cl, and Mg are in meq/L

⁵ Dissolved metals mean the following constituents: arsenic, barium, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc.

Att. 7

**CITY OF LIVINGSTON
LIVINGSTON DOMESTIC WWTF
5C240106002**

**GROUNDWATER MONITORING WELL
INSTALLATION WORK PLANS**

11 March 2002 Mounding Analysis

18 August 2006 Initial Report

28 December 2005 Staff Comment Letter

18 August 2006 Revised Report



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Merced, CA 95348

Phone 209.388.9601

FAX 209.388.1778

www.condorearth.com

NOV 04 2008

CONDOR EARTH TECHNOLOGIES
FRESNO, CALIF

October 30, 2008

Jeffrey W. Hannel
California Regional Water Quality Control Board
1685 E. Street
Fresno, California 93706

Subject: Well Completion Reports

Dear Board Members,

Enclosed please find copies of Well Completion Report No. 0954093 and 0954094. These reports are being submitted under separate cover to accompany the *Monitor Well Installation Report – City of Livingston Domestic Wastewater Treatment Facility* dated October 28, 2008. The well completion reports are enclosed in a separate envelope that is sealed and marked CONFIDENTIAL with this letter attached.

It is the responsibility of your regulatory agency to assure that the restrictions of California Water Code, Section 13752, are implemented by prohibiting your staff to release these records for public review.

Sincerely,

CONDOR EARTH TECHNOLOGIES, INC.

Kathy Vasquez
Staff Geologist

<http://cet-snra040/Project Drive/4000/4762C Livingston Domestic WWTF/Correspondence/Letters/CRWQCB cover letter.doc>

Attachment
8
1 page

APPROVED

Supervising Engineer



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, PE, Chair

A.H. 9
10/6



Arnold
Schwarzenegger
Governor

Fresno Branch Office

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

FILE

24 June 2008

Mr. Richard Warne, City Manager
City of Livingston
P.O. Box 308
Livingston, CA 95334

**FACILITIES INSPECTION REPORT, WASTE DISCHARGE REQUIREMENTS ORDER
NO. 89-066, CITY OF LIVINGSTON WWTF, MERCED COUNTY**

The enclosed Facilities Inspection Report documents Regional Water Board staff's 15 May 2008 inspection of the City's Domestic Wastewater Treatment Facility (WWTF) to evaluate the City's response to the 14 May spill of an estimated 3.2 million gallons of undisinfectated secondary treated effluent to the Merced River. On 19 May, staff issued the City a Notice of Violation for the spill, which was caused by a failure in an effluent disposal pond levee. On 20 May 2008, we received the City's spill incident report. On 11 June 2008, we received a geotechnical evaluation report of the levee failure prepared by Condor Earth Technologies, Inc. on behalf of the City.

By **24 July 2008**, provide a written report of corrective actions implemented or planned to prevent recurrence of levee failure. If you have any questions regarding the enclosed, please contact Mr. Hoss Aghazeynali at (559) 445-6194 or haghazeynali@waterboards.ca.gov.

LONNIE M. WASS
Supervising Engineer
RCE No. 38917

Enclosure: Facilities Inspection Report

cc w/encl: Ken Greenberg, USEPA Region 9, Water Division (WTR-7), 75 Hawthorne, San Francisco CA 94105
Annee Ferranti, California Department of Fish and Game, Region 4, 1234 East Shaw, Fresno CA 93710
California Department of Health Services, Fresno
California Department of Parks and Recreation, Columbia
Merced County Department of Environmental Health Services, Merced
Larry Parlin, Environmental Management Services, LC, Sacramento

HA Livingston spill IR cover.doc
N15 / B / LIVINGSTON, CITY OF / DOMESTIC WWTF / 5C240106002
CIWQS Regulatory Measure 347364

APPROVED

Supervising Engineer

HTT 9 20/06

5F
OFFICE
89-066
ORDER NO.
5C240106002
WDID
144073
REG MEASURE ID

FACILITIES INSPECTION REPORT

Nov 15
PROGRAM
25056
PARTY ID
1/8
PAGE NO
270458
PLACE ID

Livingston, City of
DISCHARGER NAME
1416 C Street
STREET ADDRESS
Livingston, CA 95334
CITY, STATE, ZIP CODE
Larry Parlin, EMS Operations Director
DISCHARGER CONTACT PERSON
916-565-4882
TELEPHONE NO.
lparlin@carollo.com
E-MAIL ADDRESS

Livingston Domestic WWTF
FACILITY NAME
7160 North Gallo Road
STREET ADDRESS
Livingston, CA 95334
CITY, STATE, ZIP CODE
Dan Manchester, Chief Plant Operator (CPO)
FACILITY CONTACT PERSON
209-480-7966
TELEPHONE NO.
E-MAIL ADDRESS

GENERAL INSPECTION INFORMATION

Inspection Type: Complaint Inspection Lead Inspector: Hoss Aghazeynali

5/15/2008 to 5/15/2008 10:45-12:40 Sunny, warm, and mild wind
INSPECTION DATE(S) INSPECTION TIME GENERAL WEATHER CONDITIONS

INSPECTION ATTENDEE(S) (Identify additional attendees in GENERAL OBSERVATIONS Section)

Hoss Aghazeynali NAME	CVRWQCB COMPANY/AGENCY	559-445-6194 TELEPHONE NO.	haghazeynali@waterboards E-MAIL ADDRESS
Larry Parlin NAME	EMS COMPANY/AGENCY	916-565-4882 TELEPHONE NO.	lparlin@carollo.com E-MAIL ADDRESS
Dan Manchester NAME	EMS COMPANY/AGENCY	209-480-7966 TELEPHONE NO.	E-MAIL ADDRESS

INSPECTION SUMMARY (for CIWQS entry)

I observed and documented the 14 May 2008 levee failure in Pond 2 that caused 3.2 million gallons of undisinfected secondary treated effluent to spill to the adjacent Merced River. Sufficient effluent storage capacity in Ponds 7 and 8 (normally used as evaporation and percolation ponds). Ponds 1 through 3 were in use for several months during maintenance of Ponds 7 and 8. The City has stopped using these ponds until a geotechnical study is conducted to investigate the cause of the levee failure.

INSPECTION VIOLATIONS SUMMARY (if applicable)

Identify VIOLATIONS noted during inspection in table below. For each violation documented entered into CIWQS, identify Violation ID and Violation Type, describe violation, and identify section of the WDRs or Water Code violated. Additional sheets attached? (Y / N)

Label	Violation ID	Violation Type	Violation Description	Section of the WDRs Violated
V1	755252	Unauthorized Discharge	Discharge of wastewater to surface waters (Merced River)	Discharge Prohibition A.1

OTHER VIOLATIONS (if applicable)

SMR violations?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Evaluated	Not applicable
File Review violations?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Evaluated	Not applicable

Lead Inspector ID: 139095 Signature: H. Aghazeynali Date: 6/19/2008

Inspection Tracking Information Reviewed by: (1) [Signature] (2) _____ (3) [Signature]
CIWQS Coordinator

Filename: HA LIVINGSTON WWTF SPILL.IR.DOC CIWQS Entry Date: 5/23/2008 CIWQS Inspection ID: 1375479

FACILITIES INSPECTION REPORT
CITY OF LIVINGSTON
LIVINGSTON DOMESTIC WWTF

FACILITY INFORMATION

FACILITY DESCRIPTION	Livingston Domestic WWTF
TREATMENT DESCRIPTION	Activated sludge oxidation ditch with anoxic zone and secondary clarifiers
DISPOSAL DESCRIPTION (e.g., disposal ponds, spreading basins, leachfields, land application area, etc.)	Evaporation and percolation in Ponds 7 and 8
SLUDGE HANDLING AND STORAGE DESCRIPTION	Aerobic sludge treatment in oxidation ditch and gravity thickened in lined sludge drying beds

WASTEWATER TREATMENT PLANT OPERATOR INFORMATION

CHIEF PLANT OPERATOR	Dan Manchester	OPERATOR GRADE	II	IDENTIFY NUMBER OF OTHER OPERATORS PER GRADE	Grade I Operator (Gary Lanmer with EMS)
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BACKGROUND

Waste Discharge Requirements Order No. 89-066 (WDRs) and Cease and Desist Order No. 98-057 (CDO), which was amended by Special Order Nos. 98-218 and 5-00-005, currently regulate the City of Livingston (City) Domestic Wastewater Treatment Facility (WWTF). The CDO addresses City's limited disposal and storage capacity and discharge of effluent to Merced River and requires the City to increase short term and long term effluent disposal capacity. Regional Water Board on 24 September 1998 issued Administrative Civil Liability (ACL) Complaint Order No. 98-507 for \$16,000 for the release of 60.176 million gallons to the Merced River from 5 December 1997 through 4 February 1998.

The WDRs permit 30-day average dry weather flow of up to 1.18 million gallons per day (mgd); however, the WDRs also allow the flow to increase to up to 1.8 mgd upon receipt of certification by the design engineer and approval by the Executive Officer. The City has yet to submit this certification.

Regional Water Board records indicate that the City submitted a Report of Waste Discharge dated 22 November 2002 for an upgrade and expansion of the WWTF. Regional Water Board staff determined the RWD incomplete and identified information necessary to complete the RWD by 23 December 2002 letter. The City has yet to submit a response letter. I faxed a copy of this letter to Parlin (Director of Operations with Environmental Management Services, L.C. (EMS), affiliate of Carollo Engineers) to see if the City ever responded to this letter. On 12 June 2008, Parlin reported in an e-mail to me that the City never responded to this letter and Carollo Engineers is now preparing a response letter on City's behalf.

INSPECTION OBSERVATIONS AND FINDINGS

Describe inspection observations and findings and identify those that constitute potential violations by a violation number contained within parentheses (e.g., Available freeboard in Pond 1 was < two feet (V1)).

I arrived at the WWTF at 10:45 A.M. to conduct an inspection of a 14 May 2008 levee failure in Pond 2. The weather was sunny but cool with some wind. I met with Parlin; and Dan Manchester, EMS and contract Chief Plant Operator. I asked Manchester to describe the events leading to the spill and actions taken to abate the spill's effects. See attachments A and B for the layout of the existing and abandoned WWTF and 2008 aerial photo of the WWTF area. The following are his summary statements:

1. The new expanded WWTF has been in operation since September 2003, and includes an oxidation ditch with anoxic zones, two secondary clarifiers, four lined sludge drying beds,

scum pond, and eight evaporation and percolation ponds with mainly Ponds 7 and 8 being used and the most recent ponds constructed during 2003. The old WWTF included a primary clarifier, facultative ponds, and aerobic digester tank. The old WWTF components are not completely abandoned (e.g., one sludge pond, and digester tanks).

2. On 5 May 2008, Manchester reported to Jo Anne Kipps, Regional Water Board Senior Engineer, a small seepage spill of effluent from a ground squirrel burrow in the Pond 3 levee. Some of the spill reached the river. WWTF staff repaired the levee, and routed the Pond 3 contents to Pond 2.
3. On 13 May, Pond 7 was returned to service for effluent percolation after it was removed from service on 11 March 2008 for maintenance (drying and disking). During this time, Pond 7 was out of service and effluent was discharged to Ponds 1 through 3.
4. On 14 May at 10:30 A.M., Larimer noticed that the Pond 2 levee had failed and most of the pond's contents had discharged to the Merced River, and notified Manchester of the Spill. A small stream of effluent continued to spill from the failed levee. Manchester constructed a temporary berm to contain the spill (Photos 1-5).
5. Manchester promptly reported the spill to the Merced County Environmental Health, State Department of Fish and Game (DFG), Regional Water Board, and the Governor's Office of Emergency Services.
6. On 14 May at 12:30 P.M., WWTF staff sampled the Merced River upstream and downstream of the spill point at the receiving water sampling stations R-1 and R-2 as defined in the WDRs, and several miles downstream by Hagaman Park. County Health posted the river near the park.
7. Two exposed pipes, 10- and 12-inch diameters observed during the inspection, were low and high overflow drain pipes designed to drain Ponds 1 through 3 to Pond 4 northeast of Pond 1, but are no longer used (Attachment A).
8. Ground squirrels did not appear to be major problem before or during the Pond 2 levee failure. He had noticed a few ground squirrel holes during his routine weekly inspection of the space between the Pond 3 levee and the fence line adjacent to the river.
9. The crawler (dozer) was parked on the Pond 2 levee where it sunk during the levee failure. The crawler was parked in that location since 1999 and the City was recently in process of dismantling the crawler for salvage (Photos 6 and 7).

During my inspection, I also met Paul Creighton, Livingston Public Works Director, who was at the spill site. He indicated that the City plans to investigate causes of the levee failure.

I observed and documented the levee failure in the north portion of the Pond 2 levee, where wastewater had flushed away most of the levee soil from the bottom of the levee into the Merced River (Photos 8 and 9). Parlin estimated 3 million gallons of undisinfected secondary treated effluent spilled to the adjacent river, based on the area of Pond 2 and the water level before and after the break (2.8 feet and 0.9 feet, respectively), see Photo 1.

Att. 9
5086

FACILITIES INSPECTION REPORT
CITY OF LIVINGSTON
LIVINGSTON DOMESTIC WWTF

I drove with Manchester to observe the remaining ponds and levees and surrounding WWTF components. I observed Pond 4, which was empty (Photo 12, designated Pond 4, and shown as sludge drying bed (SDB) No. 1 in attachment A); two sludge drying beds (Photo 13, designated as SDB Nos. 3A and 3B), in addition to two beds shown as SDB Nos. 4A and 4B in attachment A north of the oxidation ditch; and a scum pond (Photo 13, shown as SDB No. 2 in attachment A). According to Parlin, the content of the lined scum pond is hauled off to a local farm for reuse. I observed sufficient effluent storage capacity in Ponds 7 and 8. There are normally used as evaporation and percolation ponds (Photos 14 and 15) with available capacity of 10 feet. Pond 8 was in use during my inspection. According to Manchester, Ponds 7 and 8 are used during preparation and diking of Ponds 7 and 8 for a couple of months each year. Manchester has ceased using these ponds until a geotechnical study is conducted to evaluate the cause of the pond levee failure.

I also observed the City's upstream and downstream receiving water sampling stations R-1 (Photo 16) and R-2 (Photo 17). I did not observe evidence of turbidity or unusual discoloration of R-2 during my inspection (24 hours later). I estimate about 175 cubic yards of soil water were lost from the Pond 2 levee into the river.

The City sampled the river at these stations for bacteria to evaluate the impact of the spill to the river. I did not observe the Hagaman Park sampling point, which is about 10 miles downstream from the WWTF. On 22 May, Parlin e-mailed Regional Water Board staff (Kops) a copy of J.L. Analytical Services, Inc letter explaining an analysis error of bacteriological samples. A laboratory dilutions error caused the results of coliform analysis for all three samples to be reported as greater than 23 Most Probable Number per 100 mL. As a result, the impact of the spill to the river at the time of sample collection is inconclusive.

In a 30 May telephone conversation with DFG staff, Annee Ferranti, she told me DFG had released fish to the river downstream of the WWTF spill point on the same day of the spill. DFG was evaluating the spill's impact to aquatic life.

Staff review of real-time flow data from Merced River at the Stevinson Station (approximately 10-12 miles downstream of the WWTF), available from the Department of Water Resources (DWR) California Data Exchange Center (CDEC) website, indicates: 1) spring flow ranged from 200 cubic feet per second (cfs) to 1400 cfs; and 2) on day of release, flow would have been between 1000 cfs and 1274 cfs.

Real-time electrical conductivity (EC) data available from CDEC for the Merced River at the Stevinson Station shows a sharp increase in EC beginning at 2 P.M. on 14 May. By 8 P.M., the EC at Stevinson returned to pre-spill levels. The data indicates an increase of conductivity from 68 uS/cm to 100 uS/cm occurred during this time period (Attachment C). The 14 May levee failure was discovered on 10:30 A.M. in the same day. The EC of WWTF effluent averaged about 900 uS/cm in 2008, according to City's 2008 self-monitoring data.

The spill constitutes a violation of WDRs Order No. 89-066, Discharge Prohibition A.1 (V1), which prohibits the discharge of wastewater to surface waters.

Att. 9
6 of 6

Status Report. On 19 May, Regional Water Board staff issued a Notice of Violation to the City for the unauthorized discharge of wastewater to the river and requested the City to submit the results of spill investigation report and measures that will be implemented to minimize future spills. On 20 May, EMS, on behalf of the City, e-mailed me a spill report estimating the spill volume at 3.22 million gallons and provided several attachments that included a list of agencies contacted following the spill, a Merced Sun-Star news article regarding the spill, a map of the WWTF layout, photos detailing the spill events, and a cost estimate from Condor Earth Technologies Inc (Condor) to evaluate the causes of the levee failure. The City's spill report describes similar events discussed in this inspection report. The City has indicated that it plans to hire a firm to evaluate the causes of the levee failure before any repair is done. The City will not be using Ponds 1 through 3 for an extended period considering that Ponds 7 and 8 have sufficient effluent disposal capacity.

On 11 June 2008, we also received a geotechnical evaluation report of levee failure conducted by Condor on behalf of the City. The report indicates that the levee failure appeared to be caused by gradual piping erosion (drain pipes buried in the pond levee, see also Photo 6) that contributed to subsurface erosion. The report soil analysis indicates that uniform non-plastic fine sandy silt was found in the Pond 2 levee fill and the foundation fill. This provided a low resistance to piping and caused gradual subsurface erosion. Increase of head in Pond 2 elevated the seepage rate through the levee subsurface erosion causing final levee failure. The report concludes that other factors such as animal burrows, rotted tree roots, or embankment cracking found in the levee also contributed to the levee failure.

SAMPLING INFORMATION AND OBSERVATIONS

Were samples collected during the inspection? Yes No
Are sample results included in report? Yes No

SELF-MONITORING REPORT REVIEW SUMMARY

Summarize SMR review results below.

Not applicable

FILE REVIEW SUMMARY

Was a facility file review part of inspection effort? Yes No
If not, is facility file review recommended? Yes No

Summarize file review results below. Additional sheets attached? (Y/N)

Not applicable

RECOMMENDATIONS

City's geotechnical evaluation of the levee failure indicates that the piping subsurface erosion was the major contributor to the levee failure. The City will need to provide a written description of corrective measures implemented and planned to prevent future similar levee failures.



<http://www.dfg.ca.gov>
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005



DEC 01 2008

Att. 10
1 of 4

FREDDY GILF

November 12, 2008

Pamela C. Creedon, Executive Officer
Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, California 95670-6114

Loren Harlow
Regional Water Quality Control Board
1685 "E" Street
Fresno, California 93706-2007

**Subject: Notice of Violation Waste Discharge Requirements Order No. 89-066,
City of Livingston WWTF, Merced County**

and

**the Foster Farms Dairy Processing Facility Spill, Tuolumne River,
Modesto, California**

Dear Ms. Creedon and Mr. Harlow:

The Department of Fish and Game has reviewed the above Notice of Violation and also have similar concerns about a second spill on the Tuolumne River that occurred on May 15, 2008.

City of Livingston

The City of Livingston Waste Water Treatment Facility (WWTF) had a levee breach on Pond No. 2 that resulted in the release of undisinfected secondary municipal wastewater into the Merced River that occurred on May 14, 2008. This event occurred during the fall-run Chinook salmon juvenile out migration. The attached figure presents the dates and locations of salmon smolt releases and the location of the Livingston discharge point. Note that the discharge and smolt release dates overlap. As the California Regional Water Quality Control Board (Board) staff is aware, the Pacific coast Chinook salmon population crash was a common subject in the news the past few months. The decline has closed all commercial and sportfishing along the Pacific coast, resulting in significant economic loss to the communities and industries that depend on this natural resource. Many of the articles emphasized ocean conditions as a cause to this decline; however, the lack of successful reproduction and recruitment in California rivers is a major contributor to this population crash.

Pamela C. Creedon, Executive Officer
Loren Harlow
November 12, 2008
Page 2

Att, 10
2 of 4

A sewage waste water pollution event during the smolt migration period can impact the survival and health of this critical life stage. Released pollutants increase the biological oxygen demand (BOD), increase nutrient loading that can result in algal blooms, decrease dissolved oxygen (DO), increase water temperatures, increase turbidity, increase ammonia and nitrates, release pathogens such as *Salmonella* and *E. coli* 0157:H7 that could infect wildlife, and increase salt loading. Algal blooms have become common in the Delta Region, resulting in algal toxin production and decreased dissolved oxygen. Algae blooms have caused fish and waterbird die-offs the past few years in the San Joaquin Valley.

The Department is disturbed that the Board did not take appropriate action in the collection and subsequent analysis of specific water quality monitoring parameters directly associated with water quality objectives necessary to demonstrate whether beneficial uses in the Merced River (as designated in the Water Quality Control Plan for the Sacramento and San Joaquin River Basins) were protected during and after this spill. At a minimum, the Board should have collected water samples from multiple locations along the Merced River (e.g., upstream from the spill, at the location of the spill, and downstream from the spill) for the following constituents:

- Dissolved oxygen
- Electrical conductivity
- pH
- Total coliform, fecal coliform, *E. coli*
- BOD
- Total dissolved solids
- Total suspended solids
- Hardness
- Standard minerals
- un-ionized ammonia (NH₃)
- Nitrate (as N), Nitrite (as N), TKN
- Whole effluent toxicity testing

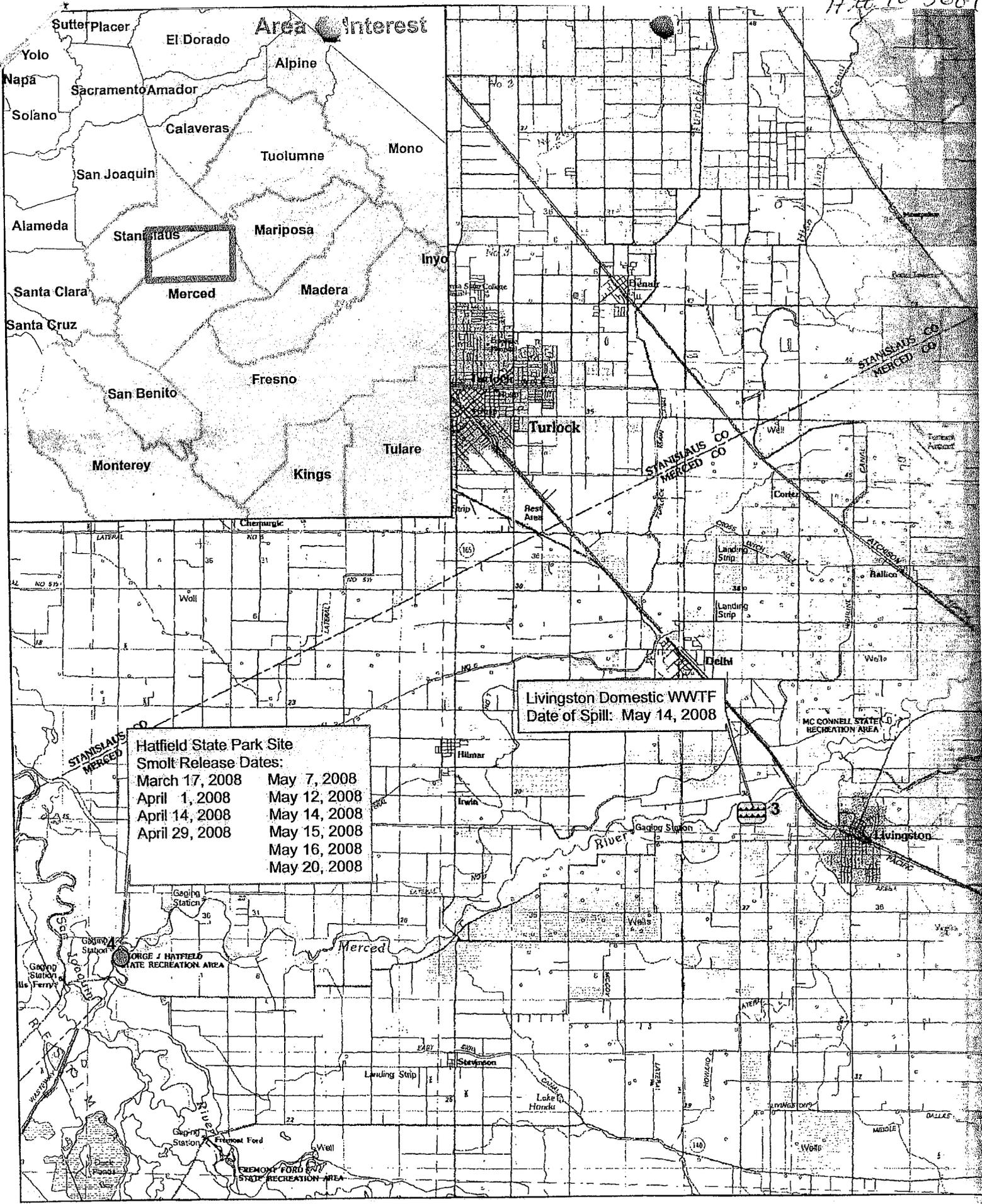
In addition, the Department Merced River Fisheries Biologist has observed similar releases across years from this site. This appears to be a continuous problem.

Foster Farms Dairy Processing Plant Discharge

On May 15, 2008, the Foster Farms Dairy Processing Facility in Modesto, had a waste water spill into the Tuolumne River. To date, the Department has not received a Notice of Violation for this event. The Department has the same concerns as for the above, plus dairy product processed waste can also impact water pH.

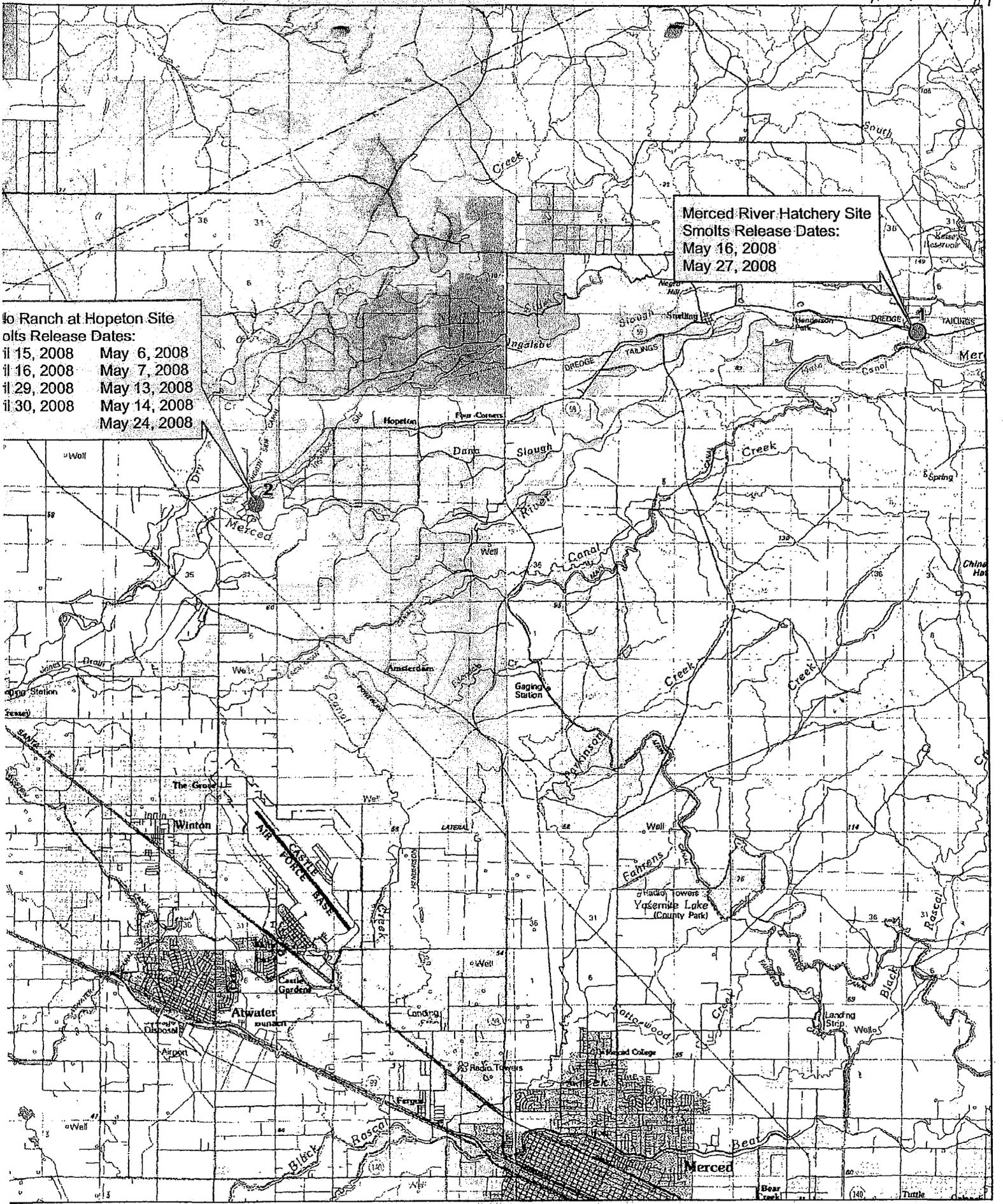
The Department believes these two events impacted the reproductive and recruitment success for the Merced/Tuolumne/San Joaquin River(s) salmon stocks.

17th 10 3004



1. Merced River Hatchery Smolts Release Site
2. Gallo Ranch at Hopeton Smolts Release Site
3. Livingston Domestic WWTF
4. Hatfield State Park Smolts Release Site





Hopeton Ranch at Hopeton Site
Smolts Release Dates:
 May 15, 2008 May 6, 2008
 May 16, 2008 May 7, 2008
 May 29, 2008 May 13, 2008
 May 30, 2008 May 14, 2008
 May 24, 2008

Merced River Hatchery Site
Smolts Release Dates:
 May 16, 2008
 May 27, 2008

10 Miles



ATTACHMENT B

Thursday, May. 15, 2008

Treated sewer water dumped into Merced River

By SCOTT JASON
sjason@mercedsun-star.com

LIVINGSTON -- About one million gallons of cleaned sewer water flowed Wednesday morning into the Merced River, though officials don't believe it will have any significant effects.

A deep sinkhole opened at one of the ponds where the treated water is discharged, creating a canal that released the water into the river less than 100 yards away. City officials stressed that the water was not raw sewage.

Larry Parlin, who contracts with the city to run the treatment plant, said the water is clean. The only reason it can't be discharged directly into the river is because it's not chlorinated. Instead, it's kept in the ponds to evaporate and seep into the soil.

Regardless, samples of the water upstream and downstream were taken to check for bacteria.

"We don't expect to find any," he said. "We're just concerned and we want to make sure."

Natural micro-organisms cleanse the sewage in tanks. The treated water is then pumped to percolation ponds.

City employees found the massive break in the dirt wall about 10:30 a.m. during a regular check. Crews were able to plug it by noon, Parlin said.

The best estimate is that about a million gallons were released. Parlin said he will calculate a firmer number soon.

In the past, Parlin said he's seen breaks in the walls at percolation ponds, but never a sinkhole rupture.

Livingston leaders immediately notified the Office of Emergency Services, the California Department of Fish and Game, the Central Valley Regional Water Quality Board and the county.

Fish and Game Lt. Andy Roberts said he didn't expect the spill to have any impact on the river because of the way the city treats its sewage. "It's not harmful in any way," he said.

Employees monitoring the river downstream from the incident didn't notice any signs of dead wildlife.

City Manager Richard Warne said the other pond alongside the river will be out of commission until an engineer and geologist survey the site to determine what caused the sinkhole and whether it could happen again.

Reporter Scott Jason can be reached at (209) 385-2453 or sjason@mercedsun-star.com.

A.H.B. 11

Att. 12
1 of 2



City of Livingston

1416 C Street
Livingston, CA 95334

JUL 28 2008

July 23, 2008

Mr. Lonnie M. Wass
Supervising Engineer
California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706

**Subject: Facilities Inspection Report, Waste Discharge Requirements Order No.89-066,
City of Livingston Domestic Wastewater Treatment Plant**

Dear Mr. Wass:

On May 15, 2008 Mr. Hoss Aghazeynali of your office inspected the levee failure at the City of Livingston Domestic Wastewater Treatment Plant (WWTP). The inspection report cover letter dated June 24, 2008 requested a written report of corrective actions implemented or planned to prevent recurrence of levee failure. This letter provides you with a status report of corrective actions.

As you are aware, a geotechnical report was prepared by Condor Earth Technologies, Inc. (Condor) and submitted to your office. Subsequently, the City Engineer has met with Condor to further review the site and reviewed the potential options for levee repair. The planned corrective actions are listed below:

- Contract with Condor to design repair of the failed levee.
- Solicit construction bids to perform repairs.
- Contact other agencies to determine necessary project environmental and permitting requirements.

The schedule for completion of these tasks is unknown at this time however, the City intends to complete the levee repair without delay. We will provide your office with a schedule of these corrective actions when it becomes available.

Additionally, the City has discontinued use of percolation ponds Nos. 1, 2, and 3 to assure that levee failure does not occur in this area. These percolation ponds are now dry, and there is

Att. 12
2 of 2

sufficient capacity in the other percolation ponds located away from the river to dispose of all the WWTP effluent.

Please contact us if you have any questions regarding this matter.

Sincerely,



Richard Warne
City Manager

cc: Nanda Gottiparthi, City Engineer
Larry Parlin, Environmental Management Services, L.C.

Att. 13
1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 98-057

CEASE AND DESIST ORDER
REQUIRING
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY
TO CEASE AND DESIST FROM
DISCHARGING WASTE CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Board) finds that:

1. The City of Livingston (Discharger) owns and operates a wastewater treatment facility (WWTF) for the treatment of domestic wastewater. The WWTF is approximately two miles west of the City, immediately south of the Merced River, and in Section 22, T6S, R11E, MDB&M.
2. Wastewater treatment is provided by a prechlorination system for controlling odors, headworks with mechanical bar screens, and a primary clarifier. Final effluent is discharged to four evaporation/percolation ponds. The ponds are in an "upper" area totaling approximately 24 acres and are outside of the 100-year flood plain of the Merced River. Three additional ponds are in a "lower" area that lies within the 100-year flood plain of the Merced River. The three lower ponds are only supposed to be used for maintenance or emergency disposal and only after prior notification to the Board.
3. The design capacity of the WWTF is 1.8 million gallons per day (mgd). Monthly average flows from the facility range from 0.7 to 0.8 mgd.
4. Waste Discharge Requirements (WDRs) Order No. 89-066, adopted by the Board on 28 May 1989, prescribes requirements for the discharge of treated wastewater from the WWTF. Order No. 89-066 specifies, in part, the following:

"A. Discharge Prohibitions:

- "1. The direct discharge of wastes to surface waters or surface water drainage courses is prohibited.

"B. Discharge Specifications:

- "1. Neither the treatment nor the discharge shall cause a pollution or nuisance as defined by the California Water Code, Section 13050.
- "2. The discharge shall not cause degradation of ground or surface waters.

AH 13
2

CEASE AND DESIST ORDER NO 98-057
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

"3. The discharge shall remain within the designated disposal area at all times.

"5. A minimum freeboard of one (1) foot shall be maintained in each pond at all times.

"7. The by-pass of waste shall be permitted to the four low level ponds only on an as needed basis during emergency conditions and during the drying and discing of an evaporation/percolation pond with prior notification of the Regional Board staff.

"C. Provisions

"4. The Discharger shall comply with the Standard Provisions and Reporting Requirements, dated 1 September 1985, which are a part of this Order.

"7. The Discharger shall notify Regional Board staff whenever practicable, for any proposed discharge (bypass) to the lower ponds (emergency storage). The Discharger shall file a report detailing the quantity and reason for each bypass discharge to the lower ponds. This report will be included in the monthly monitoring report submitted in the month following the discharge."

5. The Standard Provisions and Reporting Requirements (dated 1 September 1985), incorporated into Order No. 89-066 through Provision C.4, state, in part, that:

"A. General Provisions

"4. The discharger shall maintain in good working order and operate as efficiently as possible any facility or control system installed by the discharger to achieve compliance with the waste discharge requirements.

"D. Reporting Requirements for Monitoring

"1. The discharger shall file with the Board technical reports on self monitoring work performed according to the detailed specifications contained in any Monitoring and Reporting Program as directed by the Board.

"1. For every item of monitoring data where the requirements are not met, the discharger shall submit a statement of the actions undertaken or proposed which will bring the discharge into compliance with requirements at the earliest time, and shall submit a timetable for such corrective actions. The discharger shall submit such information, in writing, within one week of becoming aware of noncompliance."

A4.13
3

CEASE AND DESIST ORDER NO 98-057
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

6. The designated beneficial uses of the Merced River are municipal, domestic, industrial, and agricultural supply; recreation; freshwater habitat; fish migration and spawning; and wildlife habitat.
 7. On 26 December 1996, the Discharger notified the Board that the capacity of the disposal ponds were on the verge of being exceeded, and that discharge to the Merced River, a water of the United States and of the State, was necessary to prevent the loss of the WWTF pond levees.
 8. On 27 December 1996, Board staff inspected the WWTF and found all seven ponds full and a few with less than six inches of freeboard. Board staff observed that, absent other alternatives, direct discharge to the Merced River was inevitable.
 9. A 24 January 1997 Notice of Violation (NOV) letter to the Discharger summarized the violations and threatened violations observed during the 27 December 1996 inspection. The NOV, among other things, directed the Discharger to complete and submit the following to the Board:
 - By 18 March 1997, a report describing a short term plan and schedule for adding interim capacity to the WWTF to resolve disposal problems, maintain a minimum of one foot of freeboard, and limit discharges to the lower ponds.
 - By 19 May 1997, a technical report (engineering report) prepared by a California registered civil engineer and containing a plan and schedule for providing additional WWTF capacity for the future, including a supporting water balance based on a 100-year annual rainfall season and on-site soil percolation test data.
 - Daily monitoring of the discharged effluent and the Merced River upstream and downstream of the discharge for total and fecal coliform organisms.
- The Discharger reported that a total of 6.0 million gallons of effluent was discharged to the Merced River on 24, 26, 27, 28, 29, 30, and 31 January 1997 and on 3 February 1997. The Discharger made additional discharges of effluent to the Merced River from 3 March to 14 March 1997 totaling 10.4 million gallons.
10. On 10 March 1997, the Board notified the Discharger that if it needs additional time for the technical report, it must submit justification by 25 March 1997 and include an estimate

CEASE AND DESIST ORDER NO 98-057
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

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on how much time is needed so that it can assure adequate WWTF capacity prior to the 1997-98 rainfall season.

12. The Discharger never submitted the justification for an extension nor the engineering report evaluating the capacity of the WWTF. Instead, by letter dated 11 September 1997, the Discharger informed the Board that its consultant determined in July 1997 that the pond bottoms were sealed with organic materials. The Discharger also stated that it dredged its four disposal ponds in early September. The Discharger noted dramatically improved pond percolation rates and stated that the City should make it through the winter without discharging to the Merced River.
13. On 18 November 1997, Board staff inspected the WWTF in response to a telephone call from the Discharger indicating that discharges to the Merced River were again inevitable. Board staff found the WWTF ponds, including the lower ponds, at capacity. On 21 November 1997, the Discharger informed Board staff that the efforts to improve percolation rates by dredging pond bottoms failed, and that emergency discharges to the Merced River were necessary. On 5 December 1997, the Discharger commenced discharging to the Merced River.
14. On 23 December 1997, City informed the Board that it is working on improving conditions at the WWTF. The City proposed a Draft Work Plan to increase capacity at WWTF which included purchasing land for more ponds or obtaining an NPDES permit to discharge to the Merced River in the winter.
15. During late 1996 and 1997, the City frequently discharged effluent to the lower ponds without first notifying the Board of the discharge and without providing a report detailing the quantity and reason for each by-pass with monthly self monitoring reports. The lower ponds contained wastewater throughout this period and was observed during Board staff inspection on 27 December 1996, 10 February 1997, and 18 November 1997.
16. The Discharger failed to provide the total and fecal coliform monitoring data during the January 1997 discharges to the Merced River. In February and March, coliform monitoring proved consistently significant increases in total and fecal coliform in the Merced River as a result of the discharge. Downstream coliform populations exceeded water quality objectives by several orders of magnitude.
17. "Pollution" means an alteration of the quality of the waters of the State by waste to a degree which unreasonable affects (1) such waters for beneficial uses, or (2) facilities which serve such beneficial uses [California Water Code §13050(1)]. The term pollution also includes "Contamination" which means an impairment of the quality of the waters of

CEASE AND DESIST ORDER NO 98-057
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WASTEWATER TREATMENT FACILITY
NEVADA COUNTY

ATT. 13
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the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination," includes any equivalent effect resulting from the disposal of waste, whether or not waters of the State are affected [California Water Code §13050(k)].

18. By formal requests on 22 December 1997 and 6 January 1998, pursuant to section 13267 of the Water Code, the Board again (See Finding No. 9) requested a technical report to investigate and address the causes of reduced percolation rates in ponds and propose remedies to assure sufficient storage and disposal capacity. The report, due 15 February 1998, was not submitted.
19. Based on the information in Finding Nos. 2 through 18, the Discharger is violating and/or threatening to violate Discharge Prohibition No. A.1, Discharge Specification Nos. B.1, B.2, B.3, B.5, and B.7, Provision C.7, and Standard Provision Nos. A.4, D.1, and D.4 of WDRs Order No. 89-066, as described above.
20. Section 13301 of the California Water Code (CWC), states, in part, that:

"When a regional board finds that a discharge of waste is taking place or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302."
21. The Board has notified the Discharger and interested agencies and persons of its intent to consider adoption of a Cease and Desist Order and provided them with an opportunity for public hearing and an opportunity to submit their written views and recommendations.
22. The Board, in a public meeting on 27 February 1998, heard and considered all comments pertaining to this Order.
23. Issuing an enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14, California Code of Regulations, Section 15321.

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CEASE AND DESIST ORDER NO 98-057
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

24. Any person affected adversely by this action of the Board may petition the State Water Resources Control Board to review the action. The petition must be received by the State Board within 30 days of the date on which the Board took action. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED that, pursuant to Section 13301 of the California Water Code, the City of Livingston, its agents, successors, and assigns, shall:

1. Cease and desist discharging wastes in violation and threatened violation of Waste Discharge Requirements Order No. 89-066. No term or condition of Order No. 89-066, referenced above, is superseded or stayed by this Cease and Desist Order.
2. Comply with Order No. 89-066 no later than specified in the following time schedule:

<u>Task</u>	<u>Compliance Date</u>	<u>Report Due</u>
<u>Short-term</u>		
a. Submit written technical report describing results of thorough investigation into the causes of reduced percolation rates and recommending proposed remedies to restore percolation to the extent feasible.		15 May 98
b. Begin implementation of remedy.	15 Aug 98	1 Sep 98
c. Complete short-term improvements, submit certification of design capacity, noting whether it is sufficient to comply with Order No. 89-066 for existing flow.	30 Nov 98	15 Dec 98
<u>Long-term</u>		
d. Complete a study and submit a report on projected flows at the WWTF for at least a 10-year period, and on necessary design capacity for that period (including a water balance for the disposal). The water balance shall be based on realistic percolation rates and useable evaporation pond capacity, and total annual precipitation with a return frequency of 100 years. The report should address the solution for assuring adequate long-term disposal capacity.		15 Jun 98
e. Submit a project report with details of any necessary modification or expansion of the WWTF.		15 Dec 98
f. Complete Environmental Impact Report		15 Apr 99

CEASE AND DESIST ORDER NO 98-057
CITY OF LIVINGSTON
WASTEWATER TREATMENT FACILITY
MERCED COUNTY

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|----|---|-------------|-------------|
| g. | Submit a report certifying that funding has been secured for capital improvements for long-term remedy. | | 1 May 99 |
| h. | Complete Design | | 15 Aug 99 |
| i. | Begin Construction | 1 Oct 99 | 15 Oct 99 |
| j. | Submit written status report | | 15 Feb 2000 |
| k. | Submit written status report | | 15 Jun 2000 |
| l. | Complete Construction | 15 Oct 2000 | 1 Nov 2000 |
| m. | Full Compliance | 15 Nov 2000 | 1 Dec 2000 |

3. To demonstrate commitment to minimize wastewater generation to extent practicable until capacity issues are resolved, submit evidence by **15 May 1998** that an effective municipal moratorium on new connections to the WWTF has been adopted.

Technical reports, construction, and modifications to the WWTF shall be prepared and overseen by a civil engineer registered in the State of California and experienced in the design of wastewater treatment and disposal facilities. All reports and plans are subject to the approval of the Executive Officer.

If, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

I, GARY M. CARLTON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 February 1998.

for Thomas R Pinkos
GARY M. CARLTON, Executive Officer

1 of 2 Att. 14



California Regional Water Quality Control Board

Central Valley Region

Robert Schneider, Chair



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Fresno Branch Office

Internet Address: <http://www.swrcb.ca.gov/~rwqcb5>
3614 East Ashlan Avenue, Fresno, California 93726
Phone (559) 445-5116 • FAX (559) 445-5910

TO: Jo Anne Kipps *JK*

FROM: Barry Hilton

DATE: 26 February 2002

SIGNATURE: *[Handwritten Signature]*

SUBJECT: LIVINGSTON RWD

I have reviewed the file and checked with Franchelle. As e-mailed to you, I cannot find any record of an RWD for the new WWTF. The following commentary outlines file correspondence:

14 Nov 2000 RWQCB Response to WWTF Negative Declaration

- "It should include an antidegradation analysis"
- Must implement BPTC
- Must address sludge treatment and disposal
- Line all sludge drying operations
- Incorporate treatment technology to reduce nitrogen discharged to percolation ponds

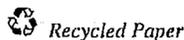
21 May 2001 Carollo Response to 14 Nov 2000 RWQCB letter

- Recommend oxidation ditch with anoxic zone for de-nitrification.
- Lined sludge beds
- Pretreatment program to reduce salts.
- Biosolids to be contracted out with licensed hauler

1 June 2001 RWQCB Response to Carollo

- Agreed with mitigated neg-dec provided:
 - Project will be consistent with statewide recycling requirements
 - Assure no groundwater degradation
 - BPTC
 - Complies with 68-16
 - Include controls, plans, staffing, monitoring, maintenance to assure optimal and consistent performance as intended by design.

California Environmental Protection Agency



Att. 14 20f2

3 July 2001 USDA—RD Letter to Livingston

- Evaluate potential for groundwater mounding, impacts of percolation on groundwater, groundwater monitoring requirements
- Present alternatives for removal of existing sludge
- New work must be outside 100-year flood plain

31 October 2001 Carollo Letter to Livingston

- Carollo designed new Ponds, G & H to EL 90 compared with EL 102.5 for existing ponds
- WDRs will include effluent and nitrogen effluent limitations
- The new plant will be an oxidation ditch with an effluent NO₃-N of 5 mg/L (does not address ammonia or state that WWTF will fully nitrify)
- The geotechnical investigation will address groundwater mounding, migration, and monitoring

Report of Waste Discharge

- There is a 5 October 1999 for Ponds H and I.
- There is **NO** RWD for the new WWTF
- I cannot find a copy of the final Initial Study/Mitigated Negative Declaration
- I cannot find any response to the 1 June 2001 RWQCB letter except indirectly in the 31 October 2001 copy of the Carollo letter sent to Livingston

Recommendations

- Call or write the City and request the City
 - Provide us with a copy of the adopted Mitigated Negative Declaration
 - Immediately file an RWD
 - Include an engineering report
 - Document how project
 - Complies with 1 June 2001 Regional Board letter
 - Complies with USDA—RD letter



California Regional Water Quality Control Board



Central Valley Region

Robert Schneider, Chair

Winston H. Hickox
Secretary for
Environmental
Protection

Fresno Branch Office

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3614 East Ashlan Avenue, Fresno, California 93726
Phone (559) 445-5116 • FAX (559) 445-5910

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1 page

15 May 2002

NOTICE OF VIOLATION

Mr. William Eldridge, Interim City Manager
City of Livingston
P.O. Box 308
Livingston, CA 95334

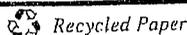
WASTE DISCHARGE REQUIREMENTS (WDRs) ORDER NO. 89-066, CITY OF LIVINGSTON WASTEWATER TREATMENT FACILITY (WWTF), MERCED COUNTY

Inspection of the subject WWTF revealed that its evaporation/percolation ponds are at capacity. Regional Board records indicate that the City is in violation of Cease and Desist Order (CDO) No. 98-057, as amended by Order No. 98-218, for failing to meet the long-term deadlines for construction of necessary modifications to expand the WWTF. It is our understanding that the WWTF expansion is proceeding and construction of improvements will commence this month. Based on our discussions with your consultant, Carollo Engineering, it is also our understanding that the City intends to submit a Report of Waste Discharge (RWD) within the next three weeks. We look forward to receiving the RWD.

The City of Livingston is also in violation of Provision No. C.1 of WDRs Order No. 89-066 for failing to comply with Monitoring and Reporting Program (MRP) No. 89-066. Specifically, monthly self-monitoring reports are missing riverbank observations and sludge pond monitoring data. As you know, groundwater monitoring reports indicate that the WWTF has degraded the underlying groundwater with salts and nitrates.

By **14 June 2002**, provide all delinquent monitoring data or a detailed explanation of why it is not available. Also provide a technical report with a work plan for modifying the City's existing groundwater monitoring network to determine the horizontal and vertical extent of the WWTF's impacts on underlying groundwater. The report must include the information described in the enclosed *Standard Monitoring Well Provisions For Waste Discharge Requirements* sheet under the Monitoring Well Installation Work Plan section. The resulting groundwater monitoring network must include one or more background monitoring wells, three or more monitoring wells downgradient of the WWTF plume, and a sufficient number of internal monitoring wells to quantify the extent of pollution caused by the WWTF's unlined sludgehandling facilities. All proposed monitoring well locations shall be illustrated

California Environmental Protection Agency



CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

INSPECTION REPORT

Att. 16
1 of 4

15 May 2002

DISCHARGER: Livingston Domestic WWTF
LOCATION & COUNTY: Livingston, Merced County
CONTACT(S): Mr. Dan Manchester, Facility Manager
INSPECTION DATE: 7 February 2002
INSPECTED BY: Jeff Gymer, Sanitary Engineering Technician

BACKGROUND:

The WWTF is approximately two miles west of the City of Livingston. Environmental Management Services (EMS) assumed contract operations of the Discharger's WWTF on 1 July 1999. Waste Discharge Requirements (WDRs) Order No. 89-066, adopted by the Board on 28 May 1989, prescribes requirements for an average discharge flow limit of 1.18 million gallons per day (mgd) from the WWTF to evaporation/percolation ponds. Monthly average flows from the WWTF averaged 0.855 mgd for the months of July through December of 2001. The Discharger is under Cease and Desist Order (CDO) No. 98-057 for capacity issues. The Discharger was also under Special Order No. 98-218, modifying CDO No. 98-057. Special Order No. 98-218, which served as a connection ban, was adopted due to ongoing capacity issues, unauthorized discharges to the Merced River, and failure to comply with long-term measures relating to WWTF expansion. From December 1997 to October 1998, 44.78 million gallons of non-disinfected effluent was discharged to the Merced River. The connection ban portion of Special Order No. 98-218 was rescinded on 28 January 2000 because the Discharger added extra effluent disposal capacity, reduced influent salinity concentrations, and was pursuing modifications to provide long-term improvements to the WWTF. To date, the proposed long-term improvements have not been implemented.

The WWTF consists of a headworks with a bar screen and Parshall flume, chlorination for odor control, a primary clarifier, an anaerobic digester, sludge lagoons, an effluent distribution box, and nine evaporation/percolation ponds. Evaporation/percolation ponds A-D are in an "upper" area totaling approximately 24 acres and are outside of the 100-year flood plain of the Merced River. Ponds E, F, and G are in a "lower" area historically considered within the 100-year flood plain of the Merced River. Two additional evaporation/percolation ponds, H and I, became available for service in October 1999. The City installed H and I on 15 acres of land owned by Joseph Gallo Farms approximately 900 feet east of the existing WWTF to provide short-term capacity as specified by Special Order No. 98-218. Sludge from the primary clarifier is discharged to the "sludge" pond. Decant is discharged to the "decant" pond. This decant is then fed into ponds A or B.

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SERVATIONS:

I arrived at 10:30 a.m. The WWTF was fenced and had signs precluding public access. I began my inspection by driving the perimeter of evaporation/percolation ponds A-D. I observed that the freeboard of most of these ponds was approximately one-foot. The color of ponds A-D was a light gray. I observed a gasoline powered portable pump pumping decant from the sludge decant pond to evaporation/percolation pond A. I observed that the bank of pond D was lined with riprap and that soil was stockpiled across the road from it. I did not observe any sign of potential levee failure from these ponds, but observed that these four ponds were at capacity.

After I conducted my brief inspection of ponds A-D, I met with Mr. Manchester. I observed the Kistler-Morse Sonoflow Model 5200 open channel influent flow meter. The instantaneous flow at the time of my observation was 640 gallons per minute (gpm) or 0.922 mgd. Mr. Manchester produced documentation that Telstar Instrumentation calibrated the flow meter on 31 December 2001. Comparison of the City's population (California Department of Finance, Demographic Research Unit) and WWTF flow data indicate that although the population has increased from 7317 persons in 1990 to 10473 persons in 2000, the WWTF flow has decreased from 0.948 mgd to 0.886 over the same period. My review of flow data early in the decade indicates that it is suspect and requires further evaluation. I asked Mr. Manchester about the Discharger's progress in expanding the WWTF. Mr. Manchester stated that the Discharger attended a construction pre-bid meeting on 31 January 2002 and that the WWTF expansion is going out to bid on 26 February 2002. Mr. Manchester produced documentation verifying these facts. He stated that once the contract is awarded, construction should commence in early April. Mr. Manchester told me that the expanded WWTF will consist of an oxidation ditch, two secondary clarifiers, additional evaporation/percolation ponds, and the deepening of the existing evaporation/percolation ponds. I asked Mr. Manchester if the expansion will include any collection system upgrades. He told me that he performs the collection system maintenance and that major renovation of the collection system will not likely be a part of the WWTF expansion. I observed that the temperature gauge on the anaerobic digester was not working. Mr. Manchester stated that the digester does not work and will not be repaired during the expansion. Mr. Manchester told me that the sludge from the oxidation ditch will be pumped to lined sludge drying beds. I told Mr. Manchester that Monitoring and Reporting Program (MRP) No. 89-066 requires the Discharger to report sludge pond monitoring, which includes influent circulation water flow, influent circulation water dissolved oxygen (DO), effluent circulation water DO, and depth to sludge. The Discharger is currently not submitting these results with the monthly self-monitoring reports (SMRs). Mr. Manchester told me that there is no way to measure the sludge pond influent circulation water flow. On my way to inspect the headworks, I observed a Kohler backup generator. I inspected the (3) raw sewage pumps, bar screen, and Parshall flume at the headworks. I observed that the screenings from the manual bar screen are disposed of in a refuse container. The Parshall flume was constructed with a nine-inch throat and had a liquid depth of seven inches flowing through it at the flow-measurement point.

My inspection continued with field sampling and observations of the remaining evaporation/percolation ponds as well as field sampling of the sludge pond and decant pond. The DO of the sludge and decant ponds was 1.07 mg/l and 1.54 mg/l, respectively. Mr. Manchester told me that no sludge has been hauled off site since he started working at the WWTF. I conducted field-testing of the WWTF influent with a YSI portable meter. The conductivity @ 25° C (hereafter EC), DO and pH of the influent was 898 µmhos/cm, 1.77 mg/l, and 6.93 units, respectively. During my inspection of ponds E-G, I asked Mr. Manchester when any of the ponds were last disked or ripped. Mr. Manchester told me that ponds C and D were disked in 2000 and that ponds A-D were dredged with a long-reach excavator in 2001. I inspected ponds E-G and the riverbank adjacent to these ponds. These ponds had approximately one-foot of freeboard. During my inspection, I did not notice any signs of potential levee failure such as seepage from these ponds. I walked the riverbank,

is adjacent to these three ponds. I observed that the soil around the ponds and riverbank area was silty character and observed that the repaired levee for pond G was lined with (dormant Bermuda) sod to prevent erosion. Order No. 89-066, Discharge Specification No. B.7, requires the Discharger to notify Regional Board staff prior to discharge to the lower level ponds. Concerns regarding discharges to these ponds as described in the WDRs include their proximity to the Merced River, the fact that the ponds are located in an area of soils with moderate to high permeability, and the fact that they lie in a 100-year flood plain. Previously, the City certified that the ponds were out of the 100-year flood plain. Analysis of receiving water data at the time Order no. 89-066 was drafted was inconclusive, resulting in a more stringent MRP. Additional analysis of existing data is warranted, but beyond the scope of this inspection report.

My inspection concluded with observations and sampling from ponds H and I. Mr. Manchester told me that these ponds were constructed in 1999 on land owned by Gallo Farms. These ponds had a sparkling green color and approximately two feet of freeboard. I conducted a field test of the effluent in pond I for EC, DO, and pH. The EC, DO, and pH of this sample were 806 $\mu\text{mhos/cm}$, 8.48 mg/l, and 8.47 units, respectively. I collected a sample of the WWTF supply water. The EC of the supply water sample was 284.7 $\mu\text{mhos/cm}$.

FILE REVIEW:

Staff last inspected the Discharger's WWTF on 5 September 2001, as a follow-up on a levee breach. On 24 July 2001, Mr. Manchester called Board staff at 1:00 p.m. to report a spill of approximately 0.5 to 2.5 million gallons of undisinfected secondary effluent to the Merced River. Mr. Manchester indicated the spill occurred between

8 a.m. and 10:00 a.m. following a levee breach in Pond G. Board staff visited the site on 25 July 2001 to investigate the spill. Details of the levee breach are described in a 28 September 2001 inspection report. The Discharger documented the levee repair in a 15 October 2001 letter. The letter included an attached engineering certification from Kleinfelder, Inc. stating that the levees were constructed with a 2:1 slope and that the final lift of fill soil was compacted to Kleinfelder's specifications. Pond G was put back into service on 19 October 2001.

My review of the Discharger's SMRs for the fourth quarter of 2001 indicates that the Discharger has failed to submit monthly riverbank observations with the SMRs. The data to be submitted includes monthly riverbank seepage, vegetation, and discoloration observations as well as quarterly river temperature measurements. Monthly SMRs are also missing sludge pond monitoring data, which includes weekly influent water circulation flow, influent circulation water dissolved oxygen (DO) and effluent circulation dissolved oxygen readings as well as depth to sludge measurements to be taken in April and October. The Discharger is in violation of Provision No. C.1 for failing to comply with MRP No. 89-066. The data in the SMRs for December 2001 indicate that the biochemical oxygen demand (BOD₅), settleable solids, and total suspended solids for the primary effluent were 45 mg/l, <0.1 ml/l, and 7.1 ml/l, respectively. Evaporation/percolation pond freeboard levels ranged from one to two feet. This data is similar to that of prior months. Monthly average flows from the WWTF averaged 0.855 mgd for the months of July through December of 2001. The December pond EC results appear to be erroneous since the median pond EC reading for all nine evaporation/percolation ponds was 50 $\mu\text{mhos/cm}$, as compared to EC readings ranging from 1050 to 1170 μmhos for other months. The pond nitrate concentrations for the months of April and October 2001 were less than 0.1 mg/l NO₃-N.

My review of groundwater monitoring data submitted for 2001 reveals that the nitrate concentrations from monitoring wells No. 1-4 are below the maximum contaminant level, except for the 1st and 2nd quarter results for monitoring well No. 2, which had NO₃-N concentrations of 110 and 21 mg/l respectively. The EC concentration of the groundwater monitoring wells, including the background wells, ranges from 1000 to 2000 $\mu\text{mhos/cm}$. There is little difference in groundwater monitoring well concentrations for constituents such as

Att. 4 of 4

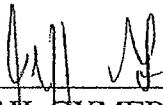
N, EC, chemical oxygen demand, and coliform bacteria. From the groundwater monitoring data, it is likely that groundwater mounding is occurring beneath the evaporation/percolation pond area.

My review of the City's progress in expanding the WWTF reveals that we received the CEQA checklist and Environmental Study on 5 October 2000. The Discharger stated in a 16 May 2001 letter that funding in the form of a USDA Rural Utility Service Grant was secured contingent upon the City's design meeting conditions imposed by the USDA (i.e. new construction is out of 100-year floodplain, sludge removal). The Discharger's letter states that sewer rates have been increased for the residents of Livingston to provide the revenue necessary to finance the project. We received plans and specifications for the WWTF expansion on 1 November 2001. The expanded WWTF initially calls for an oxidation ditch and secondary clarification along with 1/2 acre of soil cement lined dried sludge storage and 15 acres of new ponds. The Discharger submitted a revised implementation schedule in its 12 March 2002 letter. The revised implementation schedule is presented below:

Task	Previous Date	Revised Date
Begin Construction	Mar-02	20-May-02
Submit Written Status Report	Jul-02	20-Sep-02
Submit Written Status Report	Oct-02	20-Jul-03
Complete Construction	Oct-03	12-Dec-03
Full Compliance	Jan-04	12-Feb-04

SUMMARY:

I did not detect any objectionable odors or vectors during my inspection. The WWTF evaporation/percolation ponds were at capacity. The Discharger submitted documentation and plans for expansion of the existing WWTF. During my inspection, Mr. Manchester told me that the Discharger attended a pre-bid meeting on 31 January 2002 and that the WWTF expansion is going out to bid on 26 February 2002. The Discharger is in violation of Provision No. C.1 for failing to comply with MRP No. 89-066. Specifically, the Discharger failed to submit monthly riverbank observations with the SMRs. Monthly SMRs are also missing sludge pond monitoring data, including weekly influent water circulation flow, influent circulation water dissolved oxygen and effluent circulation dissolved oxygen readings as well as depth to sludge measurements. From the 2001 groundwater monitoring data, it is likely that groundwater mounding is occurring beneath the evaporation/percolation pond area.



JEFF H. GYMER
Sanitary Engineering Technician



Dedicated to creative,
responsive, quality solutions
for those we serve.

BLH

Att 17
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May 21, 2001
6267A.10

California Regional Water Quality Control Board
Central Valley Region
3614 East Ashlan Avenue
Fresno, California 93726

Attention: Mr. Barry Hilton

Subject: City of Livingston Wastewater Treatment Facility - Modifications and Expansion
Project
Request for Revised Dates Special Order No. 98-218

Dear Ladies and Gentlemen:

We are writing on behalf of the City of Livingston to officially request revised dates for proceeding with the City's Wastewater Treatment Facility (WWTF) Expansion Project.

As discussed between Mr. Barry Hilton of the Regional Water Quality Control Board (RWQCB) and Mr. Barry Hampson of Carollo Engineers, P.C. (Carollo), the environmental process has delayed, in part, the progress of the expansion. Mr. Hilton requested that we submit a letter to the RWQCB documenting the new requested dates. The new dates are noted as follows.

Long-Term

- | | |
|---|--------------|
| f. Complete Environmental (Initial Study/Mitigated Negative Declaration (IS/MND) | July 2001 |
| g. Submit a report certifying that funding has been secured for capital improvements for long-term remedy | May 2001 |
| h. Complete Design. | October 2001 |
| i. Begin Construction. | March 2002 |
| j. Submit written status report. | July 2002 |
| k. Submit written status report. | October 2002 |
| l. Complete Construction. | October 2003 |
| m. Full Compliance | January 2004 |

The above schedule is predicated on the City of Livingston certifying the Mitigative Negative Declaration before July 1, 2001. The RWQCB's comments on the Initial Study/Mitigative Negative Declaration (IS/MND) are being addressed in a separate letter dated May 21, 2001

This letter addresses item g. above. The City received a letter of conditions dated January 3, 2001 from United States Department of Agriculture to provide financial assistance for the City's WWTF Expansion Project. USDA will provide the City with an RUS

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FRESNO, CA

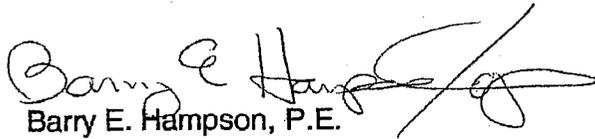
Mr. Barry Hilton
California Regional Water Quality Control Board
Central Valley Region
May 21, 2001
Page 2

Att. 17
2 of 2

Loan not to exceed \$5,000,000 and an RUS Grant not to exceed \$2,000,000. The City is also striving to obtain an SRF Grant from the State Water Resources Control Board. USDA approved the design engineering agreement between the City of Livingston and Carollo on May 1, 2001.

Sincerely,

CAROLLO ENGINEERS, P.C.


Barry E. Hampson, P.E.

BEH:cjp

cc: David Hanham, Livingston City Planner
Mark Melville, Livingston City Manager
Gary Petty, Livingston Public Works Director
Barry Hampson, P.E., Carollo Engineers
Patti Dorsetti, Merced County Association of Governments

Att. 13

City of Livingston
Dept of Public Works
Mr. Paul Creighton

According to a Merced Sun Star article dated 9-14-2006-

- Dirt for 99 & Sultana interchange came from the wastewater treatment plant expansion.
- Dirt was sold to Cal Trans.
- Cal Trans saved city about 2.3 million because the ponds needed to be dug anyway.

The above facts raise some questions in my mind, and I am hoping you can supply the answers.

- Who was the lead agency for the dirt excavation – Cal Trans or City of Livingston?
- What environmental impact documents were filed regarding this excavation? (If none were filed, please cite reason)
- Were any permits required for this excavation?

Please also see attached a copy of my request for public records, I am not sure if you can fill these, I turned in the request to City Hall on Oct 17, 2007.

Thank you in advance for your time.

Gerri Martin
16181 Vinewood Ave.
Livingston, CA 95334
394-7293
gerri_martin@yahoo.com

Att. 19

City of Livingston
Sale of Dirt
FY 2006-2007 & FY 2007-2008

Date	Buyer	Quantity (CY)	Unit Price Per/CY	Total Amount	COL inv#
07/29/06	Agee Construction	60,649.47	5.00	303,247.35	1132
08/29/06	Agee Construction	45,869.83	5.00	229,349.15	1146
11/02/06	Reeves Sand & Gravel	1,335.00	3.00	4,005.00	1183
11/02/06	Agee Construction	3,210.08	5.00	16,050.40	1184
03/27/08	Agee Construction	12,301.99	5.00	61,509.95	1474
			<u>123,366.37</u>	<u>\$ 614,161.85</u>	

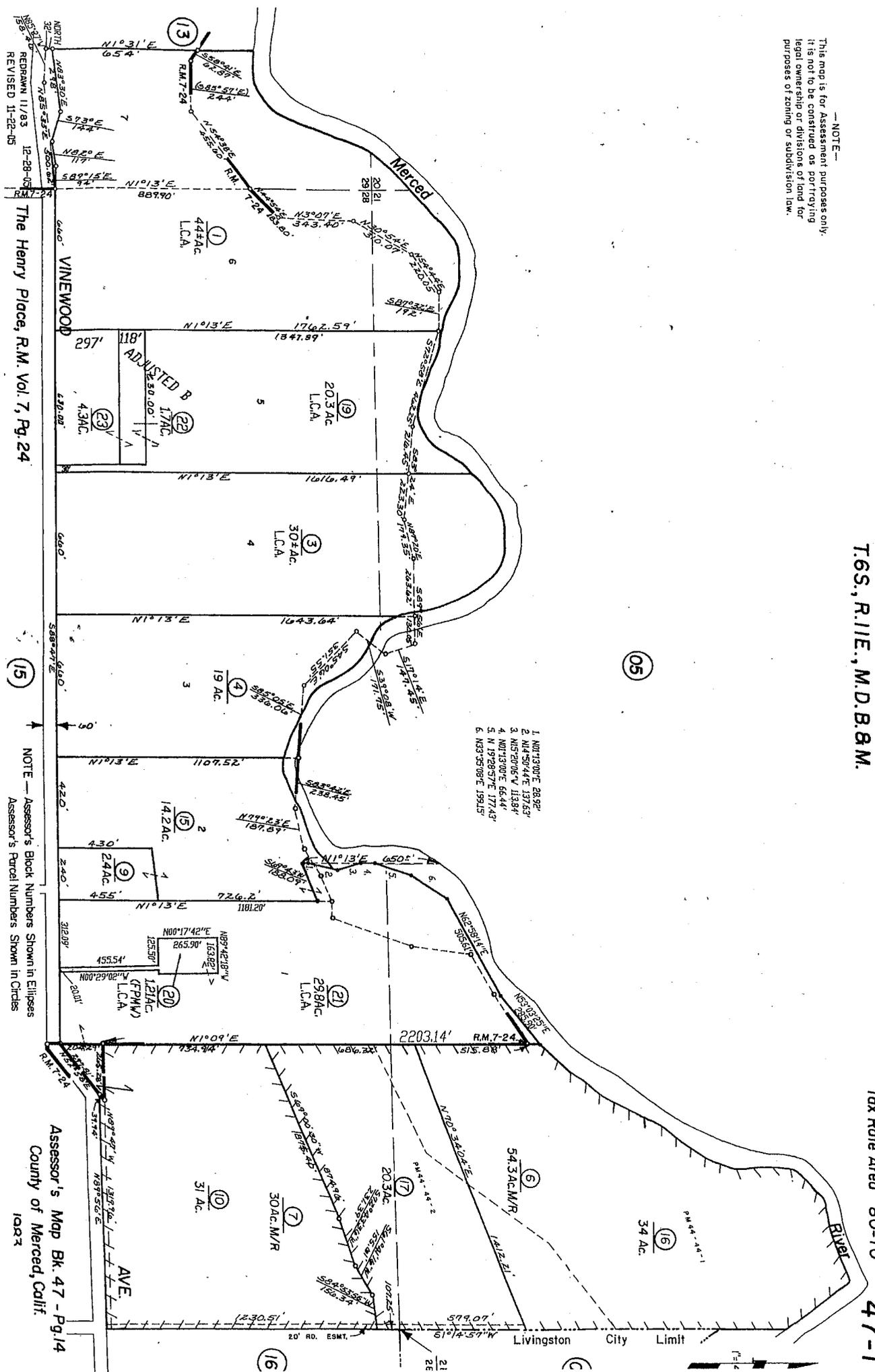
**Updated 03/27/2008

PH. 21

NOTE -
This map is for Assessment purposes only.
It is not to be construed as portraying
legal ownership or divisions of land for
purposes of zoning or subdivision law.

T.G.S., R.I.I.E., M.D.B.B.M.

Tax Rate Area 80-10 47-1



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

The Henry Place, R.M. Vol. 7, Pg. 24

Assessor's Map Bk. 47 - Pg. 14
County of Merced, Calif.
1987

Original → Clerk

Att. 22
1 of 3

RICHARD L. HARRIMAN
Attorney at Law
191 WEST SHAW AVENUE, SUITE 205-B
FRESNO, CALIFORNIA 93704
Telephone: (559) 226-1818
Facsimile: (559) 226-1870
Email: harrimanlaw1@sbcglobal.net

August 7, 2007

RECEIVED

JUN 25 2007

CITY OF LIVINGSTON

HAND DELIVERED

City Council
City of Livingston
1416 "C" Street
Livingston, CA 95334

Re: Albert Arakelian Family/City of Livingston
Draft General Plan Update (July, 2007)
Preliminary Comments and Objections
Request for Special Notice of Documents and Proceedings

Honorable Mayor and Councilmembers:

Pursuant to my telephone conversations during the past two (2) weeks with the City Manager and the Community Development Director, this letter confirms that this office has been retained to represent the Albert Arakelian Family, located at 15391 Vinewood Circle, Livingston, regarding the administrative and environmental review of the City's General Plan Update, Wastewater Treatment Facility Master Plan, and other programs and projects associated with them.

At the outset, as I discussed at some length with Mr. Warne and Ms. Kenney, my clients have directed me to communicate clearly to the City Council that, based on the Arakelian family's long term involvement with, and commitment to, the City of Livingston, it is the intent of my clients to cooperate with the City's long-range planning efforts and to participate fully in the administrative and environmental review process for the future long-term development of the City. However, my clients have also directed me to share with you their complete shock and surprise when they first learned of the City's proposed plans to locate its proposed Wastewater Treatment Facility expansion on 80-100 acres of agricultural land owned by the Arakelian family for three generations from the appraiser for the City less than a month ago. Therefore, my clients strongly object to the complete lack of notice provided to them of the City's plans to expand the Wastewater Treatment Facility on the Arakelian property to the west of the facility.

Second, the lack of notice to my clients is exacerbated by the fact that the Land Use Map provided in the Draft General Plan does not include any representation of the area which was identified in the Wastewater Treatment Facility Master Plan (WWTFP) (2006), which is shown on Figure 1 of the WWTFP. [Copy attached hereto] In addition, the existing ponds to the

Att. 22
2 of 3

immediate north of Vinewood Avenue appear not to have been used since their construction; yet, no landscaping or other mitigation of the adverse aesthetic impacts of the facility have been implemented or installed. Therefore, my clients question the advisability of proceeding westward from the existing WWTF, when it appears more logical to proceed in an easterly direction for the expansion of the WWTF onto land within the Ranchwood Special Planning Area, next to the existing facility. We would respectfully request that these alternative sites be disclosed, considered, and analyzed in the draft documents

Third, my clients believe that it would be in the best interests of the City and its residents if the Draft General Plan document were revised to include policies, goals, objectives, and implementation measures to expand the existing WWTF away from the Merced River, outside the river flood plain and in locations which do not violate the Public Trust Doctrine values of the Merced River.

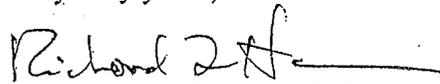
Finally, my clients request the City to include complete financial disclosure of the proposed expansion of the City's WWTF in the Draft General Plan documentation and that the Draft EIR disclose, consider, discuss, and analyze feasible alternatives for expansion of the WWTF and their cost to the City ratepayers, who will be paying increased monthly utility charges for the proposed expansion of the WWTF.

The foregoing comments represent only some of the initial issues resulting from a preliminary review of the documents available, and we look forward to submitting more detailed comments and information later in the review process, after our consultants have had an opportunity to review the documentation further and to meet with your staff, before the final documents are approved and adopted.

Please provide special written notice of the availability of all administrative and environmental review documentation and of all public workshops, meetings, hearings, and other proceedings concerning the review, consideration, and deliberation of the proposed General Plan Update, Wastewater Treatment Facility Expansion, Traffic Circulation, Stormwater Drainage Master Plan, and the EIR and technical documentation for the General Plan Update.

Thank you for this opportunity to provide our preliminary comments on this project.

Very truly yours,


RICHARD L. HARRIMAN

cc: Clients

Att. 22
3 of 3

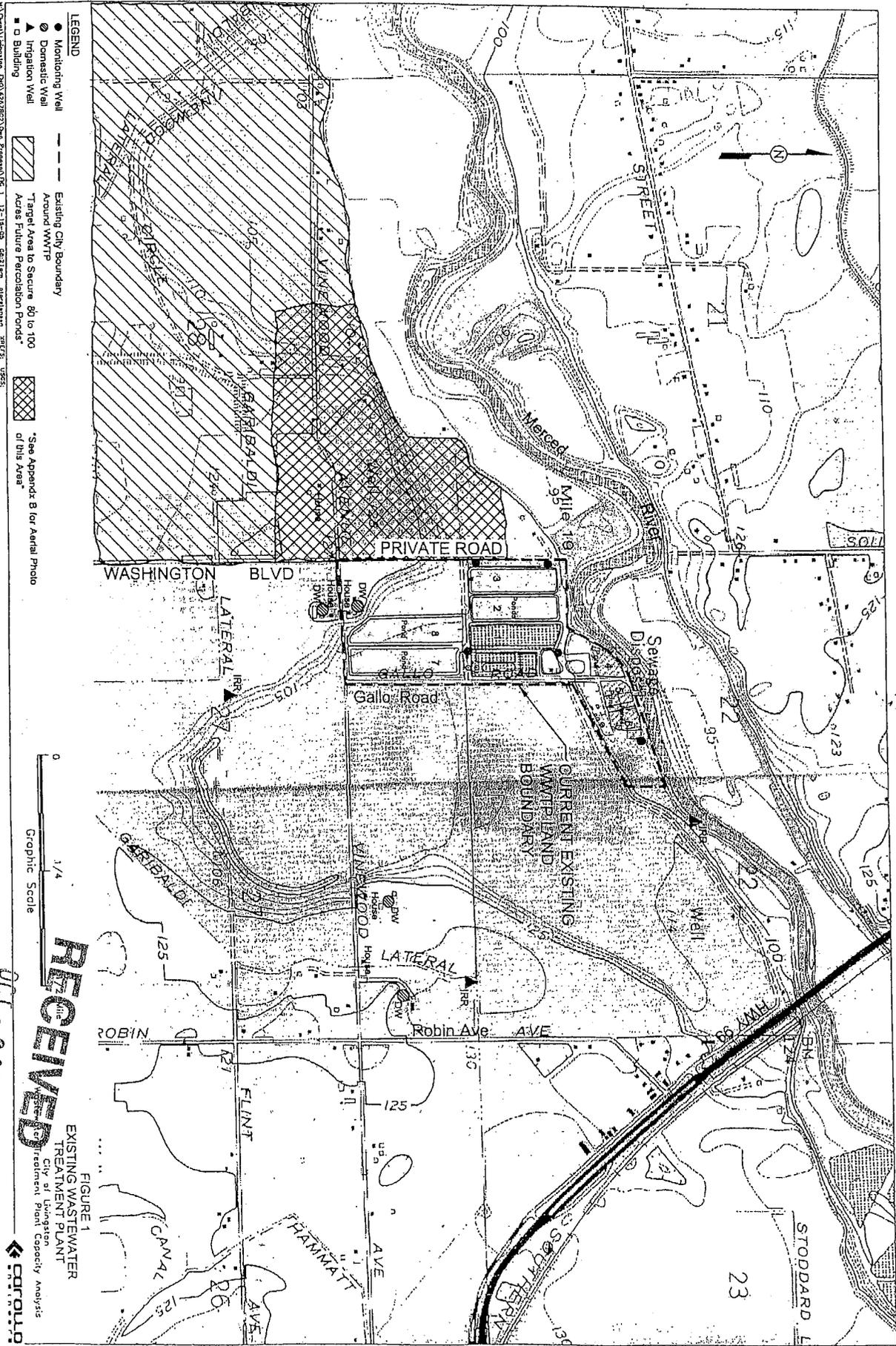
Table 6 Preliminary Project Costs for 1.0 mgd Title 22 Recycle Water Facilities ⁽¹⁾ Wastewater Treatment Plant Capacity Analysis City of Livingston		
Item Number	Item Descriptions	Total Project Costs in September 2005 Dollars
1	1.0 Mgd Title 22 Filters and Disinfection	\$3,130,000
2	Recycled Water Storage Lined Basin	\$700,000
3	Recycled Water Pump Station	\$520,000
Estimate Project Costs		\$4,350,000
(1) Includes: Estimated Contractor's costs, Estimating Contingencies at 20%, Design Engineering, Construction Engineering, Construction Contingency, Legal and Administrative at 30%		

The RWQCB generally does not want a community to use satellite WWTP's if a current plant is permitted. RWQCB will probably make it difficult during the environmental review process to approve a satellite WWTP. Based on review of Figure 2, Livingston has the land area to treat flows at a centralized site. However, in the future Livingston's need for additional percolation pond area may force the City to a direct discharge to Merced River. Issues such as these should be evaluated in a detailed facility plan.

7.0 SCHEDULE FOR YEAR 2008 EXPANSION

Based on information presented in this technical memorandum, it is apparent that Livingston will require an expanded treatment facility to be operational by the year 2008. Carollo recommends that this expansion essentially double the capacity of the existing plant from 2.0 to 4.0 mgd, Average Day Maximum Month Flow (ADMMF). The 2003 expansion was master planned to add the 2008 expansion facilities as shown in Figure 2.

Table 7 presents a suggested schedule to accomplish the 2008 WWTP expansion.



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DMS

Att. 23

Table 6 Preliminary Project Costs for 1.0 mgd Title 22 Recycle Water Facilities⁽¹⁾ Wastewater Treatment Plant Capacity Analysis City of Livingston		
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Table 7 presents a suggested schedule to accomplish the 2008 WWTP expansion.

Att. 24
1062

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JUN 25 2009

NOP
ENIR For City of LIVINGSTON
DWTP Expansion

Page 13

The city is pursuing grant
FUNDING FOR A FUTURE REGIONAL
wastewater treatment plant.

I was told by Donna M. Kenney
Community Dev Director City of
LIVINGSTON on AUG 23, 2007
that the city IS NOT
PURSUING grant FUNDING for
a regional treatment plant
per the City Grant Administrator.
Page 13 should therefore be
amended.

RECEIVED

AUG 23 2007

PLANNING

Gerri Martin
16181 Vinewood
LIVINGSTON, Ca 95334
394 7293

Att. 24
2062

F. PROJECT CHARACTERISTICS

The City is proposing to expand the existing DWWTP. Upgrade and expansion to the DWWTP will include a new headworks oxidation ditch, secondary clarifiers, pump station, and centrifuges. Maintenance, operations, and laboratory buildings are also included in this phase of expansion (see **Figure 5, Proposed Improvements/Expansions**). Location of the new facilities will be on the existing site, with the majority of these improvements to be constructed between Pond No.1 and Oxidation Ditch No.1 as shown on the General Site Plan. Completion of Pond No. 9 is also included in this project. The maintenance building and operations building will be located east and southeast of Pond No. 9. Though a new access road would eventually extend Washington Boulevard into the project site, this roadway extension is not a part of this project.

In addition, the design includes upgrades and/or expansion to some of the existing facilities such as the plant water pump station. These improvements will be constructed within the existing site with an estimated cost of \$24-\$28,000,000. The upgrade will be funded in part through the California State Revolving Fund Loan Program. The City is also seeking other grant funding in addition to this and other monies from development impact fees.

An average day maximum month flow (ADDMF) of 4.0 mgd will be used for the design of the new oxidation ditch and other treatment units. However, the design and construction of the headworks structure will be based on a flow of 8.0 mgd. The City is considering the purchase of two parcels to the west of the site and is pursuing grant funding for a future regional wastewater treatment plant. However, the project being evaluated at this time will be limited to that proposed under the 4.0 mgd capacity. Any future expansion of the DWWTP will require a separate environmental evaluation.

The design flow criteria, including average annual wastewater flow (AAWF) that will be used for this expansion are shown in **Table 2** below:

Table 2
Design Flow Criteria Domestic Wastewater Treatment Plan Design

Treatment Process	AAWF (mgd)	ADDMF (mgd)	Peak Hour Flow (mgd)
Headworks	7.27	8.0	19.20
Oxidation Ditch	3.64	4.0	10.55

The recommended influent design flows and loadings to be used for the expansion of the DWWTP is indicated in **Table 3** below:

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0017
(916) 319-2017
FAX (916) 319-2117
DISTRICT OFFICES
806 W. 18TH STREET
MERCED, CA 95340
(209) 726-5465
FAX (209) 726-5469
31 E. CHANNEL STREET #306
STOCKTON, CA 95202
(209) 948-7479
FAX (209) 465-5058

Assembly
California Legislature



CATHLEEN GALGANI
ASSEMBLY MEMBER, SEVENTEENTH DISTRICT

COMMITTEES
CHAIR, SELECT COMMITTEE ON THE
DEVELOPMENT OF A 10TH UNIVERSITY
OF CALIFORNIA, MERCED CAMPUS
CHAIR, SELECT COMMITTEE ON THE
FUTURE OF FARMING IN CALIFORNIA
STANDING COMMITTEES
AGRICULTURE
HIGHER EDUCATION
TRANSPORTATION
VICE CHAIR, RURAL CAUCUS

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1082

09 FEB 18 PM 00

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SACRAMENTO
CVR/WCCB

JUN 03 2009

February 13, 2009

Pamela Creedon, Executive Officer
California Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Re: Livingston Wastewater Treatment Plant

Dear Ms. Creedon,

I am writing to inquire about potential funding sources for a Wastewater Treatment Plant Expansion project for the City of Livingston. Specifically, I would like to know whether there is any potential for this project to qualify for funding through President Obama's proposed Recovery and Reinvestment Act of 2009.

This \$28.8 million project will increase the capacity of the Livingston Wastewater Treatment Plant from 2-million gallons per day (mgd) to 4-million gallons per day (mgd). The City of Livingston has completed over 90% of the engineering and environmental study for this project and will be ready to go out to bid on May 1, 2009.

This project meets the goals of President Obama, Congress and the State, as it offers to:

- Put people to work immediately on a vitally needed public works project. There will be no bureaucratic delays or money siphoned off for administration. The money will filtered to the people and local economy without.
- Provide long-term economic development and jobs for commercial and industrial businesses.
- Help a disadvantaged, minority community where people are struggling. Livingston has a high poverty rate, low per capita income and a high unemployment rate. 70% of the community is Hispanic and 15 percent is East Indian. The unemployment rate in Livingston was 17.5% for the month of December, 2008.

I am also hoping that the Regional Water Quality Control Board might be able to offer suggestions of alternative state funding resources for which the City of Livingston may

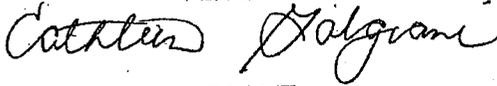
Att. 25
2 of 2

apply, such as Proposition 84, 50, the State Revolving Fund or any other funding sources that might be plausible to complete this project.

Lastly, seeing that this project will immediately create jobs and provide the economic stimulus that this region vitally needs, I am hoping that you can provide the name and number of a contact person in your department who can work with the City to ensure that this project moves forward without delay.

Again, I am very supportive of the proposed expansion of the Livingston Wastewater Treatment, and look forward to all suggestions that you have and any assistance that you can provide. Please respond in writing to my Capitol Office: State Capitol, Room 5155 Sacramento, CA 95814.

Sincerely,



CATHLEEN GALGIANI
Assemblymember, 17th District

CG: aef

PH 26

California - 2008/2009 Project Priority List for State Revolving Fund Program

Region	Project Number	Party Name	PROJECT DESCRIPTION	Class	Estimated Project Cost (\$)	Estimated Eligible Cost (\$)	Estimated Funding Year	Amount Committed (\$)
5	5264-110	Fresno Metropolitan Flood Control District	STORM WATER TREATMENT BASIN AE CONSTRUCT TREATMENT & COLLECTION SYSTEMS - FRIANT COMMUNITY	C	110,500	110,500	2009	0
5	4588-110	Fresno, County of	WASTEWATER TREATMENT PLANT UPGRADES	D	3,500,000	3,500,000	2009	0
5	5043-110	Galt, City of	UPGRADE RECLAMATION TRANSMISSION SYSTEM TO THE REUSE AREAS	A	36,000,000	36,000,000	2010	0
5	4137-110	Golden Hills Community Services District	WASTEWATER TREATMENT PLANT UPGRADE FOR DENITRIFICATION & UV DISINFECTION	D	1,600,000	1,600,000	2009	0
5	5047-110	Grass Valley, City of	COLLECTION SYSTEM FOR DONKEY HILL AREA	C	5,500,000	5,500,000	2009	3,960,000
5	4520-110	Hidden Valley Lake Community Service Dist.	WWTP REHAB W/D UPGRADE	D	5,000,000	5,000,000	2009	0
5	5139-110	Hughson, City of	IRONHOUSE WWTP EXPANSION AND UPGRADE	C	35,600,000	35,600,000	2009	0
5	5046-110	Ironhouse Sanitary District	UPGRADE & EXPAND TREATMENT PLANT	D	60,200,000	60,200,000	2009	0
5	4566-110	Isleton, City of	KERNAN WASTE WATER TREATMENT PLAN	C	2,746,466	2,746,466	2009	0
5	5150-110	Kerman, City of	REXLAND ACRES COMMUNITY SEWER COLLECTION & TRANSMISSION SYSTEM	C	5,500,000	5,500,000	2009	0
5	4805-110	Kern, County of	SOUTH SHAFTER WASTEWATER PROJECT	A	6,500,000	6,500,000	2009	0
5	5135-110	Kern, County of	WASTEWATER TREATMENT PLANT FACILITIES EXPANSION	D	10,100,000	10,100,000	2009	0
5	5265-110	Kettleman City Community Services District	REHABILITATE COLLECTION SYSTEM IN HOITT SUBDIVISION	C	5,000,000	5,000,000	2009	0
5	4599-110	Lincoln, City of	WASTEWATER TREATMENT PLANT UPGRADE AND EXPANSIO	D	317,345	317,345	2009	0
5	5098-110	Linda County Water District	PLANT EXPANSION	C	65,000,000	65,000,000	2009	0
5	4241-110	Lindsey, City of	WASTEWATER TREATMENT PLANT UPGRADES	D	250,000	250,000	2009	0
5	5042-110	Live Oak, City of	REPLACE TREATMENT PONDS WITH ADVANCED TREATMENT FACILITY	B	14,500,000	14,500,000	2009	0
5	4803-110	Livingston, City of	DOMESTIC WATER TREATMENT PLANT	C	17,200,000	17,200,000	2009	0
5	5155-110	Livingston, City of	WHITE SLOUGH WWTP CAPACITY INCREASE	C	29,000,000	29,000,000	2009	0
5	4804-110	Lodi, City of	INSTREAM FLOW IMPROVEMENT	D	20,000,000	20,000,000	2009	0
5	5267-110	Los Molinos Mutual Water Company	OAKURST WASTEWATER TREATMENT FACILITY EXPANSION & COLLECTION SYS IMPROVEME	C	100,000	100,000	2009	0
5	4444-110	Madera County Maintenance Dist No.22a	STAGE II - TREATMENT PLANT IMPROVEMENTS	D	15,000,000	15,000,000	2009	0
5	4715-110	Madera, City of	WASTEWATER TREATMENT FACILITIES	D	6,000,000	6,000,000	2009	0
5	4445-110	Malaga County Water District	UPGRADE & EXPANSION	D	2,700,000	2,700,000	2009	0
5	4687-110	Mariposa, City of	TREATMENT PLANT UPGRADE	C	24,000,000	24,000,000	2009	0
5	4590-110	Mariposa, City of	UPGRADE TREATMENT AND COLLECTION SYSTEMS	D	5,000,000	5,000,000	2010	0
5	5268-110	Mariposa Public Utility District	WASTE WATER TREATMENT FACILITY IMPROVEMENTS	C	3,000,000	3,000,000	2009	0

*attach. 27
1 page*

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TABLE II

**YEAR 2030 TRAFFIC CONDITIONS (20 YEAR FORECAST)
ON SR 99 / SULTANA DRIVE / ARENA BLYD INTERCHANGE
CITY OF LIVINGSTON**

Location	Level of Improvements	Year 2030 PM Peak Hour Conditions	
		Average Delay	Level of Service
Campbell Ave	8 lanes on Liberty Avenue 4 lanes on Campbell Ave Dual left turn lanes on NB / SB Campbell Avenue Dual left turn lanes on NB / SB Liberty Avenue Dual right turn lanes on SB Campbell Ave	54.8 sec	D
NB SR 99 ramps	8 lanes on Liberty Avenue Dual left turn lanes and dual right turn lanes on NB SR 99 off ramp Dual left turn lanes onto NB SR 99 Free right turn lane onto NB SR 99	30.6 sec	C
SB SR 99 ramps	8 lanes on Liberty Avenue Dual left turn lanes and dual right turn lanes on SB SR 99 Off ramp Dual left turn lanes onto SB SR 99 on ramp Free right turn lane onto SB SR 99	35.0 sec	C-D

*This will be the worst of any plant what are the DWWT expansion impacts
Cobble
Alvina*

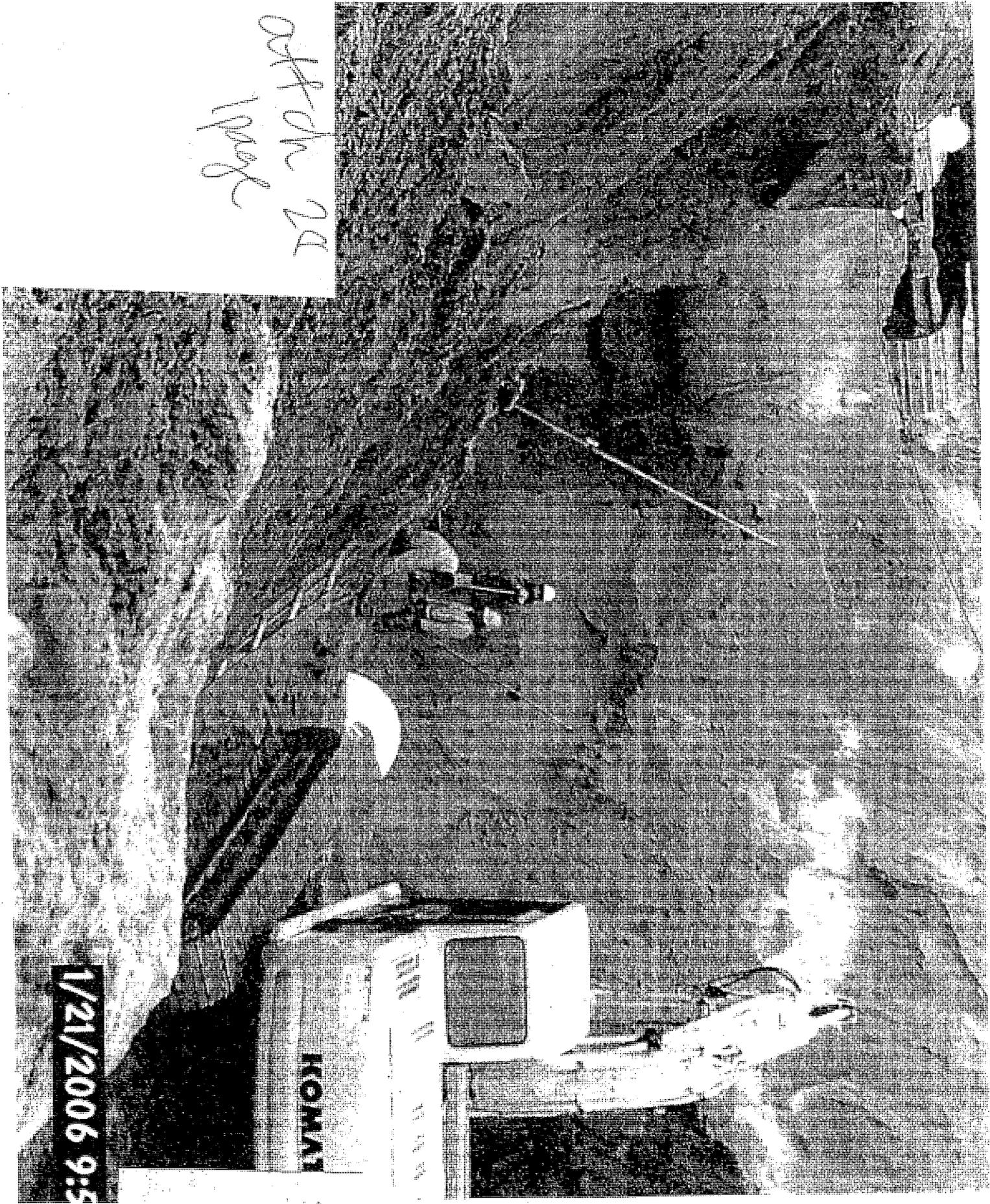
Washington Avenue Crossing over the Merced River. The Master Plan includes the development of a new crossing over the Merced River along a Washington Avenue alignment to link up with the SR 99 Collier Road interchange south of Delhi. This project is intended to provide relief for the Winton Parkway which without the diversion of traffic would carry another 3,850 ADT within 20 years. If the crossing is not developed, then the volume on Hammatt Avenue would increase and forecast traffic conditions at this location would become incrementally poorer in the future.

However, developing any new river crossing is a major undertaking which must confront environmental and design issues. While the Master Plan assumes completion in 20 years and includes a cost "placeholder" for this project, further analysis is needed to confirm the actual design requirements of this work.

Additional SR 99 Crossings. The Master Plan excludes construction of any additional grade separations over SR 99. Potential routes between the Hammatt Avenue interchange and the Sultana Drive-Liberty Avenue interchange were considered but not incorporated into the final Master Plan.

Hammatt Avenue Widening from F Street to Peach Avenue. The City General Plan and this Master Plan indicate that Hammatt Avenue is to be a 4 lane minor arterial street. However, numerous homes already exist along Hammatt Avenue, making it difficult to improve the road and without improvements creating appreciable environmental impacts for the residents living along the street. The Master Plan envisions modifying the area circulation system in this area in

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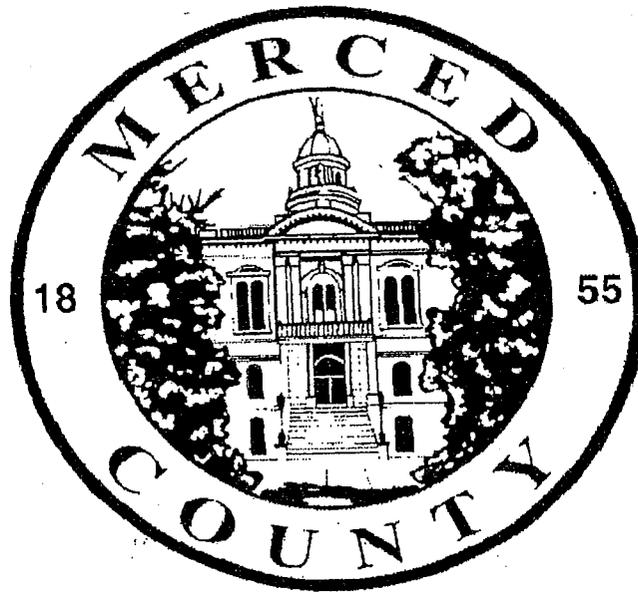


1/21/2006 9:5

Merced County

Att.
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1006

GRAND JURY FINAL REPORT



2006-2007

Att.
29
2006

Complaint 06-07-14: Merced District Attorney

The Grand Jury declined to investigate the complaint was against an individual outside the jurisdiction of the Grand jury and the issues had been investigated as part of Grand Jury complaint 06-07-02.

Complaint 06-07-15: City of Livingston

Sewer Trunk line

Introduction

The complainant stated that the City of Livingston, with the knowledge of Merced County, entered into an agreement with a developer, Ranchwood Homes, to design and construct a 42 Inch sewer trunk line of over a mile in length plus additional miles of sewer lines to facilitate future urbanization of thousands of acres of agricultural land. The complainant further stated that since the land, on which the construction of the sewer trunk line took place, is outside the Livingston city limits and the Livingston sphere of influence, the City of Livingston had no jurisdiction over the project. In addition, the project was initiated without the required environmental reviews as spelled out in the California Environmental Quality Act. (CEQA).

Method of Investigation/Background Information

The Grand Jury interviewed the complainant to clarify the issues raised in the complaint. In addition, interviews were conducted with the Livingston city manager, city attorney, and the planning and public works staff. The grand jury also interviewed the planning and public works staff of Merced County, and the President of Ranchwood Homes. Each of the entities involved provided large volumes of documentation related to the Livingston sewer trunk line project. These documents were extensively reviewed by the Grand Jury, including minutes from city council meetings, which were generally very brief and made it almost impossible to determine what occurred during the meetings. In addition, staff turnover during the period in question made finding answers difficult. Members of the Grand Jury also visited the project site to observe the work that had been done.

In 2004, Ranchwood Homes proposed to the City of Livingston, to install 24 Inch sewer lines from the Livingston sewage treatment plant on Vinewood Dr. south to Magnolia Ave. and east to Lincoln Ave., and at some future point beyond Lincoln Ave. During the discussions with Livingston city officials, the size of the line was increased to 42 inches at the sewer plant and gradually reduced in stages along

the length of the project. The Ranchwood proposal was intended to serve future development of Ranchwood property located along Magnolia Ave. and the project would also serve the long-term development interest of the City.

Att. 29
3086

In the early stages of the development of this project there was extensive discussion among the Livingston contract planning staff and Ranchwood management on whether the project would have to follow the requirements of the CEQA or whether the project was exempt. The Ranchwood Homes Director of Land Acquisition and Development requested a consultant study the issue and make a recommendation. In a memo dated August 26, 2004, the consultant quoted Public Resource Code Section 21080.21 saying "This section does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For the purpose of this section, "pipeline" includes subsurface facilities but does not include any surface facility related to the operation of the underground facility". Based on the above CEQA interpretation, it was decided to limit the sewer trunk line to 5115 ft. even though the total length of the project was much longer. The consultant stated that if the pipeline was longer than a mile, the project could be done with "minimal environmental review" and he ended his memo with "If for some reason, substantial public controversy arises relative to the project, the City can always decide to expand the level of environmental review in response to those concerns, but it seems reasonable at this stage to proceed with a streamlined environmental review process, most likely an exemption, or an initial study and Negative Declaration".

The second significant issue relates to the status of the City as the "lead agency". The city planning staff did consult with county planning staff on this issue and county staff did agree that Livingston could be the lead agency, but also stated that the CEQA requirements must be followed. In addition, there was discussion with county staff over whether the Local Agency Formation Commission (LAFCO) would serve as the lead agency because the Livingston city attorney stated that could be done. However, county planning staff discounted that possibility because, as a "dry" pipe, it would not extend sewer services. The City Council also appointed two of its members to serve on a committee to study and expedite the implementation of the sewer project.

On December 7, 2004, city staff presented the staff report on the "Ranchwood Sewer Trunk Line" to the City Council.

Att. 29
4 of 6

Following significant issues were discussed:

1. Was the project exempt under Public Resources Code Section 21080.21?
2. Was the installation of the 5115 ft. of sewer line a whole action or a piecemeal attempt to avoid CEQA?
3. Was the project "growth inducing"?
4. Could the city serve as the "lead agency"?
5. City Waste Water Master Plan update.
6. City General Plan and Urban Growth.
7. Make a finding that the installation of the 5115 Ft. line is completely separate from any future actions related to Ranchwood development in Livingston.

According to the City Council meeting minutes dated December 7, 2004, following extensive discussion the following action was taken. **"The Council, by consensus, authorized the staff to proceed on determining support for the proposed CEQA exemption and status of a lead agency"**.

On December 14, 2004 the City Council found that a CEQA exemption could be utilized and that the city could serve as the lead agency.

On December 21, 2004 the parties signed, " Agreement to design, construct and dedicate section of sewer pipeline by and between City of Livingston and Ranchwood Homes Corp.". In the Recitals section of the agreement it states, "Whereas, City has determined that the New Section project is categorically exempt under the California Environmental Quality Act (CEQA)".

In December of 2005, after the necessary planning, permit processing and obtaining easement rights from affected property owners, construction began. The timing of the construction was such as to take advantage of the low activity levels on the farmland and the need to cross a Merced Irrigation District (MID) canal during the non-irrigation season. Almost immediately after the construction of the sewer trunk line started, the controversy over the project erupted.

There were accusations that Ranchwood failed to obtain permission from the landowners, trespassed on private property, failed to comply with OSHA standards for excavation and that Ranchwood Homes exceeded the 5115 ft of sewer pipe the City of Livingston authorized the contractor to install.

On February 16, 2006 Merced County Counsel transmitted to the Livingston City Attorney a lengthy legal analysis on the sewer line extension and listing the reasons why the City of Livingston failed to comply with California law.

On February 24, 2006 the Merced County Planning Department Director issued a STOP ORDER to Hostetler Investments, LLC and Ranchwood Homes

Att. 29
5 of 6

...poration, and the City of Livingston per authority of Title 18 (Zoning) Chapter 18.53, Section 18.53.02C of the Merced County Code: "to prohibit further construction or use of structures or land on property which is in violation of the provisions of Titles 17 and 18 of this code". The order further states that to correct the illegal activity, "you must obtain the proper approvals and permits." As of the date of the stop order no further action has been taken on the sewer trunk line project.

FINDINGS:

1. The City of Livingston, faced with a rapidly growing population and a need for expanding its sewer system, accepted a proposal from Ranchwood Homes to design and construct a sewer trunk line extension that would clearly serve the financial interest of the developer, but would also serve the long-term interest of the city.
2. The City of Livingston violated the California Environmental Quality Act (CEQA) by accepting a dubious interpretation of Public Resource Code Section 21080.21 as provided by Ranchwood Homes.
3. The City of Livingston failed to consider the implications to future development by installing the sewer trunk line.
4. The City of Livingston approved the installation of 5115 ft of sewer line to circumvent CEQA, even though the entire sewer line extension project was nearly 6 miles.
5. The City of Livingston approved the construction of the sewer line on land that, according to the City General Plan of 1999, was neither within the city limits nor within the city's sphere of influence.
6. The minutes from the city council meetings are so brief that finding information is extremely difficult.
7. The management of Ranchwood Homes failed to adhere to the approved length of the pipeline and exceeded the approved length by approximately 1,400 linear feet.
8. The City of Livingston failed to properly coordinate its activities on county land with county officials.
9. County planning officials, when asked by the city planners about being the lead agency for the project, should have intervened when it was clear that the sewer line was on land under county jurisdiction.
10. County Public Works Department should have realized that when encroachment permits were issued to cross county roads, that a private contractor was working on a major project requiring environmental review.
11. The Livingston City Council placed two of its members on a committee working with developers and city staff on the implementation of the sewer trunk line project.
12. The Grand Jury also finds that even though the city and the permit process was poorly followed and violated CEQA law, no attempt should be made to force the removal of the currently installed sewer line.

Att. 29
6/2/16

Recommendations:

- The City of Livingston must improve the records of council meetings. The City of Livingston must update the city's General Plan; conduct extensive public hearings on the updated plan and how the sewer trunk line fits into future plans.
2. The city must ensure that all environmental laws are complied with and permit procedures are adhered to.
 3. City and county officials must coordinate their efforts to ensure that projects that cross City/County boundaries are fully coordinated.
 4. The city council should avoid placing its members on committees that work with city staff and developers, since that puts unnecessary pressure on staff and makes the council members advocates for projects that they have to pass judgment on in the future.

Complaint 06-07-16: Board of Supervisors, Merced County Board of Supervisors

Introduction

The complainant alleged that Supervisor Kelsey violated Section 87105 (a) Subsection (3) of the California Government Code by being in the audience during the hearing on an issue before the Board of Supervisors that involved aggregate mining. Supervisor Kelsey's family is also involved in mining operations in Merced county and based on advice from county counsel, Supervisor Kelsey recused herself from the hearing, left the board room and then sat in the audience during the hearing.

Method of Investigation

The County Administration sub-committee contacted all members of the Board of Supervisors, including Supervisor Kelsey, to verify that Supervisor Kelsey was in fact in the audience during the hearing. All responded that Supervisor Kelsey was in the audience.

The committee consulted with the Grand Jury legal advisors and it was decided to seek guidance from the California Attorney General. The Attorney General responded to the request by stating "The fact that she was disqualified as a board member did not preclude her from observing or even commenting as a member of the public". See the attached letter from the Attorney general.

Findings

Supervisor Kelsey **did not** violate Government Code Section 87105 (a) (3).

COUNTY

COUNTY COUNSEL

Ruben E. Castillo
County Counsel

February 16, 2006

Att. 30
page 1 of 5

VIA FACSIMILE and CERTIFIED U.S. MAIL

Mr. Thomas Hallinan, Jr.
City Attorney
City of Livingston
Post Office Box 486
Oakdale, CA 95361
Fax: (209) 847-5515

Re: **Sewer Line Trunk Extension**

Dear Mr. Hallinan:

I hope you are well. I am taking the opportunity to write to you about a sewer line extension to a proposed future residential development. The extension was approved by the City of Livingston. Unfortunately, there were a number of deficiencies in the City's approval, and I wanted to alert you to them as one public agency attorney to another.

As I understand the facts, Ranchwood Homes ("Ranchwood") is extending a 42" pipeline from the waste water treatment facility in the City to the site of Ranchwood's proposed future residential development. I also understand that Ranchwood is in the conceptual design phase for the development of a residential housing project located in the unincorporated area of the County, partially within and partially outside of the Sphere of Influence of the City. In order to provide future sewer service for the proposed Ranchwood development project, Ranchwood entered into an agreement with the City to design, construct, and dedicate a sewer trunk line from the City's waste water treatment plant to the proposed project site. This agreement reflects a finding by the City that the project was categorically exempt from CEQA. The agreement was unanimously approved by the City Council on December 21, 2004, but a Notice of Exemption was apparently never filed.

As approved by the City, the project called for the construction of 5,115 lineal feet of trunk sewer line by Ranchwood. The new sewer line would be installed "between the intersection of Gallo Drive/Vinewood Drive easterly and southerly to Peach Avenue. However, as approved, the "entire length of sewer trunk line is *outside the City limit line and Sphere of Influence.*" The sewer line is "designed to convey future urban sanitary sewer flows from the City to the existing Wastewater Treatment Plant site." However, "no part of this in-ground project will be connected to the City sewer system until future mixed-use development occurs." [December 21, 2004, City Staff Report re: Ranchwood Sewer Trunk Line, emphasis added.]

006
Att. 30 pages 2 of 5

Following approval by the City, Ranchwood acquired easements from private property owners and the County department of public works. The project proceeded and a "dry" sewer trunk line was installed all the way from the waste water treatment plant to just short of Magnolia. At the request of the County, however, further installation has been stopped, subject to an encroachment permit from the County and compliance with all applicable laws.

Given these facts, I thought it important to share with you our legal view concerning the project. In our view, the approval of this project by the City does not comport with the City's jurisdictional authority. Furthermore, it appears to run afoul of the Cortese-Knox Local Government Reorganization Act, the California Environmental Quality Act, and general land use and planning law. As County Counsel, I respectfully request that the City take every action to bring its approval of this project into compliance with these laws, including all appropriate environmental analysis, and I further request that the City communicate with and cooperate with the County to make certain this project is carried out in conformance with the law and the jurisdictional authority of each respective public agency.

1. The City's Power to Approve a Project Outside its Territorial Limits.

As you know, the California Constitution at Article XI, section 7, confers on a city the power to "make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws." Thus, "[u]nder the police power granted by the Constitution, counties and cities have plenary authority to govern, subject only to the limitation that they exercise this power within their territorial limits and subordinate to state law. (Cal. Const., art. XI, § 7.) Apart from this limitation, the 'police power [of a county or city] under this provision . . . is as broad as the police power exercisable by the Legislature itself.' *Birkenfeld v. City of Berkeley* (1976) 17 Cal. 3d 129, 140 [130 Cal. Rptr. 465, 550 P.2d 1001]." (*Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal. 3d 878, 885.)

A municipal corporation has generally no extraterritorial powers of regulation. It may not exercise its governmental functions beyond its corporate boundaries. (*Von Schmidt v. Widber* (1894) 105 Cal 151, 38 P 682; *Mulville v. San Diego* (1920) 183 Cal 734, 192 P 702; *Oakland v. Brock* (1937) 8 Cal 2d 639, 67 P2d 344.) The Constitution delegates directly to inferior governmental agencies the police power in their respective localities, provided only that its exercise by any city must be confined to such city. (*People v. Taylor* (1938) 33 Cal App 2d Supp 760.) A municipal ordinance can have no extraterritorial force unless by express permission of the sovereign power. (*Ferran v. Palo Alto* (1942) 50 Cal App 2d 374, 122 P2d 965.)

It is only when annexation occurs that the police power transfers from the County to the City. Police power has been given a county and a city, respectively, for exercise only "within its limits" and when land in suit was annexed to city it left territorial jurisdiction of county, ceased to be "within its limits," and hence was no longer subject to provisions of county zoning ordinance classifying land as residential and limited to single family dwellings. (*South San Francisco v. Berry* (1953) 120 Cal App 2d 252, 260 P2d 1045.)

Att. 30
3 of 3

2. The Out-of-Boundary Extension of Service Required Approval by LAFCO.

This sewer line extension should have been approved by LAFCO. As you know, a city that wishes to extend sewer service outside of its jurisdictional boundaries must go to LAFCO:

- (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries *only if it first requests and receives written approval from the commission in the affected county.*
- (b) The commission may 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.
- (c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and 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 if . . . [certain requirements are met].

(Cal. Gov. Code § 56133.)

Since the sewer is intended to serve a 300-acre parcel outside the City, it implicates LAFCO's jurisdiction over an "out of boundary" service extension. (See *Ceres v. Modesto* (1969) 274 Cal.App. 2d 545.)

3. The California Environmental Quality Act.

In December of 2004, the City made a determination that the sewer line project was categorically exempt from CEQA. Of course, we do not believe the City ever had jurisdiction to make a valid CEQA determination for land uses on land that is not within its territorial limits.

Nevertheless, the City may have incorrectly applied a statutory exemption, instead of a categorical exemption, to find the project exempt from environmental review. In the review and approval of December 21, 2004, the City set on Section 21080.21 of the Public Resources Code to find the project exempt. Section 21080.21 provides:

"This division does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, "pipeline" includes subsurface facilities but does not include any surface facilities related to the operation of the underground facility."

Reliance on this section may be misplaced. The total sewer line project greatly exceeds one mile in length. Thus, even though the project - as approved - appears to fall within the statute, as the length of the first phase of pipeline installation is 5115 feet, this runs afoul of a principle of CEQA that one cannot "piecemeal" a project in order to avoid the applicability of CEQA. (*Association for a Cleaner Env't v. Yosemite Community College Dist.* (2004) 116 Cal.App.4th 629, 638. A lead agency may not split a single large project into small pieces in order

Att. 30
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to avoid environmental review of the entire project. *Orinda Ass'n v. Board of Supervisors* (1986) 182 Cal. App. 3d 1145, 1171.

In the most far-reaching decision on the issue of "piecemealing" development projects, the San Joaquin Raptor/Wildlife Rescue Center successfully set aside an EIR for a housing project in Stanislaus County, based on the failure of the project to include construction of sewer lines and construction of a wastewater treatment plant to serve the project. (*San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 267 Cal. App. 4th 713.) In that case the court relied on 14 Cal. Code Regs. § 15378 (a) which defines the term "project" as "the whole of an action, which has the potential for resulting in a physical change in the environment, directly or ultimately." Because the sewer expansion had been proposed to serve a housing project, and the housing project could not proceed without an expansion of sewer service, the court concluded that the expansion was an integral component of the housing project.

Second, the pipeline is not located within a public right-of-way. Instead it is located on private property, from which the City got a number of public easement dedications. The acquisition of easements after approval of the proposed project is not in keeping with the claimed exemption.

In addition, the City did not notify the County of its determination as a responsible agency. CEQA sets a standard of communication and cooperation among responsible government agencies with respect to projects.

Lastly, the City did not file a "Notice of Exemption" for the pipeline project. (Pub. Res. Code § 21108.) Although the filing of such a notice is not required by CEQA, it is the standard practice for California government agencies to do so.

According to PMC, consultant to the City, an EIR is being prepared for the City's sewer and water master plan and this "project" is probably a part of that master plan. We are concerned that a project has already been approved and constructed that is (or should be) a part of the larger master planning effort that is currently undergoing environmental review.

The County is the appropriate Lead Agency for the analysis of the environmental impacts of a project within its jurisdiction, to wit: "The Lead Agency will normally be the agency with general governmental powers, such as a city or county" (Cal. Code Regs. 15051.) The agency with general governmental powers for the unincorporated area is the County, not the City.

4. Government Code section 65402.

Section 65402 (b) of the California Government Code states:

"[A] city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition,

...position, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof."

Thus, the City may not authorize a project within the County until the County has determined its consistency with the County's general plan. If found to be inconsistent, the city council must vote to overrule it. The County was neither consulted nor has the City taken action to overrule the County general plan on the trunk line extension.

CONCLUSION

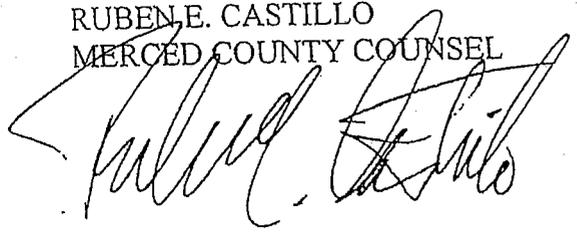
As you can see from the above, the approval of this project by the City is questionable. The project failed to comport with the City's jurisdictional authority, the Cortese-Knox Local Government Reorganization Act, the California Environmental Quality Act, and general land use and planning law.

Your help is sought so that the City may take every lawful action to bring its approval of this project into compliance with these laws, including all appropriate environmental analysis. I also request that the City communicate with and cooperate with the County to make certain this project is carried out in conformance with the law.

It is important that the County and the several cities maintain a cooperative and positive working relationship. It is in that spirit that this letter is provided to you. I hope to hear from you soon.

Highest regards,

RUBENE. CASTILLO
MERCED COUNTY COUNSEL





PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Att. 31
1083

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

STOP ORDER

February 24, 2006

This **STOP ORDER** is issued by the Planning Director of the County of Merced to Hostetler Investments, LLC and Ranchwood Homes Corporation and the City of Livingston per authority of Title 18 (Zoning) Chapter 18.53, Section 18.53.02.C of the Merced County Code: "...to prohibit further construction or use of structures or land on property which is in violation of the provisions of Titles 17 and 18 of this code."

The **STOP ORDER** shall remain in effect until violations are eliminated for: *The current construction of public infrastructure, otherwise known as the Westside Sewer Improvements (42" - sewer line) without obtaining the proper approval(s) and permit(s) in the A-1 zone.* This activity is illegal and not entitled or permitted in Merced County.

The subject activity is generally located within all or a portion of Assessors Parcel Number(s): 047-160-003, 047-170-026, 047-170-027, 047-170-005, 047-240-002, 047-240-014, 047-240-004, 047-240-003 and 047-170-020.

To Correct the illegal activity you must: **STOP IMMEDIATELY ALL ACTIVITY RELATED TO THE ILLEGAL CONSTRUCTION, AND OBTAIN THE PROPER APPROVALS AND PERMITS.**

Failure to correct the illegal activity may result in fines, penalties and/or litigation pursuant to chapter 18.53 of Title 18 (Zoning). You are hereby directed to contact Robert Lewis, Planning Director at (209) 385-7654.

Issued:


Robert Lewis, Planning Director

Location Served

Served By

Date Served



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Att. 31
2 of 3

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 728-1710 Fax
www.co.merced.ca.us

STOP ORDER

February 24, 2006

This **STOP ORDER** is issued by the Planning Director of the County of Merced to Hostetler Investments, LLC and Ranchwood Homes Corporation and the City of Livingston per authority of Title 18 (Zoning) Chapter 18.53, Section 18.53.02.C of the Merced County Code: "...to prohibit further construction or use of structures or land on property which is in violation of the provisions of Titles 17 and 18 of this code."

The **STOP ORDER** shall remain in effect until violations are eliminated for: *The current construction of on-site grading for future residential development without obtaining the proper approval(s) and permit(s) in the A-1 zone.* This activity is illegal and not entitled or permitted in Merced County.

The subject activity is generally located within all or a portion of Assessors Parcel Number(s): 047-260-031, 047-260-040, 047-260-028, 047-260-029, and 047-260-039.

To Correct the illegal activity you must: **STOP IMMEDIATELY ALL ACTIVITY RELATED TO THE ILLEGAL CONSTRUCTION, AND OBTAIN THE PROPER APPROVALS AND PERMITS.**

Failure to correct the illegal activity may result in fines, penalties and/or litigation pursuant to chapter 18.53 of Title 18 (Zoning). You are hereby directed to contact Robert Lewis, Planning Director at (209) 385-7654.

Issued:


Robert Lewis, Planning Director

Location Served

Served By

Date Served



PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

Att 31
3 of 3

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

STOP ORDER

February 24, 2006

This **STOP ORDER** is issued by the Planning Director of the County of Merced to Hostetler Investments, LLC and Ranchwood Homes Corporation and the City of Livingston per authority of Title 18 (Zoning) Chapter 18.53, Section 18.53.02.C of the Merced County Code: "...to prohibit further construction or use of structures or land on property which is in violation of the provisions of Titles 17 and 18 of this code."

The **STOP ORDER** shall remain in effect until violations are eliminated for: *The current business activity of transporting building materials for future residential development without obtaining the proper approval(s) and permit(s) in the A-1 zone.* This activity is illegal and not entitled or permitted in Merced County.

The subject activity is generally located within all or a portion of Assessors Parcel Number(s): 047-160-001, 047-260-031, 047-260-040, 047-260-028, 047-260-029, and 047-260-039.

To Correct the illegal activity you must: **STOP IMMEDIATELY ALL ACTIVITY RELATED TO THE ILLEGAL CONSTRUCTION, AND OBTAIN THE PROPER APPROVALS AND PERMITS.**

Failure to correct the illegal activity may result in fines, penalties and/or litigation pursuant to chapter 18.53 of Title 18 (Zoning). You are hereby directed to contact Robert Lewis, Planning Director at (209) 385-7654.

Issued:


Robert Lewis, Planning Director

Location Served

Served By

Date Served



PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

ADD. 32
10/10

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

FIRST NOTICE OF VIOLATION

February 27, 2006

County File Number: CE2006-0026

Greg Hostetler,
Hostetler Investments LLC
2000 M Street
Merced, CA 95340

RE: County Code and CEQA Violations on Assessor's Parcel Numbers: 047-160-001,
047-260-031, 047-260-040, 047-260-028, 047-260-029, and 047-260-039.

Mr. Hostetler,

As indicated in our Stop Order of Friday, February 24, 2006, the Planning Department has determined that conditions exist on the above-referenced parcel numbers ("Property") that violate Title 18, Chapter 01, Section 18.01.020 of the Merced County Zone Code and the California Environmental Quality Act.

Specifically, it has come to the attention of the Planning Director of the County of Merced that Ranchwood Homes is in the process transferring building materials without a permit. This use is not allowed by right in the A-1 zone. The Merced County Code at section 18.01.020 provides that "Uses not listed [for the zone in question] may be reviewed by the Planning Director to determine if they are similar to those listed in appropriate in these zones and if so, what type of permit is required." Thus, the installation project is currently in violation of the County Code which requires a discretionary determination by the Planning Director as to what type of permit is required.

Failure to timely correct or remove the violation within the time specified will result in all cumulative administrative costs being charged against you at the rate of \$72.00 per hour in accordance with the provisions of Merced County Code Title 18, Chapter 18.53. The charges will be assessed retroactive to the date the complaint was first received. If the violation is corrected **within** the allotted time, no administrative costs will be assessed.

Att. 32
2 of 10

SUMMARY

Violating Conditions:

- 1) Transferring materials without a permit

Correction:

- 1) Stop all material transfers immediately proper land use approvals and permit/s.

Compliance Date:

- 1) Immediately – Stop transferring building materials.

Please contact the undersigned, Planning Director, Robert Lewis at (209) 385-7654 to arrange a meeting to discuss the violation.

Sincerely,



Robert Lewis
Merced County Planning Director

cc: Ruben E. Castillo, County Counsel



PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

Att. 32
3/8/10

FIRST NOTICE OF VIOLATION

February 27, 2006

County File Number: CE2006-0026

Greg Hostetler,
Hostetler Investments LLC
2000 M Street
Merced, CA 95340

RE: County Code and CEQA Violations on Assessor's Parcel Numbers: 047-260-031,
047-260-040, 047-260-028, 047-260-029, and 047-260-039.

Mr. Hostetler,

As indicated by the Stop Order personally served to you on Friday, February 27, 2006, the Planning Department has determined that conditions exist on the above-referenced parcel numbers ("Property") that violate Title 18, Chapter 01, Section 18.01.020 of the Merced County Zone Code and the California Environmental Quality Act.

Specifically, it has come to the attention of the Planning Director of the County of Merced that Ranchwood Homes is grading prime agriculture land for use as residential subdivision. This use is not allowed by right in the A-1 zone. The Merced County Code at section 18.01.020 provides that "Uses not listed [for the zone in question] may be reviewed by the Planning Director to determine if they are similar to those listed in appropriate in these zones and if so, what type of permit is required." Thus, the installation project is currently in violation of the County Code which requires a discretionary determination by the Planning Director as to what type of permit is required.

Failure to timely correct or remove the violation within the time specified will result in all cumulative administrative costs being charged against you at the rate of \$72.00 per hour in accordance with the provisions of Merced County Code Title 18, Chapter 18.53. The charges will be assessed retroactive to the date the complaint was first received. If the violation is corrected within the allotted time, no administrative costs will be assessed.

STRIVING FOR EXCELLENCE

Atto. 32
4/28/10

SUMMARY

Violating Conditions:

- 1) Grading of prime agriculture land for use as residential subdivision

Correction:

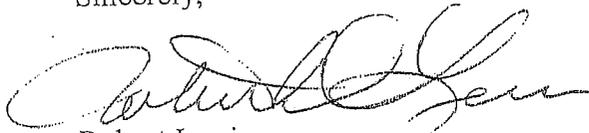
- 1) Stop all grading of prime agricultural land for use as a residential subdivision immediately and obtain the proper land use approvals and permit/s.

Compliance Date:

- 1) Immediately - Stop Grading.

Please contact the undersigned, Planning Director, Robert Lewis at (209) 385-7654 to arrange a meeting to discuss the violation.

Sincerely,



Robert Lewis
Merced County Planning Director

cc: Ruben E. Castillo, County Counsel



L. L. Ue

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

Att. 32
S0810

Robert A. Lewis
Development Services
Director

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

FIRST NOTICE OF VIOLATION

February 27, 2006

County File Number: CE2006-0026

Greg Hostetler,
Hostetler Investments LLC
2000 M Street
Merced, CA 95340

RE: County Code and CEQA Violations on Assessor's Parcel Numbers: 047-160-003,
047-170-026, 047-170-027, 047-170-005, 047-240-002, 047-240-014, 047-240-004,
047-240-003 and 047-170-020.

Mr. Hostetler,

As indicated in our Stop Order of Friday, February 24, 2006, the Planning Department has determined that conditions exist on the above-referenced parcel numbers ("Property") that violate Title 18, Chapter 01, Section 18.01.020 of the Merced County Zone Code and the California Environmental Quality Act.

Specifically, it has come to the attention of the Planning Director of the County of Merced that Ranchwood Homes is in the process of installing a public utility easement and sewer line in the A-1 [Prime Agriculture] Zone. This use is not allowed by right in the A-1 zone. The Merced County Code at section 18.01.020 provides that "Uses not listed [for the zone in question] may be reviewed by the Planning Director to determine if they are similar to those listed in appropriate in these zones and if so, what type of permit is required." Thus, the installation project is currently in violation of the County Code which requires a discretionary determination by the Planning Director as to what type of permit is required.

Furthermore, because of the intensity of the use and the fact that it is not permitted in the A-1 zone under the Zones/Permitted Uses Guide of the County Code, it is likely that this installation project requires a Conditional Use Permit. Furthermore, since a Conditional Use Permit is only issued on a per parcel basis and this project crosses/effects several parcels, it will require a Conditional Use Permit for each parcel.

Failure to timely correct or remove the violation within the time specified will result in all cumulative administrative costs being charged against you at the rate of \$72.00 per hour in accordance with the provisions of Merced County Code Title 18, Chapter 18.53. The charges will be assessed retroactive to the date the complaint was first received. If the violation is corrected within the allotted time, no administrative costs will be assessed.

SUMMARY

Violating Conditions:

- 1) Construction of infrastructure (sewer line) without obtaining proper approvals and permits.

Correction:

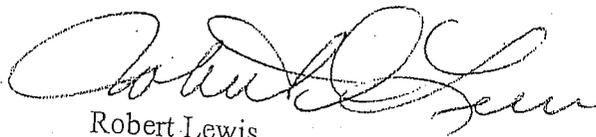
- 1) Stop all construction immediately, and obtain the proper land use approvals and permit/s.

Compliance Date:

- 1) Immediately - Stop Construction.
Immediately thereafter - Submit proper land use permit application.

Please contact the undersigned, Planning Director, Robert Lewis at (209) 385-7654 to arrange a meeting to discuss the violation.

Sincerely,



Robert Lewis,
Merced County Planning Director

cc: Ruben E. Castillo, County Counsel

A 40.32
70810

VERNMENT CODE
SECTION 65400-65404

65400. After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(b) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(1) The status of the plan and progress in its implementation.

(2) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(3) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(c) For the 2006 calendar year, the planning agency may provide the report required pursuant to subdivision (b) by October 1, 2006.

65401. If a general plan or part thereof has been adopted, within such time as may be fixed by the legislative body, each county or city officer, department, board, or commission, and each governmental body, commission, or board, including the governing body of any special district or school district, whose jurisdiction lies wholly or partially within the county or city, whose functions include recommending, preparing plans for, or constructing, major public works, shall submit to the official agency, as designated by the respective county board of supervisors or city council, a list of the proposed public works recommended for planning, initiation or construction during the ensuing fiscal year. The official agency receiving the list of proposed public works shall list and classify all such recommendations and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such coordinated program shall be submitted to the county or city planning agency for review and report to said official agency as to conformity with the adopted general plan or part thereof.

65402. (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no

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gov:65400-65404)

building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such as street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include a city.

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5. (a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

- (1) Public buildings, including schools and related facilities.
- (2) Facilities for the storage, treatment, and distribution of nonagricultural water.
- (3) Facilities for the collection, treatment, reclamation, and disposal of sewage.
- (4) Facilities for the collection and disposal of storm waters and for flood control purposes.
- (5) Facilities for the generation of electricity and the distribution of gas and electricity.
- (6) Transportation and transit facilities, including, but not limited to, streets, roads, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities. However, this section shall not apply to a special district which constructs or maintains parks and recreation facilities if the annual operating budget of the district does not exceed one hundred thousand dollars (\$100,000).

(b) The five-year capital improvement program shall indicate the location, size, time of availability, means of financing, including a schedule for the repayment of bonded indebtedness, and estimates of operation costs for all proposed and related capital improvements. The five-year capital improvement program shall also indicate a schedule for maintenance and rehabilitation and an estimate of useful life of all existing and proposed capital improvements.

(c) The capital improvement program shall be adopted by, and shall be annually reviewed and revised by, resolution of the governing body of the district or local agency. Annual revisions shall include an extension of the program for an additional year to update the five-year program. At least 60 days prior to its adoption or annual revision, as the case may be, the capital improvement program shall be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with the applicable general plan, any applicable specific plans, and all elements and parts of the plan. Failure of the planning agency to report its findings within 40 days after receipt of a capital improvement program or revision of the program shall be conclusively deemed to constitute a finding that the capital improvement program is consistent with the general plan.

A district or local agency shall not carry out its capital improvement program or any part of the program if the planning agency finds that the capital improvement program or a part of the capital improvement program is not consistent with the applicable general plan, any specific plans, and all elements and parts of the plan. A district or local agency may overrule the finding and carry out its capital improvement program.

(d) Before adopting its capital improvement program, or annual revisions of the program, the governing body of each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement shall hold at least one public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 65090. In addition, mailed notice

(gov:65400-65404)

... be given to any city or county which may be significantly
... ed by the capital improvement program.

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65404. (a) On or before January 1, 2005, the Governor shall develop processes to do all of the following:

- (1) Resolve conflicting requirements of two or more state agencies for a local plan, permit, or development project.
- (2) Resolve conflicts between state functional plans.
- (3) Resolve conflicts between state infrastructure projects.
- (4) Provide, to the extent permitted under federal law, for the availability of mediation between a branch of the United States Armed Forces, a local agency, and a project applicant, in circumstances where a conflict arises between a proposed land use within special use airspace beneath low-level flight paths, or within 1,000 feet of a military installation.

(b) The process may be requested by a local agency, project applicant, or one or more state agencies. The mediation process identified in paragraph (4) of subdivision (a) may also be requested by a branch of the United States Armed Forces.



PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

Robert A. Lewis
Director

Att 33

2222 "M" Street
Merced, CA 95340
(209) 385-7654
(209) 726-1710 Fax
www.co.merced.ca.us

Equal Opportunity Employer

March 31, 2006

Mr. Paul Creighton, Director of Public Works
City of Livingston
P.O. Box 308
Livingston, CA 95334

Dear Mr. Creighton,

Terrence Grindall from Ranchwood Homes contacted me to inquire about Merced County granting approval for the City of Livingston to inspect and test the 42 inch sewer line. As you know, Merced County does not provide utility services for water and sewer within its jurisdiction and does not provide staff to inspect such utility lines of this nature and magnitude. Ranchwood Homes has requested relief from the Stop Work Order that was issued from Merced County. Please be advised that Merced County has not approved this project based on several stated issues, furthermore, site inspection of the construction activity within the City Limits is the responsibility of the City of Livingston and does not violate the Stop Work Order. Safety of the general public is most important here. Inspections and testing should continue to ensure every effort to protect the general public on what has been constructed to this point within the City's jurisdiction. However, any additional construction or inspection of the 42 inch sewer line outside of the City limits is a violation of the Stop Work Order in Merced County.

Should you have any questions, please feel free to call me at 385-7654, ex 4400. I will be happy to assist you.

Sincerely,

Robert A. (Bobby) Lewis
Development Services Director

cc: Terrence Grindall from Ranchwood Homes
Dee Tatum
Board of Supervisors
County Counsel
Livingston City Manager
Livingston City Attorney
Livingston City Clerk
City of Livingston Planning Director

X:\CORRESP\PL25\IP Creighton 03312006.doc

Att. 34
10/3

From: "Bryant Owens" <recall@mercednet.com>
To: <jlevan@co.merced.ca.us>, <Bfriesen@livingstoncity.com>, <donna@livingstoncity.com>, <dbarne@livingstoncity.com>, <vlewis@livingstoncity.com>, <dist1@co.merced.ca.us>, <dist2@co.merced.ca.us>, <dist3@co.merced.ca.us>, <dist4@co.merced.ca.us>, <dist5@co.merced.ca.us>, <ceo@data.co.merced.ca.us>, <rlewis@co.merced.ca.us>
Date: 2/21/2006 6:52:37 PM
Subject: Livingston sewer pipe project- Hostetler

From:

Lydia Miller
 President San Joaquin Raptor/Wildlife Rescue Center
 P.O. Box 778
 Merced CA 95341
 raptorctr@bigvalley.net
 (209) 723-9283, phone & fax

Steve Burke
 Protect Our Water
 3105 Yorkshire Lane
 Modesto CA 95350
 Sburke5@sbcglobal.net
 (209) 523-1391 phone & fax

Bryant Owens
 Planada Association, Planada Community Development Corporation
 2683 S. Plainsburg Road
 Merced CA 95340-9550
 recall@mercednet.com
 (209) 769-0832

To:

Merced County Board of Supervisors

Dee Tatum
 Chief Administrative Officer ceo@data.co.merced.ca.us

Robert Lewis
 Director of Planning and Economic Development rlewis@co.merced.ca.us

Ruben Castillo
 County Counsel
 c/o Merced Co. Board of Supervisors dist1@co.merced.ca.us etc.
 Merced County
 2222 M St.
 Merced CA 95340

Re: The Ranchwood pipeline from the Livingston Wastewater Treatment Plant into land under Merced

Att. 34
2 of 3

County jurisdiction

Sent via email

Date: Feb. 21, 2006

Dear Sirs and Mesdames:

At 5:30 p.m., Feb. 21, Ranchwood was still working on the pipeline from the Livingston Wastewater Treatment Plant that goes south from Vinewood Road beyond Magnolia Road, apparently without any county permits or environmental review. Both the County and Livingston were notified of complaints on Feb. 6. There is no evidence of any code enforcement.

Is the County unable to enforce the numerous ordinances, policies and laws that this illegal project violates, or it is unwilling? We sincerely hope that this project is not what it looks, walks and quacks like: collusion between the County, Livingston, developers and landowners to circumvent environmental regulatory compliance.

We request a meeting with County Chief Administrative Officer Dee Tatum and department heads on this project. We understand all too well that this is the way Ranchwood does business.

We request that the County inspect the project, stop the project and/or fine the developer for proceeding with illegal construction. This is not a mere 42-inch "dry, private" pipeline trench. As you can see by the attached photos (sent under separate cover) we took Feb. 20, the trench for this pipe, which Mr. Lewis was 42 inches, the impacts are broad, to both the environment and to the public. This project crosses several paved county roads; one unpaved county road and an MID canal. There is inadequate posting for public safety as our pictures show; there is wear and tear on the county roads from heavy equipment; and the developers are storing building materials and spoils on the shoulders of county roads.

We estimate that the mounds of dirt on either side of this trench are between 10-15 feet high. Having found numerous paint balls at the foot of these mounds, it's clear that the public is using these mounds for recreation. Given the instability of this loose, sandy dirt, this is an attractive nuisance of public health and safety concern. Who is liable in case of injury arising from this attractive nuisance? In the attached photos you will see, an ATV driven by teenager, carrying an adult with a young child in his arms.

We realize that Ranchwood is working at breakneck speed to finish. This illegal project must have the County in a desperate situation. To stop now would compromise the County and the City of Livingston. However, there are legal consequences for not stopping it. At this point, indemnification would be entirely inappropriate.

The most obvious effect from the project from a field inspection, is the cumulative impacts from residential development tying into this main sewer line from Joseph Gallo land adjoining the WWTP to Magnolia Road. This requires full review under the California Environmental Quality Act before - not after - construction of the sewer main.

There is an uncalculated amount of agricultural land being -- and to be -- converted to real estate development, enabled by this sewer line. This requires full CEQA review and review under the Agricultural Preserve policy of the county.

At least six wells and four 1-million gallon water tanks are proposed to provide drinking water for residential development. The impact of these new wells on the groundwater level and farmers' wells has not even been mentioned, let alone considered. Assurances of surface water from Merced Irrigation District are - as everyone knows - useless during a drought.

Ranchwood bought an almond orchard on Robin Road facing Consolidated Farms (see photos).

Att.
3 of 3

Ranchwood is removing orchards to create a super shoulder on Magnolia for the movement of heavy equipment and construction-material storage. It is now storing sewer pipe on this ranch, called "Hostetler Ranch, Almond Orchard, L3." The orchard appears to have been called "Merced-Lincoln" before Ranchwood bought it.

The public would also like to know by what arrangement Ranchwood is storing heavy equipment in the Livingston Corporation Yard on Vinewood Road beside the city wastewater treatment plant.

As the County approaches its general plan-update, we urge it, incorporated cities and unincorporated towns with community plans to coordinate the planning process. The update period provides an opportunity for this sensible approach to long-term county planning and it should not be missed. Until the new county General Plan and coordinated general plans of smaller jurisdictions are completed and integrated into a coherent land-use planning policy, we call for a moratorium on any new permits for residential development.

We made a Public Records Request under state Government Code 6250 et seq. in our Feb. 6, 2006 letter for all documents associated with this alleged "private pipeline" project that have been generated up to the time that the agencies should comply with the request. They have not yet complied. We would like to review these records at a time and place to be arranged, prior to any copying taking place. As provided by the Public Records Act, you have ten days to determine whether you have records subject to the Act. We look forward to hearing from you regarding this arrangement. If you have any questions or concerns, please contact us. Thank you for your time and courtesy.

We are attaching (under separate cover) the first set of photos of the project, bounded by Vinewood, Magnolia, and Robin and Washington roads, taken on Feb. 20, 2006. Two more sets of photos will follow. For reference, we are also attaching our letter of Feb. 6, 2006 (under separate cover).

cc:

Brandon Friesen, Mayor/Municipal Officer, City of Livingston Bfriesen@livingstoncity.com

John LeVan, Merced Co. LAFCO jlevan@co.merced.ca.us

Badlandsjournal.com

Interested parties



COUNTY COUNSEL

Ruben Castillo
County Counsel

Att. 35

February 7, 2006

Transmitted by facsimile & U.S. Mail

Ms. Lydia Miller, President
San Joaquin Raptor/Wildlife Rescue Center
P.O. Box 778
Merced, CA 95341

Steve Burke
Protect Our Water (POW)
3105 Yorkshire Lane
Modesto, CA 95350

Bryant Owens
Planada Association and Planada
Community Development Corporation
2683 South Plainsburg Road
Merced, CA 95340-9550

Regarding: Sewer Line Extension to the Ranchwood Homes Development
located in or about the City of Livingston

Gentlepersons:

This letter is sent in response to yours of February 6, 2006. We have carefully considered the information contained in your letter and value your input. At this point, the County is in the process of gathering information regarding the status of the installation of this sewer line and the development project that it serves. We would appreciate your relaying to us any further information you have concerning these matters.

Sincerely,
RUBEN E. CASTILLO
MERCED COUNTY COUNSEL

WALTER WILLIAM WALL,
DEPUTY COUNTY COUNSEL

WWW/jaf

CC: Robert Lewis, Development Services Director

Att. 36
1 of 3

February 9, 2006

Lydia Miller, President
San Joaquin Raptor/Wildlife Rescue Center
PO Box 778
Merced, CA 95341

Steve Burke
Protect Our Water
3105 Yorkshire Lane
Modesto, CA 95350

Bryant Owens
Planada Assoc. and Planada
Community Development Corp.
2683 South Plainsburg Road
Merced, CA 95340

RE: Your February 6, 2006 letter

Dear Sirs and Madam,

This letter has been prepared in response to the allegations contained in your letter dated February 6, 2006. You state that the City of Livingston has authorized a private developer to install a 42 inch sewer main outside of city limits and our sphere of influence. This information is incorrect. The project in question is a private pipeline within an easement-secured right-of-way, on private property within the County. The City did not authorize its construction. The City of Livingston agreed to be the lead agency for the environmental review of a portion of the pipeline because the pipeline may eventually be dedicated to the City. The City's only role at the jobsite is to inspect the pipeline to determine if it would meet City standards in the event it is dedicated to us. Period.

You claim that the City did not follow the appropriate environmental review protocols. This too is an incorrect assumption. The project was reviewed in detail by the City's consultants. Meetings and discussions were held with City Council before a determination was made that a statutory exemption under Public Resources Code 21080.21 could apply. The resulting Notice of Exemption and a Design, Construct, and Dedicate Agreement were presented by our City Attorney and approved by City Council at their regular meeting of December 21,

Att. 30
2063

2004. You further state that the installation of these municipal services are a prelude to the annexation of Ranchwood land on Westside Blvd. This also is incorrect. This is a private, not municipal, pipeline and item #7 of the Design, Construction, and Dedication Agreement states: Nothing in this Agreement shall be construed to obligate the City to approve any future land use projects proposed by Ranchwood.

Your letter goes on to state that the City's authorization of the project allowed grading and deep ripping to occur on agricultural land in violation of the County's Williamson Act Zoning. Again, the City did not authorize this project located outside of city limits, and no grading or encroachment permit applications were submitted for our review and approval.

You claim that neither a Notice of Exemption for the pipeline nor a Notice of Preparation to expand our Sphere of Influence was filed. According to CEQA guidelines, the City is not required to file a Notice of Exemption. The appeal deadline for this Notice of Exemption was June 20, 2005. The City has recently released our Notice of Preparation of a Master Environmental Impact Report (MEIR) for our General Plan Update and proposed changes to our Sphere of Influence. The comments deadline for this MEIR Notice of Preparation was February 2, 2006.

You have made allegations that the City Council violated California Government Code 65402 which requires mandatory referral to LAFCo and Merced County Planning. There was no submitted project application to refer to these agencies. Our consultants contacted both agencies concerning the CEQA exemption. In discussions with County Planning staff, it was suggested that the City be the lead agency but that the County would require the applicant to apply to them for any encroachment permits necessary to disturb County-maintained roadways. County staff indicated that LAFCo would not serve as the lead agency because the project is a "dry pipe" that will not extend sewer services. From a City staff position, utilizing the City as lead agency was preferable in that we could inspect the pipeline for compliance with City standards and codes before possible dedication.

You claim there is no evidence of a tax and revenue sharing agreement between the City and County. There is nothing for the two agencies to agree on. These agreements happen during the annexation process, which would be premature at this point in time. Should annexation happen, the public hearing process will be followed.

Your letter questions the employment status of a Donna McKinney. Ms. Donna M. Kenney (correct spelling); our Community Development Director, has been employed by the City of Livingston since April 11, 2005. She is not acting Director of Planning and has never worked for our consultants, PMC. She was hired four months AFTER the City and Ranchwood signed the Design, Construct, and Dedicate Agreement for the pipeline. To imply that she has been collaborating with Ranchwood Homes is ludicrous and slanderous.

Your allegation that our City Council has violated the Subdivision Map Act is baseless. The Subdivision Map Act applies to parcel maps and subdivision maps. No subdivision of land has been proposed or considered by the City or the County in connection with this pipeline.

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3 of 3

Your letter further states that Ranchwood has requested rezoning prematurely. The City requires that rezoning and General Plan amendment applications be filed and approved concurrently with annexation applications. Although the City received and reviewed a concept plan from Ranchwood for land use assumptions for its General Plan update, there are no active applications in process for the 300 acres at Westside Blvd.

You question whether or not the City will be able to provide services to areas proposed to come into our Sphere of Influence. The City is currently updating its five Master Plans: ~~Water, Wastewater~~, Stormwater, Parks, and Roadways. These Master Plans will tell us and ~~LAFCo~~ whether or not we can provide those services. No Will Serve letters have been issued to Ranchwood.

Finally, Mr. Owens was quoted in the Merced Sun-Star newspaper on February 8, 2006 as stating "There's got to be some kind of money changing hands" between the City and Ranchwood. This is an absolutely irresponsible and untrue comment aimed at damaging our community and we demand an apology. Your documented pursuit and vendetta against Ranchwood Homes has placed our City in the middle of mud slinging and we will not stand for it. Most of our department heads have been with the City less than 2 years. This new staff has worked long and hard to earn the trust of our citizenry with meetings and workshops and you have managed to push us back to square one with one thoughtless and inflammatory comment. Had you the dignity to come into our City and ask us for this information directly, we would have gladly met with you and provided you with the answers you seek. Instead, you have managed to tarnish the reputations of all the environmental groups with which you claim association.

Sincerely,

Brandon Friesen
Mayor, City of Livingston

cc: Robert Lewis, Director of Planning and Economic Development, Merced County
John LeVan, Local Agency Formation Commission, Merced County
Merced County Board of Supervisors
Livingston City Council
Livingston Planning Commission
Merced Sun-Star
Livingston Chronicle
Channel 30 News



City of Livingston

1416 C Street
Livingston, CA 95334

Att. 37
1 of 5

January 16, 2008

Merced County Grand Jury
P.O. Box 2034
Merced, California 95344-2034

Re: City of Livingston Response to Grand Jury Report Complaint 06-07-15: City of Livingston Sewer Trunk Line.

Dear Members of the Grand Jury:

The City of Livingston has reviewed the findings and recommendations of the 2006-2007 Merced County Grand Jury Final Report regarding Complaint 06-07-15: City of Livingston Sewer Trunk Line. It should be noted that most City staff, including the previous City Manager, City Attorney and contract planners, involved in the early discussions of the project are no longer with the City of Livingston. Therefore, some details of what took place have been difficult to determine and hence our delay in responding to the Report. After careful consideration of the report and Livingston's review of the facts, the City responds to the Grand Jury's findings and recommendations as follows:

Finding 1: The City of Livingston, faced with a rapidly growing population and a need for expanding its sewer system, accepted a proposal from Ranchwood Homes to design and construct a sewer trunk line extension that would clearly serve the financial interest of the developer, but would also serve the long-term interest of the City.

City Response: The City agrees with this finding. Ranchwood Homes Corporation approached the City of Livingston and Merced County regarding the construction of one mile of sewer line west of the City of Livingston in unincorporated Merced County. The City and Ranchwood Homes Corporation entered into an agreement to do so.

Finding 2: The City of Livingston violated the California Environmental Quality Act ("CEQA") by accepting a dubious interpretation of Public Resource Code Section 21080.21 as provided by Ranchwood Homes.

City Response: The City disagrees with this finding. The City of Livingston believes it complied with all environmental laws. As noted above, Ranchwood Homes Corporation approached the City of Livingston and Merced County regarding the construction of less than one mile of sewer line west of the City of Livingston in unincorporated Merced County. The City Council determined that the project was statutorily exempt under CEQA because the project length was less than one mile. The City Attorney at the time, and the City's prior contract planning consultant, determined that reliance on the statutory exemption in California Public Resource Code Section 21080.21 was legal and appropriate. Notably, by exempting new pipeline projects that are less than one mile from the requirements of CEQA, the California Legislature has concluded that such projects may proceed regardless of any potential

CITY OF LIVINGSTON

1416 "C" Street LIVINGSTON, CALIFORNIA 95334 PHONE: (209)394-8041 FAX: (209) 394-4190

Att. 37
2 of 3

environmental impact. Merced County was consulted and raised no objections to the City's determination that the pipeline was statutorily exempt under CEQA.

Finding 3: The City of Livingston failed to consider the implications to future development by installing the sewer trunk line.

City Response: The City, Merced County and Ranchwood Homes Corporation were aware that the proposed sewer line extension is outside the City limits and City Sphere of Influence. Because no specific plans for any future development had been formulated at the time that the City and Ranchwood Homes entered into that agreement, there was no information available that would allow for meaningful environmental review of any potential future uses of the pipeline at that time. Any future development that would subsequently be proposed would undergo CEQA review at that time. Thus, the City appropriately evaluated the project that was the proposed; i.e., a pipeline that was less than one mile in length and to be constructed within easements obtained by Ranchwood Homes Corporation. Further, now that the pipeline's surroundings are proposed to be in the City's Sphere of Influence, the City is currently updating its General Plan and has already conducted extensive public hearings on the updated plan and how the sewer trunk line fits in future plans. The City will continue to hold public hearings on the Draft General Plan and Draft EIR. The City's planning consultants are aware of the pipeline's location. The pipeline will be in the new City Sphere of Influence if the proposed expanded Sphere of Influence is approved by the Merced County Local Agency Formation Commission (LAFCO).

Finding 4: The City of Livingston approved the installation of 5115 ft of sewer line to circumvent CEQA, even though the entire sewer line extension project was nearly 6 miles.

City Response: The City disagrees with this finding. The City gave permission to construct less than one mile of sewer line. Ranchwood Homes Corporation, despite being warned by the City not to do any construction beyond the one mile mark, proceeded to construct an additional 1,400 feet of pipeline without the City of Livingston's or Merced County's permission.

Finding 5: The City of Livingston approved the construction of the sewer line on land that, according to the City General Plan of 1999, was neither within the City limits nor with the City's Sphere of Influence.

City Response: The City agrees with this finding. The City, Merced County and Ranchwood Homes Corporation were aware that the proposed sewer line extension is outside the City limits and City Sphere of Influence. Following discussions between the City, Merced County and Ranchwood Homes Corporation, the City concurred that it would be the lead agency for CEQA purposes for the pipeline installation because the pipeline could ultimately connect to the City's infrastructure and because no other development had been proposed at that time. The City is currently updating its General Plan and has already conducted extensive public hearings on the updated plan and how the sewer trunk line fits in future plans. The City will continue to hold public hearings on the Draft General Plan and Draft Environmental Impact Report (EIR). The City's planning consultants are aware of the pipeline's location. The pipeline will be in the new City Sphere of Influence if the proposed expanded Sphere of Influence is approved by the Merced County Local Agency Formation Commission (LAFCO).

Att. 37
3085

Finding 6: The minutes from the City Council meetings are so brief that finding information is extremely difficult.

City Response: The City disagrees with this finding. All City Council meetings are digitally recorded so that there is no question about what has taken place in the meeting. In addition, City record keeping has improved with the hiring of new staff.

Finding 7: The management of Ranchwood Homes Corporation failed to adhere to the approved length of the pipeline and exceeded the approved length by approximately 1,400 linear feet.

City Response: The City agrees with this finding. Livingston gave permission to construct only one mile of sewer line. Ranchwood Homes Corporation, despite being warned by the City not to do any construction beyond the one mile mark, proceeded to construct an additional 1,400 feet of pipeline without the City of Livingston's or Merced County's permission.

Finding 8: The City of Livingston failed to properly coordinate its activities on County land with County officials.

City Response: The City disagrees with this finding. Merced County was aware of the pipeline construction, approved of its location and issued encroachment permits across Merced County-owned rights-of-way. Throughout the process, there was extensive discussions and coordination between Merced County officials and Livingston officials. After extensive discussions with Merced County officials, the County gave permission to the City to oversee the sewer line installation and construction. County officials were also aware and concurred that lead agency status for California Environmental Quality Act (CEQA) should be with Livingston since any future discharge from the pipeline would be at the Livingston Wastewater Treatment Plant.

Finding 9: County planning officials, when asked by the City planners about being the lead agency for the project, should have intervened when it was clear that the sewer line was on land under County jurisdiction.

City Response: The City disagrees with this finding. After extensive discussions with Merced County officials, the County gave permission to the City to oversee the sewer line installation and construction. County officials were also aware and concurred that lead agency status for California Environmental Quality Act (CEQA) should be with Livingston since any future discharge from the pipeline would be at the Livingston Wastewater Treatment Plant.

Finding 10: County Public Works Department should have realized that when encroachment permits were issued to cross County roads, that a private contractor was working on a major project requiring environmental review.

City Response: The City disagrees with this finding. Merced County was aware of the installation and construction of the sewer line. After extensive discussions with Merced County officials, the County gave permission to the City to oversee the sewer line installation and construction. County officials were also aware and concurred that lead agency status for California Environmental Quality Act (CEQA) should be with Livingston since any future discharge from the pipeline would be at the Livingston Wastewater Treatment Plant.

Finding 11: The Livingston City Council placed two of its members on a committee working with developers and City staff on the implementation of the sewer trunk line project.

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City Response: The City agrees with this finding. In February 2006, the City changed its development review process from a 21 member committee, which included 2 Council Members to a 4 member Development Management Committee, which includes the City Manager, Public Works Director, City Engineer, and Community Development Director. All development is now processed through the Development Management Committee, which only includes City staff.

Finding 12: The Grand Jury also finds that even though the City and the permit process was poorly followed and violated CEQA law, no attempt should be made to force the removal of the currently installed sewer line.

City Response: The City disagrees in part and agrees in part with this finding. The City disagrees that the City violated CEQA law. The City of Livingston believes it complied with all environmental laws. The City Council determined that the project was statutorily exempt under CEQA because the project length was less than one mile. The City Attorney at the time, and the City's prior contract planning consultants, determined that reliance on the statutory exemption in California Public Resource Code section 21080.21 was legal and appropriate. Merced County was consulted and raised no objections to the City's determination that the pipeline was statutorily exempt under CEQA. The City agrees that no attempt should be made to force the removal of the currently installed sewer line.

Recommendation 1: The City of Livingston must improve the records of Council meetings.

City Response: The City has already implemented this recommendation. All City Council meetings are being digitally recorded so that there is no question about what has taken place in the meeting. In addition, City record keeping has improved with the hiring of new staff.

Recommendation 2: The City of Livingston must update the City's General Plan, conduct extensive public hearings on the updated plan and how the sewer trunk line fits into future plans.

City Response: The City is in the process of implementing this recommendation. The City is currently updating its General Plan and has already conducted extensive public hearings on the updated plan and how the sewer trunk line fits in future plans. The City will continue to hold public hearings on the Draft General Plan and Draft Environmental Impact Report (EIR). The City's planning consultants are aware of the pipeline's location. The pipeline will be in the new City Sphere of Influence if the proposed expanded Sphere of Influence is approved by the Merced County Local Agency Formation Commission (LAFCO).

Recommendation 3: The City must ensure that all environmental laws are complied with and permit procedures are adhered to.

City Response: The City already implements this recommendation on an on-going basis. City staff works closely with the City Attorney's Office to discuss a project's compliance with environmental laws and closely monitors permits to ensure compliance.

Recommendation 4: City and County officials must coordinate their efforts to ensure that projects that cross City/County boundaries are fully coordinated.

City Response: The City already implements this recommendation on an on-going basis. The City continues to work closely with the County in the event a project crosses jurisdictions to determine who will be lead agency for CEQA and to discuss potential impacts to each jurisdiction.

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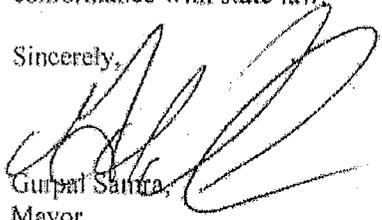
Recommendation 5: The City Council should avoid placing its members on committees that work with City staff and developers, since that puts unnecessary pressure on staff and makes the Council Members advocates for projects that they have to pass judgment on in the future.

City Response: The City has already implemented this recommendation. In February 2006, the City changed its development review process from a 21 member committee, which included 2 Council Members to a 4 member Development Management Committee, which includes the City Manager, Public Works Director, City Engineer, and Community Development Director. All development is now processed through the Development Management Committee, which only includes City Staff.

In conclusion, the City feels that it acted appropriately and complied with all laws regarding the installation of the sewer pipeline. Please note that the pipeline has never been accepted by the City of Livingston. The status of the pipeline is as follows: (1) it is a private pipeline; (2) installed by a private developer on private property; and (3) is located in unincorporated Merced County. Jurisdiction of the pipeline rests with Merced County and not the City of Livingston. The sewer pipeline is not being used to transport any wastewater to the City of Livingston at this time.

The Livingston City Council is appreciative of the Merced County Grand Jury's dedicated service to Merced County. The City shares the Grand Jury's commitment to effective governance in conformance with state law.

Sincerely,



Gurpal Samra,
Mayor

according to engineer Report current facility 38
23,700 according to CA Dept of Finance estimated
population for Livingston
is between 13,000 - 14,000

The City needs to expand its wastewater treatment plant to accommodate new growth. The total estimated cost of the domestic wastewater treatment plant expansion is \$28,294,069. The City anticipates that it will complete 25 percent of the construction during FY2008 and has budgeted \$6,259,750 in developer reimbursements or bond proceeds to cover the construction cost.

In addition to the expansion of the City's domestic wastewater treatment plant capacity, the City must begin construction on a new industrial wastewater treatment plant in order to meet the time lines established by the Regional Water Quality Control Board in its Cease and Desist Order of October 26, 2006. Engineering has been completed and final environmental approvals are anticipated in August. The total estimated cost of the industrial wastewater treatment plant is \$24,029,729 and will be completed over two fiscal years. The City anticipates that it will complete 50 percent of the construction during FY2008 and has budgeted \$10,073,150 in Foster Farms reimbursements to cover the construction cost.

Sanitation Enterprise Fund. The Sanitation Enterprise Fund will continue to loose money during FY2008 unless rates are adjusted. Projected operating losses to this fund are \$234,668 during the fiscal year. The total negative fund balance at the end of FY2008 will grow to \$473,653 if nothing is done about the current rates.

Livingston Redevelopment Agency.

Activity in the Community Redevelopment Fund of the Livingston Redevelopment Agency includes \$486,200 in revenues and \$369,850 in expenditures. The Agency will spend \$125,000 for a downtown specific plan and \$25,000 for a State-required Five-Year Redevelopment Agency Implementation Plan. The Low and Moderate Income Housing Fund income will be \$51,275, increasing the amount available for low- and moderate-income projects in the Fund Balance from \$398,985 to \$473,655.

Planning for the Future

The City is being planned and managed through Livingston's Strategic Planning, Implementation and Evaluation Decision-Making Process. This process outlined in the next section of this budget document provides a framework for strategic planning, implementing and evaluating City operations, organizational structure, budgets, programs, service levels and capital projects. Successful businesses achieved their success by constantly planning, implementing and evaluating their operations. Livingston is a multi-million dollar corporation and must implement modern corporate planning, execution and evaluation principles into its operations if it is to be a successful City and serve the people effectively and efficiently.

The Mayor and City Council recognize the importance of using modern principals of corporate governance and the important role that proper strategic planning plays in setting the future course of our community. With the assistance of the Planning Commission, planning consultants and the help of a number of public-spirited citizens, the City Council has embarked on the development of a new community vision and a new General Plan. The General Plan if properly done will become the primary strategic planning document to guide the development of the community over the next 20 years. It will be what the private sector would call the "business plan" or "strategic plan" for the community, and will incorporate Livingston's community values and vision for the future.

Livingston Proposed Budget 2007-2008

4.0 ENVIRONMENTAL ANALYSIS

Highway Commercial: Under the proposed project, 100 acres would be designated as Highway Commercial. Since the City of Livingston 1999 General Plan does not identify allowable floor-to-area ratios (FARs) for Highway Commercial uses, the Merced County 2011 General Plan is referenced to estimate the likely amount of commercial development that could occur on the Highway Commercial lands. The Merced County 2011 General Plan identifies Highway Interchange Center under General Commercial designation, which is similar to Livingston's Highway Commercial designation. The Merced General Plan identified a 0.5 FAR for this land use. A 0.5 FAR would allow a maximum of 2,178,000 sq. ft. of Highway Commercial development within the project area (100 acres x 43,560 square feet per acre = 4,356,000 of commercial area x 0.5 = 2,178,000 square feet of potential commercial buildings).

Since no specific development is proposed for the project at this time, assumptions were made as to what the likely commercial types could be constructed in the future on the lands designated for Highway Commercial. It is estimated that approximately 80% of the Highway Commercial area could be built-out as Shopping Center use (with a weekday trip generation rate of 42.94). Additionally, approximately 10% could be Discount Club (41.80), and 10% could be Home Improvement Superstore (29.8).

Using these estimates of percentages of types of commercial development and a FAR of 0.5, the proposed project could result in a daily trip generation rate of approximately 90,413.

Of the 100 acres that are proposed to be converted to Highway Commercial by the proposed project, approximately 50 acres are currently designated as Industrial Reserve, and 50 acres are designated as General Industrial.

The land currently designated as Industrial Reserve would not generate any traffic under its currently land use designation, as the "Reserve" designation applies to lands that are not anticipated to develop within the 2020 General Plan time frame, and which may not be developed without first amending the General Plan, demonstrating a need for development in these areas, and demonstrating that urban services can be provided without adversely affecting the development feasibility of lands currently planned and zoned for urban uses. As such, if the portion of the project area currently designated as Industrial Reserve were to remain under its currently designation, no development would occur and no traffic would be associated with this use.

The land currently designated as General Industrial would result in an average daily trip generation of approximately 337 (50 acres x 6.75 trips per acre).

Combined, the conversion of 50 acres of Industrial Reserve and 50 acres of General Industrial land uses to 100 acres of Highway Commercial would result in a net increase of approximately 90,075 trips per day as compared to development of this portion of the project area under currently-designated industrial uses. This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **significant impact** to traffic as a result of the project.

Limited Industrial: Under the proposed project, approximately 44.7 acres of the project area would be designated as Limited Industrial. This area is currently designated as Industrial Reserve under the 1999 General Plan. As described above, land currently designated as Industrial Reserve would not generate any traffic under its current land use designation,

Under the proposed project, 44.7 acres of Limited Industrial could allow a maximum of 1,168,279 square feet of Limited Industrial footage within area (44.7 acres x 43,560 square feet per acre =

1,947,132 of commercial area x FAR 0.6 = 1,168,279 square feet of potential commercial buildings). With average trip generation rate for Limited Industrial use of 11.42 per 1,000 square feet, designation of 44.7 acres of Limited Industrial use could allow approximately 13,341.75 trips per day (1,168,279 square feet / 1,000 = 1,168 units x 11.42 = 13,341.75). This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **significant impact** to traffic as a result of the project.

General Industrial: Under the proposed project, approximately 160 acres of the project area would be designated as General Industrial. Of these 160 acres, approximately 124.6 acres are currently designated as General Industrial. The remaining 35.4 acres would be converted from Limited Industrial to General Industrial.

Build-out of this portion of the project area under the currently-designated land uses would result in approximately 11,344.65 trips per day (124.6 acres of General Industrial x trip generation rate of 6.25 trips per day per acre = 778.75 trips per day and 35.4 acres of Limited Industrial = 1,542,024 x FAR 0.6 = 925,214 square feet / 1,000 = 925.21 units x 11.42 = 10,565.90 trips per day).

Build-out of this portion of the project area under the proposed land use designations would result in approximately 1,000 trips per day (General Industrial trips per day = 778.75 and 35.4 acres of General Industrial x trip generation rate of 6.25 trips per day per acre = 221.25 trips per day). This would not represent a substantially greater impact from traffic than was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **less than significant impact** to traffic as a result of the project.

In summary, under the current land use designations and without the proposed project, there is potential for future development of the project site to result in approximately 16,717.81 trips per day. Under the proposed project, there is potential for future development of the project site to result in approximately 106,527 trips per day. As a result of the project approximately 89,809 additional daily trips could occur beyond what could occur without the proposed project. This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **significant impact** to traffic as a result of the project.

PROJECT IMPACTS AND MITIGATION MEASURES

a-b) Less Than Significant With Mitigation Incorporated. The City of Livingston 1999 General Plan Level of Service (LOS) analysis provides a basis for describing existing traffic conditions and for evaluating the significance of project traffic impacts. The project as proposed could result in additional traffic volumes beyond those predicted in the 1999 General Plan, based on the changes to base land use designations within the territory to be annexed.

Within the city network, roadways and intersections can be designed accordingly – through widening and controls – to meet the city's level of service standards. Consistent with City policy, all projects must contribute fair share fees to ongoing improvements and /or directly construct facilities to accommodate traffic generation. The primary solution to traffic impacts in the city is the funding for facilities, rather than the ability to design them. Despite the potential increase in traffic volumes that could occur with the Gallo Annexation, the programmatic solutions to traffic volumes - both on a project and cumulative level - remain the same. Buildout of the Gallo Annexation property will also be a long term process, and does not represent an individual "project" where all improvements can be fully identified at this time. All measures as identified in the 1999 General Plan Final EIR are applicable here.

Industrial would be changed. Following is a comparative discussion of the traffic that could result from the proposed project and its associated land use designation changes, as compared to the traffic predicted from development of the project area under the exiting land use designations:

Low-density Residential: Under the proposed project, 30 acres of the project area would be designated as Low-density Residential. The ITE Trip Generation Manual identified an average trip generation rate of 9.57 per dwelling units per day. Under the Low-density Residential designation, the project area could allow up to 225³ dwelling units in the project area. Thus, the proposed project could result in up to approximately 2,153 trips per day from residential use.

Under existing conditions, approximately 12 acres of the proposed Low-density Residential area is currently designated as General Industrial. The average trip generation rate identified for General Industrial is 6.75 trips per day per acre. If these 12 acres of General Industrial were annexed and ultimately developed under the existing land use designation, approximately 81 trips per day could be generated, whereas 12 acres of Low-density residential would result in approximately 861.3 trips per day. Therefore, the proposed project would result in an approximate net increase of 780 trips per day as compared to potential traffic that could be generated under existing General Industrial land use designation.

The remaining 18 acres would be converted from Limited Industrial to Low-Density Residential.

Since the City of Livingston 1999 General Plan does not identify allowable floor-to-area ratios (FARs) for Limited Industrial uses, the Merced County 2011 General Plan is referenced to estimate the likely amount of Limited Industrial development that could occur on these lands. The Merced County 2011 General Plan identifies the Business Park land use, which is similar in nature to Livingston's Limited Industrial designation. The Merced General Plan identified a 0.6 FAR for this land use. A 0.6 FAR would allow a maximum of 470,448 square feet of Limited Industrial footage within this 18 acres (18 acres x 43,560 square feet per acre = 784,080 of commercial area x 0.6 = 478,448 square feet of potential commercial buildings). The average trip generation rate for a Limited Industrial use, (which is a similar definition as Office Park in the Trip Generation Manual,) is 11.42 per 1,000 square feet. If these 18 acres of Limited Industrial were developed under the existing land use designation, approximately 5,372.52 trips per day could result (478,448 square feet / 1,000 = 478.448 units x 11.42 = 5,372.52).

The conversion and build-out of these 18 acres to Low-density Residential use could result in approximately 911 trips per day. Therefore, the proposed project would result in an approximate net decrease of 4,461 trips per day, as compared to potential traffic that could be generated under the existing General Plan land use designation.

Combined, the conversion of 12 acres of General Industrial and 18 acres of Limited Industrial land uses to 30 acres of Low-density Residential would result in a net decrease of 3,300 trips per day as compared to development of this portion of the project area under currently-designated industrial uses. This would not represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **less than significant impact** to traffic as a result of the project.

³ The City of Livingston 1999 General Plan identifies that Low-density Residential land use designation allows for up to 7.5 dwelling units per acre. As such, the designation of 30 acres of land as Low-density Residential could result in up to 225 dwelling units allowed on the project area (30 acres x 7.5 dwelling units per acre = 225 dwelling units).



California Regional Water Quality Control Board Central Valley Region



Peter M. Rooney
Secretary for
Environmental
Protection

Fresno Branch Office
Internet Address: <http://www.swrcb.ca.gov/~rwqcb5/home.html>
3614 East Ashlan Avenue, Fresno, California 93726
Phone (209) 445-5116 • FAX (209) 445-5910

Ed J. Schnabel
Chair

JKK
Att. 40

8 December 1998

Mr. William Eldridge, Interim City Manager
City of Livingston
P.O. Box 308
Livingston, CA 95334

FORMS FOR FILING MONITORING AND REPORTING REPORTS, CITY OF LIVINGSTON DOMESTIC WASTEWATER TREATMENT FACILITY, MERCED COUNTY

The City of Livingston is not following Monitoring and Reporting Program (MRP) No. 89-066 nor is it meeting the requirements of the Standard Provisions and Reporting Requirements, which are incorporated into Waste Discharge Requirements (WDRs) Order No. 89-066 by reference. Specifically, the City's monitoring reports do not contain a general statement of compliance with WDRs, do not contain all data specified in the MRP, are not in a format allowing the City or this staff to easily discern whether the City is in compliance with WDRs, and do not include a statement of the actions the City has undertaken or proposed to bring the discharge into full compliance with the requirements. These deficiencies violate General Reporting Requirements B.1 and Reporting Requirements for Monitoring D.2 and D.4, respectively.

The City is also responsible for submitting information on an annual basis as required by WDRs and Standard Provisions. We have enclosed these annual requirements on a separate sheet. The MRP requires that the City submit most of this information by 30 January of each year.

The enclosed cover letter and monitoring report data sheets present a format for clear reporting of daily, weekly, monthly, quarterly and yearly information. We are hereby requesting that you direct your staff to use these forms for submitting data to this Board.

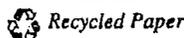
If you have any questions regarding this matter, please call Jo Anne Kipps at (209) 445-5145.

BERT E. VAN VORIS
Supervising Engineer
RCE No. 24105

jlk/jlk:c:\liv-mrp2.doc

cc: Nelson Gomez, Livingston City Attorney

California Environmental Protection Agency





California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, PE, Chair

Att. 41



Arnold Schwarzenegger
Governor

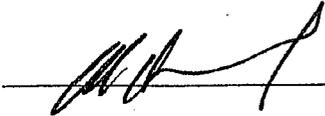
Linda S. Adams
Secretary for
Environmental
Protection

Fresno Branch Office
1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

TO: Doug Patteson
Senior Engineer

FROM: Jeff Hannel
Engineering Geologist

DATE: 1 May 2009

SIGNATURE: 

SUBJECT: **REPORT REVIEW, MONITORING WELL INSTALLATION REPORT, CITY OF LIVINGSTON DOMESTIC TREATMENT FACILITY**

I reviewed the subject report prepared by Condor Earth Technologies, Inc, and dated 28 October 2008. The report was requested in our letter of 6 June 2008 and documents the installation of two groundwater monitoring wells, MW-6 and MW-7.

MW-6 was installed on the south end of Ponds 7 and 8 to a depth of 37 feet and is screened from 17 to 37 feet. MW-7 was installed northwest of existing MW-4 to a depth of 34 feet and is screened from 14 to 34 feet. The wells are constructed of two-inch diameter PVC. The depth to water was 28.73 feet in MW-6 and was 21.68 feet in MW-7 on 6 October 2008.

MW-6 is intended to be a downgradient well and MW-7 an upgradient well. No groundwater gradient data was included in the report. Results of analyses of groundwater samples collected from the two wells were included in the report. However, analyses of the other groundwater monitoring wells at the subject site were not.

The report also documents the attempted rehabilitation of MW-1 and MW-4. MW-1 is at the southeast corner of Pond 1 and MW-4 is near the northwest corner of Pond 3. There is about 13 feet of sediment in MW-1 and about 4 feet of sediment in MW-4. Attempts to rehabilitate each of the wells were unsuccessful. The upper portion of each of the well casings are visibly distorted or bent.

An evaluation of the efficacy of the groundwater monitoring network, and the need for replacing MW-1 and MW-4, needs to be performed. However, the subject report does not include data for the other wells at the site. Monitoring and Reporting Program No. 89-066 requires analyses of groundwater samples on a quarterly basis. An evaluation of the groundwater monitoring network should be performed following receipt of second quarter 2009 groundwater monitoring results.