

**CITY COUNCIL A G E N D A
TUESDAY, JANUARY 17, 2023**

7:00 P.M. Regular Session

33 Church Street, Sutter Creek CA 95685

The Agenda can be found on the City's Website: www.cityofsuttercreek.org

**THE CITY OF SUTTER CREEK CITY COUNCIL MEETING WILL BE AVAILABLE VIA ZOOM AND
IN PERSON.**

Join Zoom Meeting

<https://us02web.zoom.us/j/9568520224>

or

Dial by phone:

301-715-8592

Meeting ID: 956 852 0224

Public comment will be accepted by email at info@cityofsuttercreek.org. All emails must be received prior to the start of the meeting.

Unless stated otherwise on the agenda, every item on the agenda is exempt from review under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Sections 15060(c), 15061(b)(3), 15273, 15378, 15301, 15323 and/or Public Resources Code Section 21065.

1. CLOSED SESSION-None

7:00 P.M.

2. CALL TO ORDER AND ESTABLISH A QUORUM FOR REGULAR MEETING

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. REPORT FROM CLOSED SESSION

5. PUBLIC FORUM

At this time, the public is permitted to address the City Council on items not appearing on the agenda. Comments may not exceed 5 minutes. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda. The City Council may respond to statements made or questions asked or may request Staff to report back at a future meeting on the matter. The exceptions under which the City Council may discuss and/or take action on items not appearing on the agenda are contained in Government Code

§54954.2. *Public comment on any item listed below shall be limited to five minutes, unless additional time is permitted by the Mayor/Council.*

6. PRESENTATIONS

7. INFORMATION/CORRESPONDENCE

- A. Monthly Police Report-*distributed at the meeting.*
- * B. Monthly Public Works Report
- * C. Monthly Building Report
- * D. Treasurer's Reports
- * E. Monthly Administrative Services Report
- * F. Monthly Finance Department Report
- * G. Monthly Engineer's Report
- * H. Monthly Planning Report

8. MAYOR AND COUNCIL MEMBER REPORTS

This section is to provide Council members an opportunity to present updates on their activities and to request items be placed on future agendas.

9. CONSENT AGENDA

Items listed on the consent agenda are considered routine and may be enacted in one motion. Any item may be removed for discussion at the request of Council or the Public.

- * A. City Council Minutes of October 17, 2022
Recommendation: By motion approve minutes as presented.
- * B. Warrants
Recommendation: By motion approve warrants as presented.
- * C. Resolution 22-23-* Authorizing remote teleconference meetings of the legislative bodies of the City of Sutter Creek.
Recommendation: Adopt Resolution 22-23- as presented.*
- * D. Mayor's 2023 Committee Appointments
- * E. Resolution 22-23-* accepting the work on the "37 Badger Street Storm Drain Repair Project" and authorizing the City Manager to execute the Notice of Completion and cause it to be filed with the Amador County Recorder.
Recommendation: Adopt Resolution 22-23- as presented.*
- * F. Regional Transportation Impact Fee Report
Recommendation: Adopt Resolution 22-23- Approving the Fiscal Year 2021/22 Amador County Regional Traffic Mitigation Fee Program Annual Report.*

10. ORDINANCES & PUBLIC HEARINGS

- * A. Introduce and Waive First Reading of Ordinance No. ____Amending Sections 15.04.10 and 15.04.030 of the Sutter Creek Municipal Code adopting and amending the 2022 California Building Standards Code and other Uniform Codes.

11. ADMINISTRATIVE AGENDA

- * A. Establishment of an Ad Hoc Committee to pursue an Interim City Manager appointment due to the resignation of City Manager Amy Gedney.
Recommendation: Appoint Ad Hoc Committee to pursue an Interim City Manager.
- * B. Update regarding the Wastewater Treatment Plant Plan of Study.
Recommendation: For information and staff direction.

12. FUTURE AGENDA ITEMS

This section provides an opportunity for Council members to request items to be added to the agenda in the future with a majority Council vote.

13. CITY ATTORNEY'S REPORT

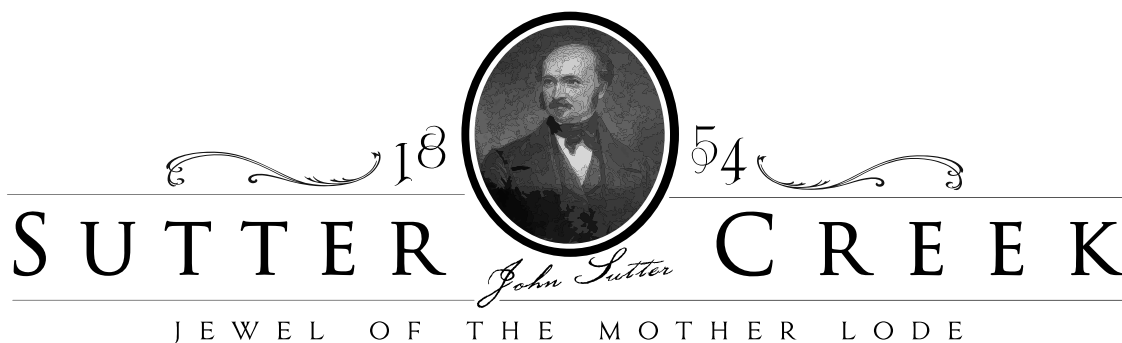
This section provides an opportunity for the City Attorney to report on any activities or upcoming legislation of importance to the City. No action is expected to be taken by the Council

14. CITY MANAGER'S REPORT

This section is an opportunity to provide Council members with a brief status update on staff activities. No action is expected to be taken by the Council.

15. ADJOURNMENT

The next regularly scheduled meeting is MONDAY, FEBRUARY 6TH at 7:00 P.M



STAFF REPORT

TO: AMY GEDNEY, CITY MANAGER
MEETING DATE: JANUARY 17, 2023
FROM: GEORGE ALLEN PUBLIC WORKS FOREMAN
SUBJECT: PUBLIC WORKS DEPARTMENT REPORT FOR NOVEMBER 2022

Objective: The objective of this Staff Report is to provide a monthly status update regarding activities within the Public Works Department.

Wastewater Treatment Plant Status:

The WWTP did meet all the effluent quality discharge requirements for the month of November.

Table 1. Monthly Status of required reporting constituents.

Constituent	Monthly Results	Monthly Limits
Monthly Influent Flow	9.293 MG. 0.300 mgd daily avg	.48mgd ¹
Effluent BOD, mg/L	5 mg/L	30 mg/l
Effluent Settleable Matter, mL/L	< 0.1 ml/L	0.5 ml/l
Effluent TSS, mg/L	11 mg/L	30 mg/l
Total Coliform, MPN	< 1.8 mpn	23 mpn
Sludge Wasted	16,470 gallons	
Rain	3.22 in.	3.84 in. YTD –26.42” Last YTD

¹ The .48 mgd is daily dry weather flow (May through October).

Plant Compliance Issues:

- The October 2022 report was electronically submitted to Regional Water Quality Control Board.

Operational Strategy Modifications:

- The rag bin was hauled on November 17, 2022.
- A regular sludge wasting schedule was kept with a total of 16k gallons dewatered.

Collection System Status:

SSMP Activity

Calls for service

- 11/1/2022, 29 Oro Monte Way, City Main line issue.
- 11/29/2022, 194 Lorinda Dr. private lateral issue.

Sewer System Cleaning and Maintenance.

- For November, there was 3,626 feet of sewer line cleaned. Total amount cleaned for 2022 is 28,473 feet, exceeding the 25,00 feet required in the SSMP.

Service Requests

Responded to fifteen Service Requests in November.

- Three were for a facility issues;
- Three were for street issues;
- One was for a streetlight issues;
- Three were for storm drain issues;
- Two were for code enforcement;
- Two were for sewer issues;
- One for a Cemetery issue.

Effluent Disposal

- Ongoing irrigation
- at Preston Reservoir.
- Working with Thatcher Chemical on adding Calcium Nitrate to Preston reservoir effluent to curtail the Hydrogen Sulfide smell at Ione Tertiary plant.
- Working with AQUALITY on the Preston Reservoir issues.
- Shut down irrigation Hoskins irrigation.
- Shut down irrigation at Bowers Irrigation site.
- Sending weekly updates to the Regional Board on reservoir levels and volumes.
- Daily flow checks and level readings.

Streets and City Right of Way.

- Repaired street lights on Golden Hills Dr.
- Ongoing repainting red zones in the downtown area.
- Repainting the yellow crosswalks in the school areas.
- Ongoing roadside trash cleanup.
- Ongoing patching of numerous potholes.

Parks and Buildings

- Put up the Main Street Christmas swags.
- Installing a grate covered drain in front of 21 Badger Rd.
- Campbell Construction continued working on Bryson park.
- Ongoing set up and take down for the meeting in the Community Center.
- Ongoing cleanup of Community Center, Auditorium and Grammar School for the rentals.

November 2022 Building Permits Issued

Item 7C

Submitted	Prepared	Permit #	Issue Date	Final (F) or Expire Date	APN	Address	Owner	Contractor	Description	New Const Y/N	SQ FT	Commercial Valuation	Residential Valuation	Commerical Permit Fee	Residential Permit Fee	(WGA) Plan Check	SCFEF (Strong Motion)	SB 1473 Fee	Grand Total
10/18/2022	10/31/2022	2022-NOV-01	11/9/22	5/9/23	040-210-046	284 California Dr.	Reher, Ron & Therese	Prime Home Solutions	Solar				19,985.00		275.02	177.28	2.60	1.00	\$ 455.90
10/11/2022	11/3/2022	2022-NOV-02	11/9/22	5/9/23	040-200-042	229 Sutter Crest West	Bellotti, Joe & Deborah	Petkus Brothers	Other				27,900.00		616.10	398.97	3.63	2.00	\$ 1,020.70
11/7/2022	11/8/2022	2022-NOV-03	11/9/22	F	018-320-035	100 David Dr.	Marler, David	JM Roofing	Re-roof				10,000.00		220.00		1.30	1.00	\$ 222.30
8/18/2022	11/1/2022	2022-NOV-04	11/9/22	5/9/23	018-121-032	153 Badger Rd.	Reid, Laurence	Smallie Development	New ADU		471		15,000.00		346.37	313.13	1.95	1.00	\$ 662.45
11/9/2022	11/9/2022	2022-NOV-05	11/9/22	5/9/23	018-253-019	200 Judy Dr.	Trevaskis, John & Tami	Determined by Owner	Remodel				5,000.00		298.00		0.65	1.00	\$ 299.65
11/8/2022	11/8/2022	2022-NOV-06	11/10/22	5/10/23	018-320-055-059	141-149 Patricia Ln.	Trotter Mansor, Michelle	All Sierra Roof	Re-roof				18,000.00		396.00		2.34	1.00	\$ 399.34
11/7/2022	11/9/2022	2022-NOV-07	11/10/22	5/10/23	018-155-001	53 Main St.	Laughlin/Hotel Sutter	Determined by Owner	Other			10,800.00		237.60		154.44	1.40	1.00	\$ 394.44
11/9/2022	11/9/2022	2022-NOV-08	11/14/22	F	018-266-006	185 Foothill Dr.	Shubaly Family Trust	Determined by Owner	Other				3,950.00		110.00		0.50	1.00	\$ 111.50
10/26/2022	10/26/2022	2022-NOV-09	11/15/22	5/15/23	018-035-007	269 Columbia Way	Wells Fargo BNA	Gilmore Home Services	HVAC				13,900.00		305.80		1.81	1.00	\$ 308.61
11/2/2022	11/14/2022	2022-NOV-10	11/16/22	5/16/23	040-210-055	310 California Dr.	Trudell, Linda	Sunrun	Solar				20,720.00		272.72	187.50	2.69	1.00	\$ 463.91
11/15/2022	11/16/2022	2022-NOV-11	11/22/22	5/22/23	040-210-039	262 California Dr.	Travnikar, Jim	Gilmore Home Services	HVAC				13,100.00		290.50		1.70	1.00	\$ 293.20
11/21/2021	11/22/2022	2022-NOV-12	11/22/22	5/22/23	044-020-076	1 Pinewoods Ln.	Jackson Rancheria Developm	Watson Companies Inc.	Re-roof			344,710.00		7,583.62			96.52	14.00	\$ 7,694.14
11/7/2022	11/22/2022	2022-NOV-13	11/23/22	5/23/23	018-253-026	115 Barbara Ct.	Govette, Terri	North Valley LLC	Re-roof				27,000.00		369.02	177.28	3.51	2.00	\$ 551.81
11/23/2022	11/23/2022	2022-NOV-14	11/28/22	5/28/22	018-281-002	225 Patricia Ln.	Juan Ysalgue	Sierra Pacific Home & C	Solar				39,345.00		369.02	177.28	5.11	2.00	\$ 553.41
11/29/2022	11/29/2022	2022-NOV-15	11/29/22	5/29/22	018-342-010	360 Sutter Hill Road	Dennis Griffin	Klonowski Roofing	Re-roof				64,500.00		1,419.00		8.39	7.00	\$ 1,434.39
										Totals		355,510.00	278,400.00	7,821.22	5,287.55	1,585.88	134.10	37.00	14,865.75

Patio Cover

Pillars replacment

Gas Line

December 2022 Building Permits Issued

Submitted	Prepared	Permit #	Issue Date	Final (F) or Expire Date	APN	Address	Owner	Contractor	Description	New Const Y/N	SQ FT	Commercial Valuation	Residential Valuation	Commerical Permit Fee	Residential Permit Fee	(WGA) Plan Check	SCFEF (Strong Motion)	SB 1473 Fee	Grand Total
11/7/2022	11/22/2022	2022-DEC-01	12/1/22	F	018-320-035	100 David Dr.	Marler, David	Valley Solar Inc.	Solar				34,800.00		275.02	177.28	4.52	2.00	\$ 458.82
10/31/2022	11/8/2022	2022-DEC-02	12/1/22	6/1/23	018-061-020	190 Amador Rd.	Rohrer, Jacob	V3 Electric	Solar				7,200.00		160.70	125.00	0.94	1.00	\$ 287.64
11/2/2022	11/14/2022	2022-DEC-03	12/1/11	6/1/23	040-200-003	310 Gopher Flat Rd.	Friedman Gramlich, Kathle	V3 Electric	Solar				14,400.00		275.02	177.28	1.87	1.00	\$ 455.17
11/15/2022	11/23/2022	2022-DEC-04	12/5/22	6/5/23	018-320-008	110 Patricia Ln.	Houck, Ron & Suzanne	Halls Electric Inc.	Generator				10,580.00		232.76	151.29	1.38	1.00	\$ 386.43
11/30/2022	11/30/2022	2022-DEC-05	12/6/22	6/6/23	018-163-016	60 Broadway St.	Williams, Johnnie	GVL Roofing	Re-roof				15,640.00		344.08		2.03	1.00	\$ 347.11
12/6/2022	12/6/2022	2022-DEC-06	12/7/22	F	018-343-026	89 Mesa De Oro Cir.	Meneely, Ken	Determined by Owner	Solar				24,000.00		272.72	177.28	3.12	1.00	\$ 454.12
12/6/2022	12/6/2022	2022-DEC-07	12/13/22	6/13/23	018-331-019	320 Gold Strike Ct.	Weingart, Kenny & Allison	Gilmore Home Services	HVAC				20,500.00		453.30		2.67	1.00	\$ 456.97
11/28/2022	12/8/2022	2022-DEC-08	12/15/22	6/15/23	018-132-014	85 Broad St.	Fine, Troy	Tesla	Solar				13,724.00		301.93	196.25	1.78	1.00	\$ 500.96
12/7/2022	12/19/2022	2022-DEC-09	12/19/22	6/19/23	040-210-023	267 California Dr.	Anderson, Ethan	Determined by Owner	Garage	Y	780		37,708.00		539.23	907.98	4.90	2.00	\$ 1,454.11
11/22/2022	11/23/2022	2022-DEC-10	12/21/22	6/21/23	018-210-001	6 Main St.	Duff, Allison & Jared	Determined by Owner	Other			2,000.00		220.00		143.00	0.56	1.00	\$ 364.56
12/15/2022	12/27/2022	2022-DEC-11	12/27/22	6/27/23	018-281-002	225 Patricia Ln.	Ysalgue, Juan	Sierra Pacific Home & C	Other				7,172.00		157.99	102.56	0.93	1.00	\$ 262.48
										Totals		2,000.00	185,724.00	220.00	3,012.75	2,157.92	24.70	13.00	5,428.37

Pergola

Pool Heater

City of Sutter Creek
City Treasurer's Report
November 2022

Receipts & Disbursements Report

City's Checking Account

Receipts

Deposits	\$ 609,316	
Reversal of Bank Charges	-	
Total		\$ 609,316

Disbursements

Accounts Payable	\$ 338,774	
Payroll & Benefits	102,287	
Bank Charges	-	
Total		\$ 441,061

Net Amount of Investment Transfers \$ -

Recap of City Treasury

Investments on Hand November 30, 2022

		Market or Withdrawal Value	Rate of Return
	Bank of Marin Checking	\$ 1,181,893	0.01%
	Bank of Marin Money Market	\$ 11,571	0.07%
	Bank of Marin Money Market #2	\$ 2,034,409	0.35%
*	California State Treasurer's LAIF	\$ 1,578,563	1.35%
	Total	<u>\$ 4,806,436</u>	
	Total this month last year	\$ 4,123,626	
*	LAIF 1	\$ 58,043	
	LAIF 2	\$ 1,520,520	

The investment information provided in this report reflects the City's ability to meet expenditure requirements for the next six months. The investment portfolio is in compliance with the City's investment policy.

Victoria Runquist

12/14/2022

City of Sutter Creek

City Treasurer's Report

December 2022

Receipts & Disbursements Report

City's Checking Account

Receipts

Deposits	\$	697,679	
Reversal of Bank Charges		-	
Total			\$ 697,679

Disbursements

Accounts Payable	\$	147,837	
Payroll & Benefits		157,368	
Bank Charges		-	
Total			\$ 305,205

Net Amount of Investment Transfers \$ -

Recap of City Treasury

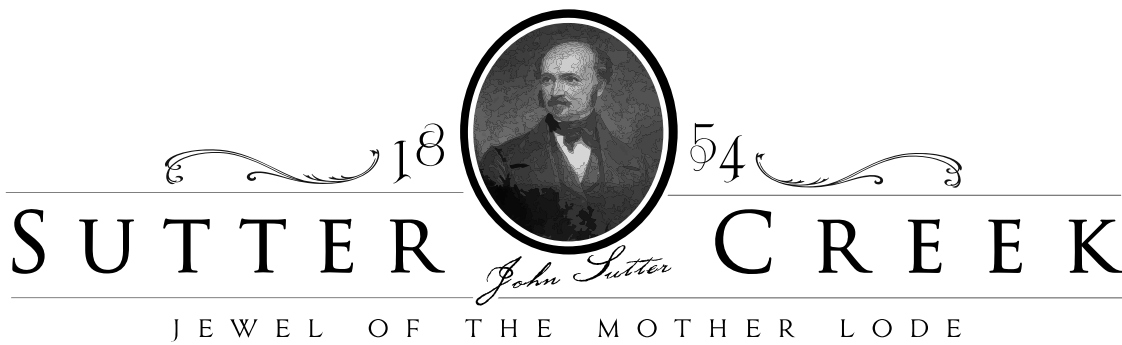
Investments on Hand December 31, 2022

		Market or Withdrawal Value	Rate of Return
	Bank of Marin Checking	\$ 1,607,050	0.01%
	Bank of Marin Money Market	\$ 11,572	0.07%
	Bank of Marin Money Market #2	\$ 2,034,985	0.35%
*	California State Treasurer's LAIF	\$ 1,578,563	1.35%
	Total	<u>\$ 5,232,170</u>	
	Total this month last year	\$ 4,166,156	
*	LAIF 1	\$ 58,043	
	LAIF 2	\$ 1,520,520	

The investment information provided in this report reflects the City's ability to meet expenditure requirements for the next six months. The investment portfolio is in compliance with the City's investment policy.

Victoria Runquist

1/11/2023



TO: AMY GEDNEY, CITY MANAGER

MEETING DATE: JANUARY 17, 2023

FROM: KAREN DARROW, ADMINISTRATIVE SERVICES SUPERVISOR

SUBJECT: ADMINISTRATIVE SERVICES NOVEMBER 2022 REPORT

RECOMMENDATION:

For information.

BACKGROUND:

The Administrative Services Department encompasses a variety of functions on behalf of the City including Human Resources, Risk Management, the Office of the City Clerk and Public Engagement and Marketing.

Included is an overview of the activity within the Administrative Services department for the month of November 2022.

DISCUSSION:

Risk Management

- Review and oversight of one active Workers Comp claim and two ongoing liability claims.

Human Resources

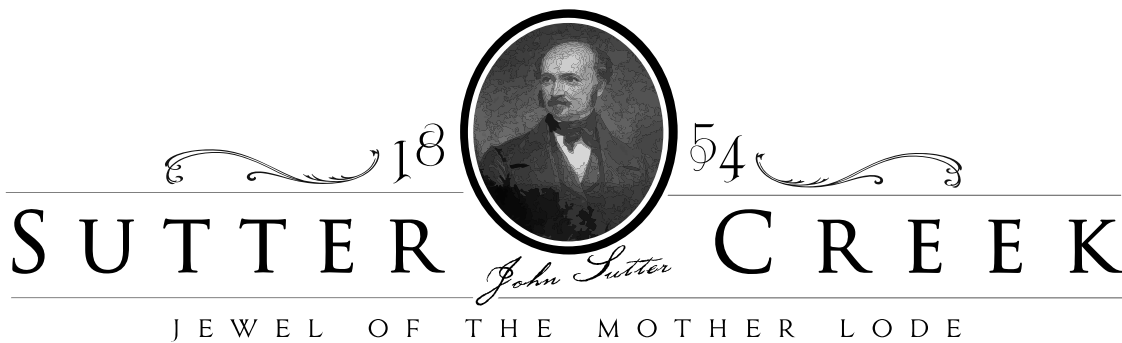
- Open enrollment.

City Clerk

- 3-Public Record Request Responses and 22-Citizen Inquiries responses.
- Agenda preparation, minutes and follow up for:
1-City Council, 1-Planning Commission, 1-DRC and 1-ARSA, 1-Finance Committee and noticing for 3 public hearings.
- Issued 1-Design Clearance, 1- Home Occupation Permit and 1-Site Plan Permit
- Update and review content for the City of Sutter Creek website.

Public Engagement and Marketing

- Crafted 18 social media marketing ads designed to reach specific target groups.
- Coordinate city decoration efforts with Public Works department.
- Create an online interactive map for the city-wide Holiday Light Tour and competition.
- Create and promote Holiday Season Events through mailing, email and social media contacts.
- Create Holiday content for the visit website



TO: AMY GEDNEY, CITY MANAGER
MEETING DATE: JANUARY 17, 2023
FROM: KAREN DARROW, ADMINISTRATIVE SERVICES SUPERVISOR
SUBJECT: ADMINISTRATIVE SERVICES DECEMBER 2022 REPORT

RECOMMENDATION:

For information.

BACKGROUND:

The Administrative Services Department encompasses a variety of functions on behalf of the City including Human Resources, Risk Management, the Office of the City Clerk and Public Engagement and Marketing.

Included is an overview of the activity within the Administrative Services department for the month of December 2022.

DISCUSSION:

Risk Management

- Review and oversight of one active Workers Comp claim and two ongoing liability claims.

Human Resources

- Completion of open enrollment.
- Attend PACE JPA Quarterly Board Meeting

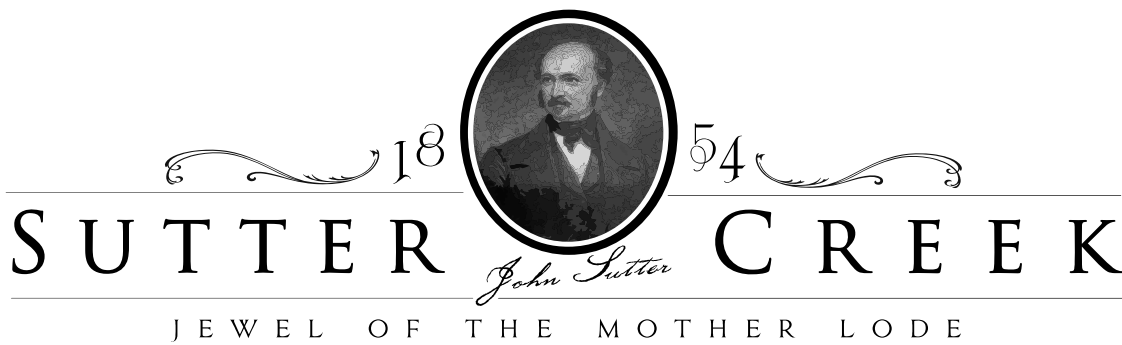
City Clerk

- 2-Public Record Request Responses and 27-Citizen Inquiries responses.
- Agenda preparation, minutes and follow up for:
1-City Council, 1- PC/CC workshop, 2-DRC
- Issued 3-Design Clearance permits.
- Process the certification of Election.
- Update and review content for the City of Sutter Creek website.

Public Engagement and Marketing

- Crafted 11 social media marketing ads designed to reach specific target groups.
- Promote Holiday Season Events Create and design winter and holiday marketing campaign.
- Ongoing preparations, coordination and set up of Holiday Décor and events.

- Monitor participation requests for the city-wide Holiday Light Tour throughout Create and review content for the Visit Sutter Creek website.
- Began planning for upcoming spring marketing effort.
- Attend Monthly SCBPA meeting



TO: AMY GEDNEY, CITY MANAGER
MEETING DATE: JANUARY 17, 2023
FROM: JODI STENECK, ACCOUNTING SUPERVISOR
SUBJECT: FINANCE DEPT. NOVEMBER 2022 REPORT

RECOMMENDATION:

Informational only.

BACKGROUND:

To provide information regarding the activities of the Finance Department for the month of November 2022.

DISCUSSION:

Accounts Receivable

- Fifteen (15) Building Permits were issued in November for a fee total of \$14,866.
- Facility rental revenue for the month of November 2022 was \$5,885.00.
- Currently we have; 182 Sewer service customers enrolled in e-billing and 296 Sewer service customers are enrolled in auto pay.

Accounts Payables

- 72 Warrant checks were issued in the amount of \$338,774.32

Special Events applications approved

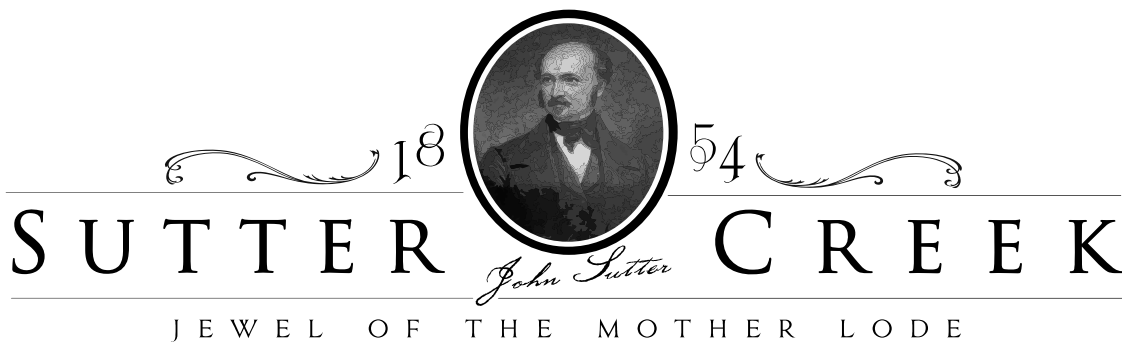
- Amador County Arts Council – Wine Fest, event date 11/12/22

ARSA

- Prepared monthly financial statements for ARSA meeting
- 14 Invoices processed, 8 Warrant checks issued
- Prepared staff report and resolution for extension of loan with COSC

Misc.

- Completed Final SC Capital Facilities Fees Annual Report.
- Encroachment Permit issued to Alpha Technologies Services



TO: AMY GEDNEY, CITY MANAGER
MEETING DATE: JANUARY 17, 2023
FROM: JODI STENECK, ACCOUNTING SUPERVISOR
SUBJECT: FINANCE DEPT. NOVEMBER 2022 REPORT

RECOMMENDATION:

Informational only.

BACKGROUND:

To provide information regarding the activities of the Finance Department for the month of December 2022.

DISCUSSION:

Accounts Receivable

- Eleven (11) Building Permits were issued in December for a fee total of \$5,248.
- Facility rental revenue for the month of December 2022 was \$4,437.
- TOT collected for November was \$25,796.
- 177 Business License renewals were printed and mailed
- Currently we have; 184 Sewer service customers enrolled in e-billing and 303 Sewer service customers are enrolled in auto pay.

Accounts Payables

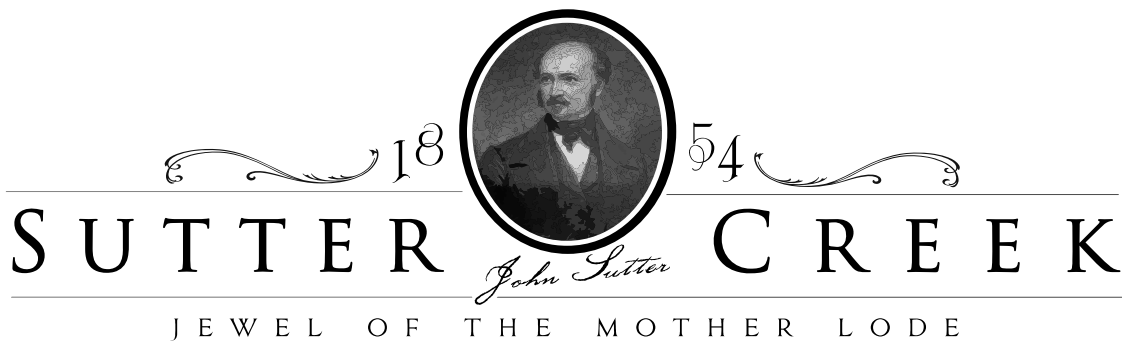
- 57 Warrant checks were issued in the amount of \$141,964.03

Special Events applications submitted

- Amador High ASB – Big Game Walk Student Rally
- St. Katherine Drexel Parish – Cancelled due to weather
- SCBPA – Parade of Lights – Cancelled due to weather

ARSA

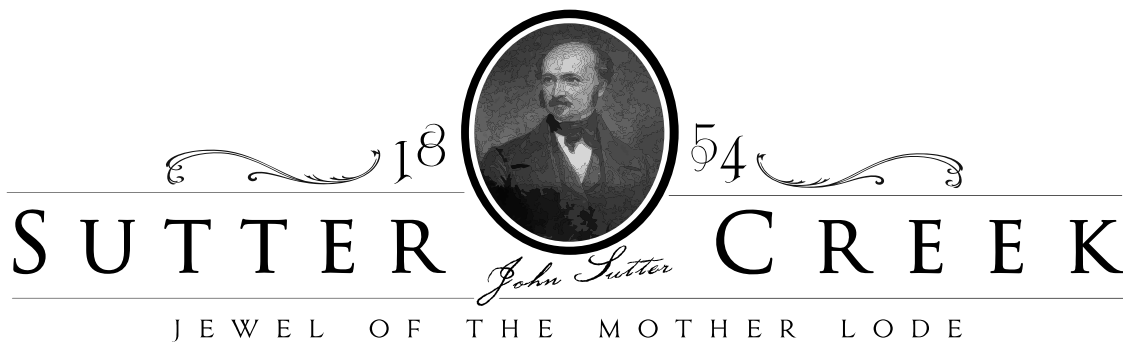
- 17 Invoices processed, 9 Warrant checks issued



TO: Amy Gedney, City Manager
FROM: Matt Ospital, PE City Engineer
SUBJECT: Project Status Update
DATE: January 17, 2023

Amy, the following is a status update of all projects WGA is currently working on:

1. **Citywide CIP** – Preliminary cost estimates and exhibits have been completed and presented to the City Council. The engineering team will update project worksheets and add any additional locations that are recommended by the City Council.
2. **Gopher Flat Realignment** – Currently working on a new alignment to remove one of the road curves and possible widening.
3. **Bryson Park Upgrade** – Construction was substantially completed on November 18th. Due to the colder weather, court striping cannot be completed until Spring as recommended by the paint manufacturer.
4. **37 Badger Storm Drain Project** – Working with City to accept project.
5. **Cramer Hills** – Reviewing updated Final Map.
6. **Building Inspections/Plan Check** – Continuing building inspections on Tuesdays and Thursdays or as needed. Building plan check is being performed on a continual basis as plans are submitted.



TO: AMY GEDNEY, CITY MANAGER
MEETING DATE: JANUARY 17, 2023
FROM: ERIN VENTURA, CONTRACT PLANNER
SUBJECT: PLANNING UPDATE

RECOMMENDATION:

For information only.

BACKGROUND:

Below is a status update regarding projects within the Planning Department.

DISCUSSION:

Zoning Update/EIR/Development Standards

The City will conduct 4 more joint workshops starting in early March. This is a grant funded project to be spent by end of 2023. Staff is working on compiling a draft and will have an Admin Draft complete by the end of the month. The EIR will begin after the Development Standards and the Zoning Update are complete.

Housing Element Update

The comment period ended on 1/9/23. Staff is working on compiling comments and will be sending them over to the consultant. Once the consultant has comments from all jurisdictions they will update the Draft Housing Element and it is to HCD for a 90 day review.

Circulation Element

Draft completed by GHD, and reviewed by PC and CC, but has not adopted because CEQA has not been done. CEQA will be done with the Citywide EIR. If the CC would like to adopt the Circulation Element before completing the Citywide EIR that is possible but will cost additional money and will not be grant funded.

Applicant Projects

Broadmeadows and Panner Creek

Staff are still waiting on a joint EIR from the applicant. There are concerns that water may be an issue.

Gardella Deli next to church on 49 just south of Valley View

No updates at this time. The applicant is working with CalTrans on reviewing access to the project. The applicant is also working on a Site Plan.

Sutter Creek Ranch (Gold Rush Ranch Specific Plan)

No updates

DANCO Valley View and Bowers

DANCO submitted a project update letter in Dec. 2022. They are still working with AWA on securing water.

Hertzig site plan 12201 Eureka Rd.

Staff is waiting on a response from the applicant

Weigand lot split Foothill Drive

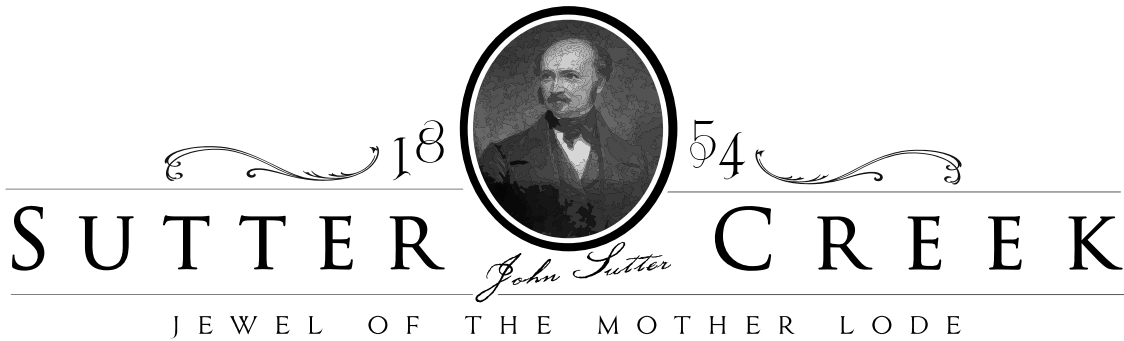
The applicant has reviewed the responses from the referrals and would like to proceed with the project.

MACT 321 Old Hwy 49

Staff will be coordinating a site visit with the applicant in the next couple of weeks to go over access and the site plan.

Cramer Hills LLC- Tentative Map

The Planning Commission approved an extension for the Tentative Map. The applicant is working with the City Engineer on the Conditions of Approval for the map and anticipates it will be finalized early 2023.



**CITY COUNCIL MINUTES
TUESDAY, JANUARY 3, 2023**

**THIS MEETING WAS CONDUCTED IN-PERSON AT 33 CHURCH STREET,
THE PUBLIC WAS ALSO ABLE TO PARTICIPATE FROM HOME:**

Join Zoom Meeting

<https://us02web.zoom.us/j/9568520224>

or

Dial by phone:

301-715-8592

Meeting ID: 956 852 0224

6:30 P.M. 1. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of
Government Code Section 54956.9
(Claim of Michelle Van Der Veen and iHeart Homes, Inc.)

7:00 P.M. 2. CALL TO ORDER AND ESTABLISH A QUORUM FOR REGULAR MEETING

Council members Present:
Feist, Sierk, Swift and Gunselman
Vicky Runquist, City Treasurer

Absent: Peters

Staff Present:
Amy Gedney
Derek Cole
Karen Darrow
Jodi Steneck
Matt Ospital

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. REPORT FROM CLOSED SESSION

City Attorney Cole reported:

On motion of Councilmember Sierk, and second by Councilmember Gunselman, the City Council voted to direct City Staff to issue a rejection of the government claim. The vote was 4-0 in favor of the motion.

Ayes: Mayor Gunselman, Vice Mayor Sierk, and Council member Swift and Feist.

Noes: none.

Absent: Council member Peters.

5. PUBLIC FORUM

Lottie Tone of Sutter Creek asked why the tree in the median on Main Street was not lit for the holidays and asked why there are not printed copies of the agenda at the meetings and printed copies posted where they used to be.

City Manager Gedney noted that Public Works did not light that tree this year.

Frank Cunha of Sutter Creek asked if audio devices for the hearing impaired were available and why there has not been a staff report in the last four years in response to the petition that was submitted requesting a walking path.

Al Bierce of Sutter Creek asked who is responsible for the bulletin board at Sutter Hill. City Manager Gedney noted that it is the Business Association.

6. ELECTION OF MAYOR AND VICE MAYOR FOR 2023

Recommendation:

1. Elect a Mayor for 2023.

M/S Council member Swift/Sierk to nominate Council member Gunselman as Mayor for 2023.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

2. Elect a Vice Mayor for 2023.

M/S Council member Gunselman/ Feist to nominate Council member Sierk as Vice Mayor for 2023.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

7. INFORMATION/CORRESPONDENCE

A. Letter to Amador County Unified School District from ACTC regarding school consolidation plan.

Recommendation: For information only.

8. MAYOR AND COUNCIL MEMBER REPORTS

Council member Sierk asked when the council committee assignments would be discussed.

City Manager Gedney noted that they would be on the agenda for the next meeting.

Mayor Gunselman noted that the Sutter Creek Community Benefit Foundation had the Sutter Creek “book” sign repainted and put back up on Main Street.

9. CONSENT AGENDA

Items listed on the consent agenda are considered routine and may be enacted in one motion. Any item may be removed for discussion at the request of Council or the Public.

A. City Council Minutes of December 5, 2022

Recommendation: By motion approve minutes as presented.

M/S Council member Swift/Sierk to approve the City Council Minutes of December 5, 2022, as amended.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

B. Warrants

Recommendation: By motion approve warrants as presented.

M/S Council member Swift/Feist to approve the warrants, as presented.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

C. Planning Commission Appointment

Recommendation: Adopt Resolution 22-23- appointing Andrea Macon to the Planning Commission.*

M/S Council member Swift/Feist to Adopt Resolution 22-23-25 appointing Andrea Macon to the Planning Commission.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

10. ORDINANCES & PUBLIC HEARINGS- None.

11. ADMINISTRATIVE AGENDA

A. PARS 115 Trust-Pension Rate Stabilization Program.

Recommendation: Adopt Resolution 22-23- Adopting the Public Agency Retirement Services (PARS) Post-Employment Benefits Trust Program.*

Jodi Steneck Accounting Supervisor presented with Mitch Barker from PARS available to answer questions.

Mr. Barker noted that this program is a useful tool that can be utilized when the Council is ready. He clarified that there is not a set up fee and that the .25% fee is only after assets are deposited and will come out of plan assets.

M/S Council member Swift/Sierk to Adopt Resolution 22-23-26 Adopting the Public Agency Retirement Services (PARS) Post-Employment Benefits Trust Program.

AYES: Feist, Sierk, Swift and Gunselman

NOES: None

ABSTAIN: None

ABSENT: Peters

MOTION CARRIED

- B. Review of capital improvement projects and cost estimates for inclusion in a future Capital Improvement Program.

Recommendation: For information and staff direction.

City Engineer Matt Ospital distributed copies of the map.

City Manager Gedney noted that there is a sinkhole on Gold Strike that has become the top priority.

Council member Sierk noted that she would like to have the needs of the Circulation Element included to see how they match up.

City Engineer Ospital confirmed that sidewalks were included in the cost estimates.

Lottie Tone of Sutter Creek asked how the general public can participate and make recommendations.

Council member Swift suggested adding a notice in the sewer bills.

Andrea Macon of Sutter Creek asked if there would be an opportunity for homeowners to work in partnership to do their own repairs at the same time.

Mike Kirkley of Sutter Creek asked what the current road funding sources and commented that a previous lack of fiscal responsibility has created the inability to maintain roads.

City Manager Gedney noted that there is very little funding available from SB1, gas tax and some RSTP funds.

Frank Cunha of Sutter Creek asked if a Safe Route to Schools grant could be applied for Gopher Flat and suggested asking the Rancheria or forming a CFD could be an option.

City Engineer Ospital noted that he would investigate whether it would be affordable to apply to for a Safe Route to Schools grant.
City Manager Gedney recommended that Council suggestions be submitted to staff and they can be brought back for further discussion.

12. FUTURE AGENDA ITEMS

Council member Sierk requested:

- 1- Set meeting schedule six months at a time to schedule agenda items.
- 2- Discuss use of Council stipends.
- 3- Status of Circulation Element
- 4- Status of Gopher Flat

City Manager Gedney noted that there is nothing to report on the Circulation Element of Gopher Flat.

Council member Feist requested:

- 1- Heritage Oak preservation discussion

Mayor Gunselman requested:

- 1- Gopher Flat update put on the agenda for discussion.

13. CITY ATTORNEY'S REPORT

A. Legislation Update for 2023

Recommendation: For information only.

City Attorney Cole presented the legislative updates.

4. CITY MANAGER'S REPORT

City Manager Gedney commended the Public Works and Police Departments for their storm response and noted and as a result the city fared well. A sewer spill that has already been reported and the sink hole at Gold Strike were some of the issues.

City Manager Gedney reported that the ARSA lawsuit is pending and that there are additional reporting requirements as a result of the lawsuit. She noted that the Board of Supervisors is doing an emergency proclamation because of the storm and that staff is waiting to see what the city might need to do as well.

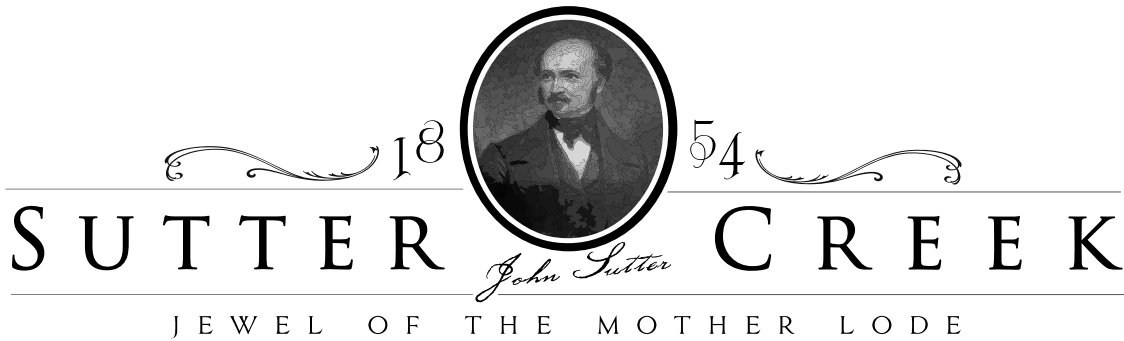
15. ADJOURNMENT

The meeting was adjourned at 8:54 p.m.

Claire Gunselman, Mayor

Karen Darrow, City Clerk

Date Approved:



**SPECIAL MEETING OF THE CITY COUNCIL
MINUTES
FRIDAY, JANUARY 6, 2023**

- 1:15 P.M.**
- 1. CALL TO ORDER AND ESTABLISH A QUORUM FOR REGULAR MEETING**
Council members Present: Peters, Sierk, Swift and Gunselman
Absent: Feist

Staff Present:
Karen Darrow
 - 2. PLEDGE OF ALLEGIANCE TO THE FLAG**
 - 3. PUBLIC FORUM-None.**
 - 4. CONSENT AGENDA**
Items listed on the consent agenda are considered routine and may be enacted in one motion. Any item may be removed for discussion at the request of Council or the Public.
 - A. Adopt Resolution 22-23-* ratifying and extending the declaration of a local emergency in Sutter Creek due to extreme winter storm.

M/S Council member Peters/Swift to Adopt Resolution 22-23-27 ratifying and extending the declaration of a local emergency in Sutter Creek due to extreme winter storm.

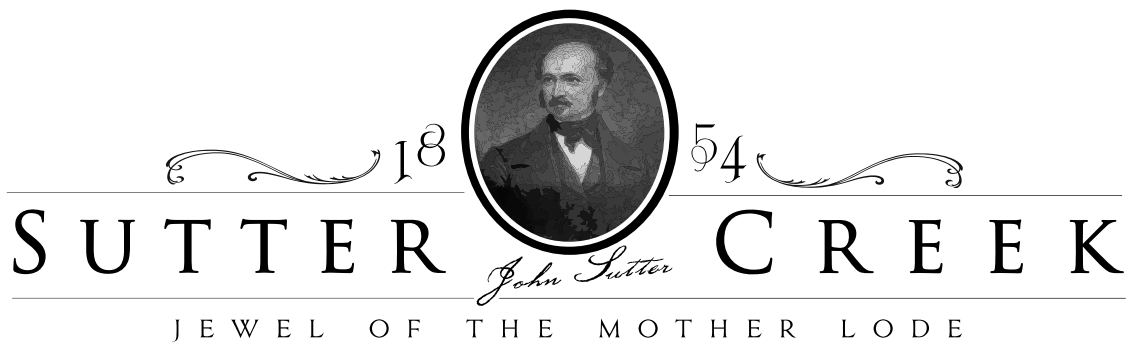
AYES:	Peters, Sierk, Swift and Gunselman
NOES:	None
ABSTAIN:	None
ABSENT:	Feist

MOTION CARRIED
 - 5. ADJOURNMENT**
The meeting was adjourned at 1:18 p.m.

Claire Gunselman, Mayor

Karen Darrow, City Clerk

Date Approved:



TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
MEETING DATE: JANUARY 17, 2023
FROM: JODI STENECK, ACCOUNTING SUPERVISOR
SUBJECT: WARRANTS TO BE PAID

RECOMMENDATION:

Attached you will find a current list of warrants to be paid.

BUDGET IMPACT:

Current list of warrants to be paid is \$56,694.52

REPORT.: Jan 10 23 Tuesday
RUN....: Jan 10 23 Time: 16:34
Run By.: Jodi Steneck

City of Sutter Creek
Invoice/Pre-Paid Check Audit Trail
Batch C30110 - 16:34

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ID #: PY-IP
CTL.: SUT

P.O. BOX 40 *** VENDOR.: ACT01 (AMADOR COUNCIL OF TOURISM)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4THQRT22	OCTOBER TO DECEMBER 2022 INFO FEE PASS THRU	01-23	01/05/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	OCTOBER TO DECEMBER 2022 INFO FEE PASS THRU	01 22115		1	2854.00	2854.00
	(General Fund County Tourism fee)					
	Invoice Extension ---->					2854.00

Vendor Total -----> 2854.00
=====

P.O. BOX 268805 *** VENDOR.: AME15 (AMERICAN FIDELITY ASSURANCE)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
JAN2023	JANUARY 2023 INSURANCE PREMIUMS	01-23	01/07/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	JANUARY 2023 INSURANCE PREMIUMS	01 41040 1060		1	245.29	245.29
	(General Fund Employee Benefi Police Dept)					
0002	JANUARY 2023 INSURANCE PREMIUMS	01 41040 1020		1	158.33	158.33
	(General Fund Employee Benefi City Clerk)					
0003	JANUARY 2023 INSURANCE PREMIUMS	07 41040 1020		1	2.14	2.14
	(Cemetery Employee Benefi City Clerk)					
0004	JANUARY 2023 INSURANCE PREMIUMS	80 41040 1020		1	53.49	53.49
	(Effluent Disp. Employee Benefi City Clerk)					
0005	JANUARY 2023 INSURANCE PREMIUMS	01 41040 1040		1	57.00	57.00
	(General Fund Employee Benefi City Manager)					
0006	JANUARY 2023 INSURANCE PREMIUMS	10 41040 1040		1	38.00	38.00
	(Sewer M&O Employee Benefi City Manager)					
0007	JANUARY 2023 INSURANCE PREMIUMS	80 41040 1040		1	31.67	31.67
	(Effluent Disp. Employee Benefi City Manager)					
0008	JANUARY 2023 INSURANCE PREMIUMS	03 41040 1120		1	31.51	31.51
	(Streets/Sidewal Employee Benefi Streets/Roads)					
0009	JANUARY 2023 INSURANCE PREMIUMS	01 41040 1130		1	118.72	118.72
	(General Fund Employee Benefi Parks & Recreat)					
0010	JANUARY 2023 INSURANCE PREMIUMS	10 41040 1510		1	176.99	176.99
	(Sewer M&O Employee Benefi Sewer Treatment)					
0011	JANUARY 2023 INSURANCE PREMIUMS	10 41040 1520		1	107.99	107.99
	(Sewer M&O Employee Benefi Sewer Collectio)					
0012	JANUARY 2023 INSURANCE PREMIUMS	80 41040 1600		1	81.04	81.04
	(Effluent Disp. Employee Benefi Effluent)					
0013	JANUARY 2023 INSURANCE PREMIUMS	29 41040 1140		1	3.29	3.29
	(Swimming Pool Employee Benefi Swimming Pool)					
0014	JANUARY 2023 INSURANCE PREMIUMS	59 41040 1130		1	36.08	36.08
	(Building Facili Employee Benefi Parks & Recreat)					
0015	JANUARY 2023 INSURANCE PREMIUMS	01 41040 1050		1	236.21	236.21
	(General Fund Employee Benefi Finance)					
0016	JANUARY 2023 INSURANCE PREMIUMS	03 41040 1050		1	11.38	11.38
	(Streets/Sidewal Employee Benefi Finance)					
0017	JANUARY 2023 INSURANCE PREMIUMS	59 41040 1050		1	16.30	16.30
	(Building Facili Employee Benefi Finance)					
0018	JANUARY 2023 INSURANCE PREMIUMS	80 41040 1050		1	56.88	56.88
	(Effluent Disp. Employee Benefi Finance)					
0019	JANUARY 2023 INSURANCE PREMIUMS	10 41040 1050		1	232.79	232.79
	(Sewer M&O Employee Benefi Finance)					
	Invoice Extension ---->					1695.10

Vendor Total -----> 1695.10
=====

6216 JAQUIMA DRIVE *** VENDOR.: AR03 (ARROYOS, JODI)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
DEC2022	PETTY CASH DISBURSEMENTS, OCT - DEC 2022	01-23	01/04/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	PETTY CASH DISBURSEMENTS, OCT - DEC 2022	81 36713		1	77.50	77.50
	(Visitor Center Visitor Center Revenue)					
0002	PETTY CASH DISBURSEMENTS, OCT - DEC 2022	59 52010 1050		1	38.30	38.30
	(Building Facili Gen. Supplies Finance)					
	Invoice Extension ---->					115.80

Vendor Total -----> 115.80
=====

REPORT.: Jan 10 23 Tuesday
RUN....: Jan 10 23 Time: 16:34
Run By.: Jodi Steneck

City of Sutter Creek
Invoice/Pre-Paid Check Audit Trail
Batch C30110 - 16:34

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80 FULLEN ST *** VENDOR.: BOI02 (Heidi A Boitano)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
10423	Lease-Prkg lot Marketing	01-23	01/04/23	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	Lease-Prkg lot Marketing	01 68012	1150	1	2915.46	2915.46
(General Fund Lease-Prkg lot Marketing)						
Invoice Extension ---->						2915.46

Vendor Total -----> 2915.46

2525 NATOMAS PARK DRIVE *** VENDOR.: CAL30 (CALIFORNIA BUILDING STANDARDS COMMISSION)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4THQRT22	4TH QUARTER 2022 OCT - DEC SB1473 FEES	01-23	01/04/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	4TH QUARTER 2022 OCT - DEC SB1473 FEES	01 34139		1	68.00	68.00
(General Fund Building Permit Fees)						
Invoice Extension ---->						68.00

Vendor Total -----> 68.00

559 MAIN STREET *** VENDOR.: CAR07 (CARBON COPY, INC)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
614593	COPIER MAINTENANCE	01-23	12/19/22	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	COPIER MAINTENANCE	01 53020	6100	1	22.46	22.46
(General Fund Equipmt Maint. Central Servies)						
0002	COPIER MAINTENANCE	10 53020	6100	1	22.46	22.46
(Sewer M&O Equipmt Maint. Central Servies)						
Invoice Extension ---->						44.92

Vendor Total -----> 44.92

PO BOX 60533 *** VENDOR.: COM16 (COMCAST BUSINESS)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
6348DEC22	INTERNET CITY HALL	01-23	12/27/22	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	INTERNET CITY HALL	01 60014	6100	1	79.00	79.00
(General Fund Internet Servie Central Servies)						
0002	INTERNET CITY HALL	10 60014	6100	1	79.01	79.01
(Sewer M&O Internet Servie Central Servies)						
Invoice Extension ---->						158.01

Vendor Total -----> 158.01

DIV OF ADMIN SERV/ACCT OFFICE *** VENDOR.: DEP01 (Dept. of Conservation)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4THQRT22	4TH QUARTER 2022 OCT - DEC STRONG MOTION	01-23	01/03/23	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	4TH QUARTER 2022 OCT - DEC STRONG MOTION	01 34139		1	202.79	202.79
(General Fund Building Permit Fees)						
Invoice Extension ---->						202.79

REPORT.: Jan 10 23 Tuesday
RUN...: Jan 10 23 Time: 16:34
Run By.: Jodi Steneck

City of Sutter Creek
Invoice/Pre-Paid Check Audit Trail
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DIV OF ADMIN SERV/ACCT OFFICE *** VENDOR.: DEP01 (Dept. of Conservation)

715 P STREET, MS 1801
INVOICE-TYPE DESCRIPTION

PERIOD DATE SE TERM-DESCRIPTION G/L ACCOUNT No

Vendor Total -----> 202.79

P.O. BOX 12 *** VENDOR.: GUS02 (CHRISTINE GUSTAFSON, INNLIGHT)

INVOICE-TYPE DESCRIPTION

PERIOD DATE SE TERM-DESCRIPTION G/L ACCOUNT No

4QRT2023 CITY OF SC WEBSITE MAINENANCE

01-23 01/01/23 N N N -Unknown Discount Trm 20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	CITY OF SC WEBSITE MAINENANCE	01 60014 6100		1	360.00	360.00
		(General Fund Internet Servic Central Servies)				
0002	CITY OF SC WEBSITE MAINENANCE	10 60014 6100		1	240.00	240.00
		(Sewer M&O Internet Servic Central Servies)				

Invoice Extension ----> 600.00

INVOICE-TYPE DESCRIPTION

PERIOD DATE SE TERM-DESCRIPTION G/L ACCOUNT No

4THQRT22 VISIT SUTTER CREEK WEBSITE MAINTENANCE

01-23 01/01/23 N N N -Unknown Discount Trm 20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	VISIT SUTTER CREEK WEBSITE MAINTENANCE	01 60014 1150		1	600.00	600.00
		(General Fund Internet Servic Marketing)				

Invoice Extension ----> 600.00

Vendor Total -----> 1200.00

P.O. Box 1261 *** VENDOR.: KON02 (Konieczka Concrete)

INVOICE-TYPE DESCRIPTION

PERIOD DATE SE TERM-DESCRIPTION G/L ACCOUNT No

010323 21 BADGER ST CURB & GUTTER

01-23 01/01/23 N N N -Unknown Discount Trm 20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	21 BADGER ST CURB & GUTTER	89 67015 1120		1	18000.00	18000.00
		(CIP O&M Blg/Structu Streets/Roads)				

Invoice Extension ----> 18000.00

Vendor Total -----> 18000.00

PO BOX 530970 *** VENDOR.: LOW01 (LOWE'S BUSINESS ACCOUNT)

INVOICE-TYPE DESCRIPTION

PERIOD DATE SE TERM-DESCRIPTION G/L ACCOUNT No

STMT2022 MONTHLY STATEMENT

01-23 12/17/22 N N N -Unknown Discount Trm 20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	MONTHLY STATEMENT	01 53015 1130		1	249.74	249.74
		(General Fund Repair/Maint Parks & Recreat)				
0002	MONTHLY STATEMENT	59 53015 1130		1	732.72	732.72
		(Building Facili Repair/Maint Parks & Recreat)				
0003	MONTHLY STATEMENT	03 55060 1120		1	299.06	299.06
		(Streets/Sidewal Patching Streets/Roads)				
0004	MONTHLY STATEMENT	01 55012 1150		1	1325.13	1325.13
		(General Fund Holiday decor Marketing)				
0005	MONTHLY STATEMENT	80 53015 1600		1	221.92	221.92
		(Effluent Disp. Repair/Maint Effluent)				
0006	MONTHLY STATEMENT	10 67050 1510		1	512.77	512.77
		(Sewer M&O O & M-Sewer Plt Sewer Treatment)				
0007	MONTHLY STATEMENT	01 67009 1130		1	46.05	46.05
		(General Fund Vehicle Maintna Parks & Recreat)				
0008	MONTHLY STATEMENT	01 69070 1050		1	20.00	20.00
		(General Fund PayChex & Bank Finance)				
0009	MONTHLY STATEMENT	10 69070 1050		1	19.98	19.98
		(Sewer M&O PayChex & Bank Finance)				

Invoice Extension ----> 3427.37

Vendor Total -----> 3427.37

REPORT.: Jan 10 23 Tuesday
RUN....: Jan 10 23 Time: 16:34
Run By.: Jodi Steneck

City of Sutter Creek
Invoice/Pre-Paid Check Audit Trail
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PO BOX 7690

*** VENDOR.: MCM02 (MCMASTER-CARR SUPPLY CO)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
90220775	WWTP	01-23	12/28/22	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	WWTP	10 67050 1510		1	1431.68	1431.68
(Sewer M&O O & M-Sewer Plt Sewer Treatment)						
Invoice Extension ---->						1431.68
Vendor Total ----->						1431.68

P.O. Box 4432

*** VENDOR.: MOT12 (Mission IT Solutions)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
1087	MONTHLY IT SERVICES	01-23	01/01/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	MONTHLY IT SERVICES	01 60013 1060		1	150.00	150.00
(General Fund Network Svcs Co Police Dept)						
0002	MONTHLY IT SERVICES	01 60013 6100		1	479.45	479.45
(General Fund Network Svcs Co Central Services)						
0003	MONTHLY IT SERVICES	10 60013 6100		1	479.45	479.45
(Sewer M&O Network Svcs Co Central Services)						
Invoice Extension ---->						1108.90

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
1120	REPLACE BACKUP SERVER	01-23	12/30/22	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	REPLACE BACKUP SERVER	01 60013 6100		1	4367.78	4367.78
(General Fund Network Svcs Co Central Services)						
0002	REPLACE BACKUP SERVER	10 60013 6100		1	4367.77	4367.77
(Sewer M&O Network Svcs Co Central Services)						
Invoice Extension ---->						8735.55
Vendor Total ----->						9844.45

2252 Beckett Dr.

*** VENDOR.: OCO01 (James O'Connell)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
DEC2022	REIMBURSEMENTS	01-23	01/04/23	N N N	-Unknown Discount Trm	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	REIMBURSEMENTS	01 67009 1060		1	171.10	171.10
(General Fund Vehicle Maintna Police Dept)						
Invoice Extension ---->						171.10
Vendor Total ----->						171.10

PO Box 997300

*** VENDOR.: PAC02 (PG&E (Electric,Gas))

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
0220DEC22	MONTEVERDE STORE	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	MONTEVERDE STORE	17 66014 1720		1	56.18	56.18
(M.V.Store Trust PG&E Utilities MonteVerde Muse)						
Invoice Extension ---->						56.18

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
1290DEC22	WWTP OUTSIDE LIGHTS	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
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Run By.: Jodi Steneck

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PO Box 997300

*** VENDOR.: PAC02 (PG&E (Electric,Gas))

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	WWTP OUTSIDE LIGHTS	10 66014 1510		1	9.34	9.34
(Sewer M&O PG&E Utilities Sewer Treatment)						
Invoice Extension ---->						9.34

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
1466DEC22	FLAG POLE	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	FLAG POLE	03 66014 1120		1	292.89	292.89
(Streets/Sidewal PG&E Utilities Streets/Roads)						
Invoice Extension ---->						292.89

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
1605DEC22	LIFT STATION	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	LIFT STATION	10 66014 1510		1	81.52	81.52
(Sewer M&O PG&E Utilities Sewer Treatment)						
Invoice Extension ---->						81.52

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
2734DEC22	VISITOR CENTER	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	VISITOR CENTER	81 66014 1155		1	186.31	186.31
(Visitor Center PG&E Utilities Visitor Center)						
Invoice Extension ---->						186.31

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4295DEC22	ADMIN BUILDING	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	ADMIN BUILDING	01 66014 1040		1	74.31	74.31
(General Fund PG&E Utilities City Manager)						
0002	ADMIN BUILDING	10 66014 1040		1	49.54	49.54
(Sewer M&O PG&E Utilities City Manager)						
0003	ADMIN BUILDING	80 66014 1040		1	41.28	41.28
(Effluent Disp. PG&E Utilities City Manager)						
0004	ADMIN BUILDING	01 66014 1020		1	122.20	122.20
(General Fund PG&E Utilities City Clerk)						
0005	ADMIN BUILDING	07 66014 1020		1	1.65	1.65
(Cemetery PG&E Utilities City Clerk)						
0006	ADMIN BUILDING	80 66014 1020		1	41.28	41.28
(Effluent Disp. PG&E Utilities City Clerk)						
Invoice Extension ---->						330.26

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4459DEC22	AUDITORIUM & CITY HALL	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	AUDITORIUM & CITY HALL	59 66014 1130		1	2392.13	2392.13
(Building Facili PG&E Utilities Parks & Recreat)						
0002	AUDITORIUM & CITY HALL	01 66014 1060		1	512.60	512.60
(General Fund PG&E Utilities Police Dept)						
0003	AUDITORIUM & CITY HALL	01 66014 1050		1	184.54	184.54
(General Fund PG&E Utilities Finance)						
0004	AUDITORIUM & CITY HALL	03 66014 1050		1	10.25	10.25
(Streets/Sidewal PG&E Utilities Finance)						
0005	AUDITORIUM & CITY HALL	59 66014 1050		1	41.01	41.01
(Building Facili PG&E Utilities Finance)						
0006	AUDITORIUM & CITY HALL	10 66014 1050		1	215.25	215.25
(Sewer M&O PG&E Utilities Finance)						
0007	AUDITORIUM & CITY HALL	80 66014 1050		1	61.55	61.55
(Effluent Disp. PG&E Utilities Finance)						
Invoice Extension ---->						3417.33

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
4585DEC22	HWY 104/BOWERS DR	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200

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PO Box 997300

*** VENDOR.: PAC02 (PG&E (Electric,Gas))

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	HWY 104/BOWERS DR				03 66014 1120	1 75.21 75.21
					(Streets/Sidewal PG&E Utilities Streets/Roads)	
					Invoice Extension ---->	75.21

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
5624DEC22	COMMUNITY BUILDING GAS	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	COMMUNITY BUILDING GAS				59 66014 1130	1 342.66 342.66
					(Building Facili PG&E Utilities Parks & Recreat)	
					Invoice Extension ---->	342.66

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
6648DEC22	WWTP	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	WWTP				10 66014 1510	1 1663.75 1663.75
					(Sewer M&O PG&E Utilities Sewer Treatment)	
					Invoice Extension ---->	1663.75

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
7712DEC22	WWTP OFFOCE	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	WWTP OFFOCE				10 66014 1510	1 131.04 131.04
					(Sewer M&O PG&E Utilities Sewer Treatment)	
					Invoice Extension ---->	131.04

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
7813DEC22	PUBLIC RESTROOMS	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	PUBLIC RESTROOMS				01 66014 1130	1 66.19 66.19
					(General Fund PG&E Utilities Parks & Recreat)	
					Invoice Extension ---->	66.19

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
8213DEC22	COMMUNITY BUILDINGS	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	COMMUNITY BUILDINGS				59 66014 1130	1 501.82 501.82
					(Building Facili PG&E Utilities Parks & Recreat)	
					Invoice Extension ---->	501.82

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
8299DEC22	LITTLE LEAGUE PARK	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	LITTLE LEAGUE PARK				01 66014 1130	1 36.32 36.32
					(General Fund PG&E Utilities Parks & Recreat)	
					Invoice Extension ---->	36.32

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
9590DEC22	HISTORICAL GS	01-23	12/29/22	N N N	A-NET30 FROM INVOICE	20200
Line	Description				G/L Account No CTR	Unit(s) Unit Cost Amount
0001	HISTORICAL GS				59 66014 1130	1 1343.58 1343.58
					(Building Facili PG&E Utilities Parks & Recreat)	
					Invoice Extension ---->	1343.58

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*** VENDOR.: PAC02 (PG&E (Electric,Gas))

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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Vendor Total -----> 8534.40

P.O. BOX 7523

*** VENDOR.: SEI01 (SEIU Local 1021)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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DEC2022	DECEMBER 2022 UNION DUES	01-23	01/04/23	N N N	A-NET30 FROM INVOICE	20200
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Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	DECEMBER 2022 UNION DUES	01 21730		1	192.82	192.82
	(General Fund P/R - S.C. Employees Assoc.)					

Invoice Extension ----> 192.82

Vendor Total -----> 192.82

PO BOX 597

*** VENDOR.: SIG01 (SIGNAL SERVICE)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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362880	BURGLAR ALARM HISTORICAL GS	01-23	12/17/22	N N N	-Unknown Discount Trm	20200
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Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	BURGLAR ALARM HISTORICAL GS	59 67015 1130		1	240.00	240.00
	(Building Facili O&M Blg/Structu Parks & Recreat)					

Invoice Extension ----> 240.00

Vendor Total -----> 240.00

ATTN: FISCAL SERVICES
1102 Q STREET SUITE 5100

*** VENDOR.: STA04 (DIVISION OF THE STATE ARCHITECT)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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4THQRT22	4TH QUARTER 2022 DISABILITY AMD EDUC FEE	01-23	01/05/23	N N N	-Unknown Discount Trm	20200
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Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	4TH QUARTER 2022 DISABILITY AMD EDUC FEE	01 21510		1	44.80	44.80
	(General Fund Due to State Disability fee)					

Invoice Extension ----> 44.80

Vendor Total -----> 44.80

DEPT. 11-0004121737
PO BOX 9001036

*** VENDOR.: STA07 (STAPLES CREDIT PLAN)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
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STM1222	DECEMBER 2022 STATEMENT	01-23	12/15/22	N N N	-Unknown Discount Trm	20200
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Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	DECEMBER 2022 STATEMENT	01 52010 1050		1	58.76	58.76
	(General Fund Gen. Supplies Finance)					
0002	DECEMBER 2022 STATEMENT	03 52010 1050		1	3.26	3.26
	(Streets/Sidewal Gen. Supplies Finance)					
0003	DECEMBER 2022 STATEMENT	59 52010 1050		1	13.06	13.06
	(Building Facili Gen. Supplies Finance)					
0004	DECEMBER 2022 STATEMENT	10 52010 1050		1	68.56	68.56
	(Sewer M&O Gen. Supplies Finance)					
0005	DECEMBER 2022 STATEMENT	80 52010 1050		1	19.59	19.59
	(Effluent Disp. Gen. Supplies Finance)					
0006	DECEMBER 2022 STATEMENT	01 52010 1060		1	22.05	22.05
	(General Fund Gen. Supplies Police Dept)					
0007	DECEMBER 2022 STATEMENT	01 52010 1020		1	16.32	16.32
	(General Fund Gen. Supplies City Clerk)					
0008	DECEMBER 2022 STATEMENT	07 52010 1020		1	.22	.22
	(Cemetery Gen. Supplies City Clerk)					
0009	DECEMBER 2022 STATEMENT	80 52010 1020		1	5.51	5.51
	(Effluent Disp. Gen. Supplies City Clerk)					

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DEPT. 11-0004121737

*** VENDOR.: STA07 (STAPLES CREDIT PLAN)

PO BOX 9001036

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
Line	Description			G/L Account No CTR	Unit(s) Unit Cost	Amount
0010	DECEMBER 2022 STATEMENT			01 52010 1090	1 22.05	22.05
				(General Fund Gen. Supplies Planning)		
0011	DECEMBER 2022 STATEMENT			01 52010 1040	1 5.69	5.69
				(General Fund Gen. Supplies City Manager)		
0012	DECEMBER 2022 STATEMENT			10 52010 1040	1 3.80	3.80
				(Sewer M&O Gen. Supplies City Manager)		
0013	DECEMBER 2022 STATEMENT			80 52010 1040	1 3.16	3.16
				(Effluent Disp. Gen. Supplies City Manager)		
				Invoice Extension ---->		242.03
				Vendor Total ----->		242.03

PO BOX 35146

*** VENDOR.: THA02 (THATCHER COMPANY - LB1106)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
108002	Supplies - Chem Sewer Tre	01-23	12/29/22	N N N	-Unknown Discount Trm	20200
Line	Description			G/L Account No CTR	Unit(s) Unit Cost	Amount
0001	Supplies - Chem Sewer Tre			10 52015 1510	1 2887.93	2887.93
				(Sewer M&O Supplies - Chem Sewer Treatment)		
				Invoice Extension ---->		2887.93
				Vendor Total ----->		2887.93

P.O. BOX 209047

*** VENDOR.: TRA04 (TRANSUNION RISK & ALTERNATIVE)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
2022121	PD PERSON SEARCH	01-23	01/01/23	N N N	-Unknown Discount Trm	20200
Line	Description			G/L Account No CTR	Unit(s) Unit Cost	Amount
0001	PD PERSON SEARCH			01 52010 1060	1 75.00	75.00
				(General Fund Gen. Supplies Police Dept)		
				Invoice Extension ---->		75.00
				Vendor Total ----->		75.00

Attn: Accounts Receivable
P.O. Box 88741

*** VENDOR.: ULI01 (Uline)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
157560137	JANITORIAL SUPPLIES	01-23	12/12/22	N N N	-Unknown Discount Trm	20200
Line	Description			G/L Account No CTR	Unit(s) Unit Cost	Amount
0001	JANITORIAL SUPPLIES			01 67020 1130	1 1163.88	1163.88
				(General Fund Janitorial Parks & Recreat)		
				Invoice Extension ---->		1163.88
				Vendor Total ----->		1163.88

2295 Bella Vista Drive

*** VENDOR.: VIO01 (VIOLICH/SORACCO)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
PRKLTJAN	Lease-Prkg lot Marketing	01-23	01/04/23	N N N	A-NET30 FROM INVOICE	20200
Line	Description			G/L Account No CTR	Unit(s) Unit Cost	Amount
0001	Lease-Prkg lot Marketing			01 68012 1150	1 540.00	540.00
				(General Fund Lease-Prkg lot Marketing)		
				Invoice Extension ---->		540.00

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2295 Bella Vista Drive *** VENDOR.: VIO01 (VIOLICH/SORACCO)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
VCRENTDEC	VISITOR CENTER RENT JANUARY 2023	01-23	01/04/23	N N N	A-NET30 FROM INVOICE	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	VISITOR CENTER RENT JANUARY 2023	81 68015 1155		1	500.00	500.00
		(Visitor Center Rentals -Bldgs Visitor Center)				
					Invoice Extension ---->	500.00

Vendor Total -----> 1040.00

.....
PO BOX 160 *** VENDOR.: \H002 (RICHARD HESS)

INVOICE-TYPE	DESCRIPTION	PERIOD	DATE	SE	TERM-DESCRIPTION	G/L ACCOUNT No
000C30101	MQ CUSTOMER REFUND FOR HES0001	01-23	01/03/23	N N N N	Z-IMMEDIATE PAY	20200

Line	Description	G/L Account No	CTR	Unit(s)	Unit Cost	Amount
0001	MQ CUSTOMER REFUND FOR HES0001	10 22800		1	144.98	144.98
		(Sewer M&O A/P - Utility Refunds)				
					Invoice Extension ---->	144.98

Vendor Total -----> 144.98

** Total Invoices -----> 56694.52
** Total Checks -----> .00
*** Total Purchases ----> 56694.52

RESOLUTION 22-23-***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK
AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE
BODIES OF THE CITY OF SUTTER CREEK**

WHEREAS, the City of Sutter Creek is committed to preserving and nurturing public access and participation in public meetings; and

WHEREAS, all meetings of the City's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code sections 54950 – 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, such conditions now exist in the City of Sutter Creek; and

WHEREAS, the City Council does hereby find that the Covid-19 emergency has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the emergency, the City Council finds that the legislative bodies of the City of Sutter Creek shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sutter Creek proclaims that an emergency continues to exist throughout the City of Sutter Creek. Providing the option for remote participation will allow for persons to participate in the meetings of the Council who would otherwise not do so because of medical reasons.

BE IT FURTHER RESOLVED that the City Manager and legislative bodies of the City of Sutter Creek are hereby authorized and directed to take all actions necessary to carry out the

intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) 30 days from the date of its adoption, or (ii) such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Sutter Creek may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

The foregoing resolution was duly passed and adopted at a regular meeting of the City Council of the City of Sutter Creek on the 17th day of November, 2023 by the following vote.

AYES:

NOES:

ABSTAIN:

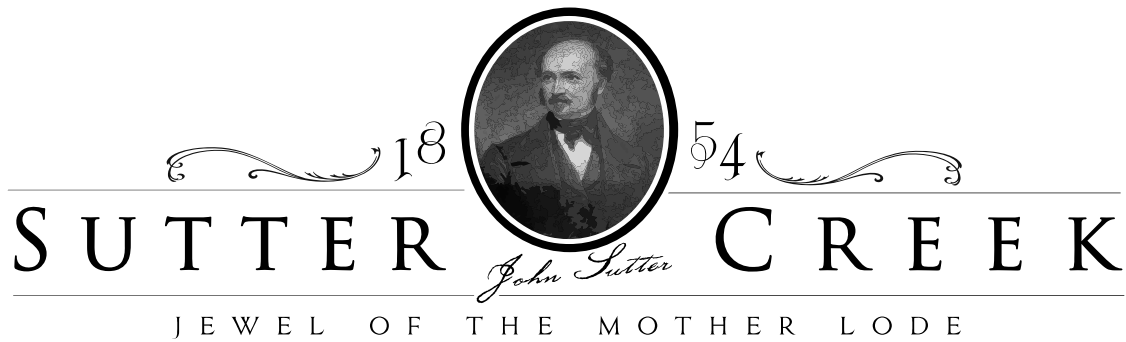
ABSENT:

Claire Gunselman, Mayor

ATTEST:

Karen Darrow, City Clerk

DRAFT 2023 Sutter Creek City Council Sutter Creek Committee and Countywide Committee Liaison Assignments			
<u>Committee</u>	<u>2022</u>	<u>Proposed</u>	<u>Tentative Meeting Times</u>
<u>City of Sutter Creek Committees</u>			
Sewer Committee	Swift & Peters	Swift/Peters	As needed
Finance Committee	Swift & Peters	Gunselman/Sierk	As needed
Solid Waste	Sierk	Gunselman	As needed
Marketing Committee	Rianda & Swift	Sierk/Feist	As needed
Monteverde Store Committee	Gunselman	Sierk	As needed
<u>Countywide Committees</u>			
	Council member Liaison		
Amador County Recreation Association (ACRA)^	Sierk	Sierk	2nd Wed @ 1pm
Amador County Transportation & Transit Commission (ACTC/ACT)^		Peters	1st Thurs @ 9am
Amador Council of Tourism (ACT)^	Rianda	Feist	
Amador Air District Board	Rianda	Sierk	3rd Tues @ 1:30pm
Airport Land Use Commission*	Peters	Peters	
Amador Regional Sanitation Agency (ARSA)	Swift & Peters	Swift/Peters	4th Wed @ 10am
City Select Committee	Mayor	Mayor	
Fire District Liaison	Swift	Swift	3rd Tues @ 7:30 pm
AB 939 JPA	Sierk	Gunselman	As needed
Cemetery	Gunselman & Sierk	Feist	
* This is the only committee where an alternate is needed.			



TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: Matt Ospital, City Engineer
SUBJECT: 37 Badger Street Storm Drain Repair Project
DATE: January 17, 2023

RECOMMENDATION:

Adopt Resolution 22-23-* accepting the work on the “37 Badger Street Storm Drain Repair Project” and authorizing the City Manager to execute the Notice of Completion and cause it to be filed with the Amador County Recorder.

BACKGROUND:

The contractor, Campbell Construction General Engineering, Inc. completed the work on August 10, 2022, in accordance with the Plans and Specifications approved by the City Council of the City of Sutter Creek.

DISCUSSION:

All contract items of work for the Project have been completed in substantial compliance with the plans, specifications, codes and standards of the City. All work was determined to be substantially complete on August 10, 2022.

Final Project Costs are as follows:

Original Contract Amount	\$ 58,360.00
Final Contract Change Order	<u>\$ 230.00</u>
Final Contract Amount	\$ 58,590.00

RESOLUTION 22-23*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK ACCEPTING THE COMPLETION OF THE 37 BADGER STREET STORM DRAIN REPAIR PROJECT, AND FILING A NOTICE OF COMPLETION AND AUTHORIZING RECORDATION THEREFORE

WHEREAS, City Engineer has certified all work on the "City of Sutter Creek – 37 Badger Street Storm Drain Repair Project" was completed on August 10, 2022, in accordance with the approved project plans and specifications, and

WHEREAS, the improvements have been completed to the satisfaction of the City Engineering Department.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sutter Creek does hereby accept the completed public improvements and authorizes the City to file a Notice of Completion with the Amador County Recorder.

The foregoing resolution was duly passed and adopted by the City Council of the City of Sutter Creek at a regular meeting on the 17th day of January 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CITY OF SUTTER CREEK

Claire Gunselman, Mayor

ATTEST:

Karen Darrow, City Clerk

CITY OF SUTTER CREEK
OFFICE OF THE CITY ENGINEER

When recorded, mail to:

City Manager
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

**NOTICE OF COMPLETION
CITY OF SUTTER CREEK**

NOTICE IS HEREBY GIVEN of the completion of a Work of Improvement as follows:

Date of Completion: August 10, 2022

Name and Address of the Owner: City of Sutter Creek, 18 Main Street, Sutter Creek, CA 95685

Nature of the Interest or Estate of the Owner: Easement

Description of the Site: 37 Badger Street Storm Drain Repair – Sutter Creek, California

Name and Address of the Contractor for the above Work of Improvement: Campbell Construction
General Engineering, Inc. 175 Sutter Hill Road, Sutter Creek, California 95685

General Statement of Kind of Work Done or Materials Furnished: Storm drain repair.

CITY OF SUTTER CREEK – OWNER

By _____
Amy Gedney, City Manager

AMY GEDNEY declares:

I am the City Manager of the City of Sutter Creek, the municipal corporation that executed the foregoing notice as owner of the aforesaid interest or estate in the property therein described; that I make this verification on behalf of said municipal corporation; that I have read this Notice of Completion and know the contents thereof, and that the facts stated therein are true.

I declare under penalty of perjury that the foregoing is true and correct. Dated at Sutter Creek, California this ____ day of _____, 2023.

AMY GEDNEY, CITY MANAGER



Amador County Transportation Commission

117 Valley View Way
Sutter Creek, CA 95685
209.267.2282
fax: 209.267.1930

DATE: January 6, 2023

TO: David Groth, City Manager, City of Amador City
Michael Rock, City Manager, City of Ione
Yvonne Kimball, City Manager, City of Jackson
Margaret Roberts, City Manager, City of Plymouth
Amy Gedney, City Manager, City of Sutter Creek
Chuck Iley, County Administrative Office, Amador County

FROM: John Gedney, Executive Director

SUBJECT: FY 21/22 Regional Traffic Mitigation Fee Annual Report

Please find the attached Annual Report for the Amador County Regional Traffic Mitigation Fee Program (RTMF) for Fiscal Year 21/22. Along with the Report, the attachments include:

- FY 21/22 revenue by jurisdiction
- Program expenditures by project
- Currently-adopted fee schedule
- Eligible Project Listing

Also included in the attachments is a draft resolution adopting the Annual Report provided in Word version for editing purposes.

All cities and the County have appointed representatives on the RTMF Oversight Committee convened annually to consider program obligations, expenditures, and policy.

cc:

Joyce Davidson, City Clerk, City of Amador City
Susan Bragstad, Vice Mayor, City of Amador City
Janice Traverso, City Clerk, City of Ione
John Georgette, City Clerk, City of Jackson
Karen Darrow, City Clerk, City of Sutter Creek
Jennifer Burns, Clerk of the Board, Amador County Board of Supervisors

JG- Attachments

Amador County Regional Traffic Mitigation Fee Program Annual Status Report for Fiscal Year 2021/22

The purpose of this Annual Report is to document Regional Traffic Mitigation Fee (RTMF) program history, describe project obligations, identify approved expenditures, account for new revenues, and describe new program modifications.

RTMF Program History

In 2006, the County of Amador and all five (5) incorporated cities adopted a Memorandum of Understanding (MOU) with the Amador County Transportation Commission (ACTC) to establish the RTMF program to collect fees on new building construction within Amador County for the purpose of mitigating traffic impacts on the regional roadway system. By statute, these fees can only be spent on a specified list of projects subject to a Nexus Plan that describes the relationship between the ‘project’ and its ‘impact’.

Pursuant to the original 2006 RTMF program agreement, fees collected by the cities and the County were set at a rate of \$283.20 per trip end. In Fiscal Year (FY) 07/08, the cities and County increased the fee (due to inflation) to \$304.00 per trip end. In FY 14/15, the fee schedule was modified again, increasing the Residential trip rate to \$388/trip end and reducing specific high-volume Commercial trip rates to \$167/trip end. The updated MOU, Fee Schedule (Attachment D), and Capital Improvement Program (Attachment C) was approved in FY 15/16 by the County and all five (5) member cities.

Since its inception, the RTMF program has helped to fund construction of seven (7) regionally significant transportation projects, shown below:

1. SR 88/104 (Martell – County)
2. Mission Boulevard (City of Jackson)
3. Court Street/SR 88 (City of Jackson)
4. SR 49/Main Street (City of Jackson)
5. Sutter-Ione Road (City of Sutter Creek)
6. SR 104/Prospect Drive-Bowers Drive (Sutter Creek)
7. SR 49/Main Street Roundabout (City of Plymouth)

In addition, the Program has obligated contributions toward the following projects currently in the planning or project development phase:

8. Sutter Street Extension/SR 49-88 (City of Jackson)
9. Western Ione Roadway Improvement Strategy (WIRIS) – (City of Ione)
10. Argonaut Lane/SR 49-88 (Martell - County)
11. Wicklow Way Extension

The RTMF Oversight Committee (OC) is comprised of one (1) appointed representative from each City and the County. The ACTC also appoints a representative. The OC meets annually to review the prior FY Annual Report, and provide recommendations for any funding, project, or other program adjustments to be considered for adoption by member agencies. In 2014/15, the cities and County agreed to modify the original MOU to state that the ACTC member would be a representative of the County.

At the June 13, 2022 RTMF Oversight Committee meeting no actions were taken to modify any RTMF program elements.

As required by the MOU, each city and the County submits RTMF revenues to ACTC for deposit into an account solely designated for the RTMF program. **In FY 21/22, the RTMF program received revenue from member jurisdictions (including interest earned) totaling \$698,777.** Those FY 21/22 contributions are shown below:

• Amador County	=	\$ 186,810
• Ione	=	\$ 415,388
• Jackson	=	\$ 34,920
• Sutter Creek	=	\$ 11,634
• Plymouth	=	\$ 46,560
• Amador City	=	\$ 0

On Attachment A these contributions from member jurisdictions bring fund revenue since program inception to total **\$10,899,975**. Attachment B lists RTMF project revenue, approved expenditures, current obligations, and project status. (The projects shown as “Completed” were constructed with final expenditures recorded prior to FY 14/15.)

The following summary outlines the current status of RTMF-funded projects, current funding obligations, and actions of the RTMF OC through FY 21/22:

SR 104 - Prospect Drive/Bowers Drive Intersection/Realignment

The RTMF OC approved this project with the condition that the Gold Rush Ranch development project would repay the RTMF program for the entire cost of the project - \$1,482,127.

Conditions of Approval for the Gold Rush Ranch development project (City of Sutter Creek) required Gold Rush Ranch to repay the RTMF program for the total cost incurred for the SR 104 - Prospect Drive/Bowers Drive Intersection/Realignment project and to complete additional lane(s) and signalization before the first Gold Rush building permit could be approved. These Conditions mitigated impacts generated by additional traffic from the Gold Rush development pursuant to the Gold Rush Ranch EIR and project approval documents.

The Gold Rush Ranch Tentative Map is now expired. ACTC is in discussions with Sutter Creek representatives to consider appropriate mechanisms for repayment of Prospect Drive/Bowers Drive project costs.

SR 49/Main Street, Plymouth

The RTMF OC recommended \$200,000 to be programmed as a local match for the City of Plymouth’s SR 49/Main Street intersection project. This expenditure has been recorded. The Project was constructed at a cost of \$3.8 million.

Sutter Street Extension, Jackson

In past years, the RTMF OC obligated \$1,300,000 to the Sutter Street Extension project. In 2006, the City of Jackson spent \$387,586 acquiring a key piece of ROW leaving an obligated balance of \$912,414. In FY 08/09, the OC authorized the City of Jackson to initiate project development efforts utilizing the \$912,414 programmed balance.

Remediation efforts by the California Environmental Protection Agency (EPA) and Department of Toxic Substances Control to retrofit the dam at the existing terminus of Sutter Street temporarily suspended project development efforts. In 2015, EPA approved a Phase 2 Removal Action. With the subsequent confirmation of satisfactory restoration of residential properties, EPA cleared the way for development efforts on the Sutter Street Extension project to recommence in 2019.

During this time period, a total of \$175,121 was expended leaving a balance of \$737,294 available for future project development efforts. **In the past three (3) fiscal years, the City has expended an additional \$346,345.70 on continued project development work (of which, \$246,019.70 was reimbursed in FY 22/23 and will be recorded in the FY 22/23 RTMF Annual Report). This leaves a balance of \$330,439 available from the original programmed commitment for continued project development work.**

Western Ione Roadway Improvement System (WIRIS)

The WIRIS project, identified as mitigation in the Ione General Plan and cited in prior development approvals, received an initial obligation of \$618,975 from the RTMF program. In FY 09/10, at a cost of \$124,185, Dokken Engineering completed a Project Study Report (PSR) selecting a preferred alignment and funding strategy. At that time, the PSR estimated the total cost for the WIRIS to be \$113.4 million.

In FY 09/10, given reduced expectations for funding at the Federal, State, and Local level, the OC recommended continued funding for development of the WIRIS project at a cost not to exceed \$177,000. After work to revise the PSR work was undertaken, that effort was suspended after incurring an additional \$45,000 in expenditures.

During FY 14/15, the City again revised its planning effort to focus on a down-scaled WIRIS project - OC authorized \$131,721 for continued work on the WIRIS project. This effort was to focus on improvements to existing roadway alignments for use as a bypass alternative. In FY 16/17, the City of Ione requested an additional \$80,000 in RTMF funding to prepare the updated WIRIS Project Report. The WIRIS Project Report was completed in FY 17/18 and the City was reimbursed in the amount of \$211,721.

Project alternatives developed by the Report were presented to the Ione Planning Commission and may be presented to the Ione City County for its consideration of formal adoption of a preferred, alternative alignment. The OC agreed not to provide additional RTMF funding until the Ione City Council takes further action on the Project.

Argonaut Lane-SR 49/88 Intersection

In FY 07/08, citing Right of Way and Project Cost constraints, the OC recommended the project development process be suspended.

Wicklow Way Extension

In FY 15/16, the RTMF OC loaned up to 50% of funding from the Sutter Street Extension project to begin preliminary engineering for the Wicklow Way Extension project.

County staff estimated a cost of \$284,500 to prepare a Project Study Report (conduct environmental assessments and initiate preliminary engineering and design) for the Wicklow Way Extension project. **To date, the Study has not been initiated and \$284,500 remains obligated to the project.**

The \$284,500 loan was repaid to the Sutter Street Extension project utilizing subsequent, annual contributions to the RTMF program.

SR 88 / Pine Grove Improvements

During FY 17/18, the RTMF OC authorized programming \$1,000,000 in RTMF funding to be commitment to Construction costs for the Pine Grove Improvements project. This funding amount had been previously approved through adoption of the 2015 Amador County Regional Transportation Plan as shown on the attached RTP Tier I / RTMF Project list.

Memorandum of Understanding (MOU) modification – ATTACHMENT F

At its May 3, 2018 meeting, the RTMF OC recommended that the RTMF MOU be modified to designate the agreement as “binding” among participant jurisdictions. This action was taken in response to:

- 1) The City of Ione agreement with a developer resulting in the deferral/loss of \$504,000 to the RTMF program.
- 2) The lack of a formal mechanism to reimburse the RTMF program for costs related to the Bowers Dr/Prospect Dr project in the City of Sutter Creek.

The OC committee intention with the action is to ‘bind’ member jurisdictions to requirements, stated in the MOU under Exhibit D “Administrative Policies and Procedures”, that any recommendations for deferrals, reimbursements, and/or adjustments to RTMF fees be brought before the RTMF OC for review and approval.

No new funding actions or amendments to RTMF policies were approved during FY 21/22.

FY 21/22 RTMF Fund Balance

During FY 21/22, the RTMF program received additional revenue from its member jurisdictions (with interest) totaling \$698,777 (Attachment A). Attachment B shows total remaining unprogrammed fund balance of after accounting for current funding obligations. As of June 30, 2022, **\$2,897,544** is available for programming to eligible RTMF projects.

Attachment C lists current funding commitments toward projects on the RTMF Capital Improvement Program (CIP). (As approved through its adopted Nexus Study, the RTMF program maintains flexibility to fund any of the projects shown on the CIP Tier I listing.)

Attachment D shows the currently-adopted Fee Schedule. Also included with the packet are vicinity maps for RTMF-funded projects.

ATTACHMENT A
Amador County Regional Traffic Mitigation Fee Program
Revenue Report Fiscal Year 2021/22

	Amador County	Jackson Rancheria	Buena Vista	Ione	Jackson	Sutter Creek	Plymouth	Amador City	Interest	Totals
Beg Balance	966,381	0		234,921	234,604	427,000	0	0	24,786	1,887,692
02/03 Revenue	81,288	0		8,298	10,823	15,611	0	0	5,879	121,899
03/04 Revenue	293,707	112,614		34,186	58,426	15,084	0	0	17,868	531,885
04/05 Revenue	348,772	0		36,152	158,670	13,450	0	0	38,164	595,208
05/06 Revenue	445,646	0		165,675	77,653	185,473	0	0	67,515	941,962
06/07 Revenue	771,585	0		178,732	89,125	40,023	0	0	102,906	1,182,371
07/08 Revenue	317,795	0		4,410	85,726	5,660	0	0	131,323	544,914
08/09 Revenue	172,115	0		7,811	7,669	0	0	0	94,227	281,822
09/10 Revenue	90,072	0		0	9,413	0	0	0	43,684	143,169
10/11 Revenue	86,601	0		0	15,158	0	0	0	20,905	122,664
11/12 Revenue	48,906	0		3,059	0	0	0	0	12,842	64,807
12/13 Revenue	58,480	0		898	95,097	0	0	0	7,596	162,071
13/14 Revenue	82,050	0		233,707	0	0	0	0	1,610	317,367
14/15 Revenue	104,918	0		10,431	3,042	0	0	0	4,512	122,903
15/16 Revenue	115,085	0		72,692	0	33,440	0	9,120	6,036	236,373
16/17 Revenue	117,269	0		94,390	25,763	16,013	0	0	6,784	260,219
17/18 Revenue	141,586	0		304,527	37,397	14,937	62,080	0	2,496	563,024
18/19 Revenue	87,213	0		262,354	20,852	19,390	85,360	0	3,208	478,377
19/20 Revenue	147,144	0		151,170	134,152	0	58,200	0	1,882	492,548
20/21 Revenue	132,851	0	572,395	368,998	17,635	3,878	46,560	0	7,606	1,149,923
21/22 Revenue	186,810			415,388	34,920	11,634	46,560	0	3,465	698,777
Total Revenue	\$4,796,275	\$112,614	\$572,395	\$2,587,799	\$1,116,125	\$801,593	\$298,760	\$9,120	\$605,294	\$10,899,975

ATTACHMENT B

Amador County Regional Traffic Mitigation Fee (RTMF) Program Income by Customer / Expenditures-Obligations by Project Summary As of June 30, 2022

Jurisdiction	Revenue	MOU Status
Amador City	\$9,120	Approved
Amador County	\$4,796,275	Approved
Ione	\$2,587,799	Approved
Jackson	\$1,116,125	Approved
Jackson Rancheria	\$112,614	
Buena Vista	\$572,395	
Plymouth	\$298,760	Approved
Sutter Creek	\$801,593	Approved
Interest	\$605,294	
Total Revenue	<u>\$10,899,975</u>	

Project	Expenditures	Project Status
Prospect Drive-SR 104	\$1,482,127	Completed
Mission Boulevard	\$847,851	Completed
Court Street (Jackson)	\$67,293	Completed
SR 49-Main Street (Jackson)	\$757,000	Completed
Sutter/Ione Road-SR 49 (Sutter Creek)	\$1,200,000	Completed
SR 88-Ridge Road	\$100,967	Completed
Sutter Street Extension	\$994,637	Planning
Ione Bypass PSR I (WIRIS)	\$124,187	Suspended
Ione Bypass PSR II (WIRIS)	\$45,279	Suspended
Ione Bypass PSR III (WIRIS)	\$211,226	Planning
SR 49-Main Street (Plymouth)	\$200,000	Completed
Argonaut Lane-SR 49/88	\$118,642	Suspended
Total Expenses	<u>\$6,149,208</u>	

Obligations	Project	Project Status
	Sutter Street Extension	Planning
	Sutter St. Ext. Loan Repayment	Planning
	Ione WIRIS	Planning
	Wicklows Way Extension	Planning
	SR 88 / Pine Grove Improvements	PS&E/ROW
Total Obligations	<u>\$1,853,223</u>	

Total Un-obligated Balance	<u>\$2,897,544</u>
TOTAL RTMF Fund Balance	<u>\$4,750,767</u>

Attachment C Amador County Regional Transportation Plan

Table 5: Regional Roadway Capital Improvement Program with Multi-Modal Components

Location	Project Description	Time Frame	Cost Est.	Revenue					
				STIP		SHOPP	RTMF	RSTP	Other Source (HSIP, ATP, etc.)
				RIP	IIP	Minor			
Tier I: Full Funding Potentially Available within 20 Years									
Plymouth	SR 49/Main St./Shenandoah Rd.: Construct roundabout	2-Year	\$3.8m			\$1.1m	\$200k		\$2.6m
Jackson	SR 88/Sutter Street: Realign & Signalize Intersection	4-Year	\$837k			\$472k			\$365k
County	Ridge Rd./New York Ranch Rd.: Signalize Intersection	4-Year	\$2.2m						\$2.2m
Sutter-C.	Ridge Rd./Sutter Hill Rd.: Realign Intersection	4-Year	\$974k						\$974k
County	Shake Ridge Rd.: 6 Turn-outs	2-Year	\$772k						\$772k
Sutter-C.	Sutter Creek Bridge: Bridge replacement	2-Year	\$2.7m						\$2.7m
County	Fiddletown Rd. Bridge: Bridge replacement	6-Year	\$2.8m						\$2.8m
Jackson	SR 49/French Bar: Signalize Intersection	4-Year	\$2m			\$2m			
County	Fiddletown Rd./Shenandoah Rd.: Realign Intersection	2-Year	\$4.6m					\$200k	\$4.6m
SR 88 Pine Grove Corridor Improvement Project (\$39.5m total)									
Pine Grove	PS&E	3 Year	\$1.6m	\$1.6m					
	ROW	5 Year	\$2.7m	\$2.7m					
Sub-total ² :			\$4.3m	\$3.0m					\$4.3m
SR 88 Pine Grove Corridor Improvement Project (\$39.5m total)									
Pine Grove	A. SR 88: Berry St to Hilltop Rd. Rehabilitation and widening of SR 88. Signalize intersections, ped crossing, revise school access, add sidewalks.	(+/-20 year)	\$10.8m	\$10.8m					
Ione	SR 104; E. Main to Elementary School: Sidewalks, bike lanes, school access & safety	10 Year	\$350k						\$350k
SR 49/88 Jackson Corridor Improvement Project (\$33.1m total)									
Jackson	PA&ED	10 Year	\$1.2m	\$1.2m					
	PS&E	10 Year	\$1.4m	\$1.4m					
	A. SR 49/88 from "Jackson Local Collector" to Main St.: Curb ramps & sidewalks	20 Year	\$2.4m						\$2.4m
	C. SR 49/SR 88 Intersection: Widen bridge & add Lft. turn pockets, improve ped crossing	20 Year	\$6.4m						\$6.4m
	D. SR 49 from SR 88 to Clinton Rd.: Sidewalks from SR 88 to Schober Ave. & from South Ave. Bridge to French Bar, add SB lane & sidewalk from French Bar Rd. to Clinton	20 Year	\$3.6m						\$3.6m
Sutter Street Extension (\$8m total)									
Jackson	A. Connect Sutter Street to Hoffman	(+/-20 year)	\$5.2m	\$2.2m			\$3.2m		\$2.6m
	B. Hoffman from Sutter Street to Argonaut: Improve to Collector Standards	(+/-20 year)	\$2.8m						
Wicklow Way Extension (\$11.6m total)									
County	B. Wicklow Way to Stony Creek: Construct Collector w/ New Development	(+/-20 year)	\$4.2m	\$2m			\$2.2m		
	C. Stony Creek from Argonaut to Wicklow: Improve to Collector Standards	(+/-20 year)	\$2.6m						\$2.6m
County	Shenandoah Rd. @ Bell Rd./PM 3.80: Improve shoulders/drainage, pavement rehab	(+/-20 year)	\$1.3m						\$1.3m
County	Fiddletown Rd. @ PM 9.0: Improve shoulders, pavement rehab, curve corrections	(+/-20 year)	\$1.1m						\$1.1m
County	New York Ranch Corridor: Improve shoulders, pavement rehab, curve corrections	(+/-20 year)	\$731k						\$731k
County	Michigan Bar Rd. Corridor: Improve shoulders, pavement rehab, curve corrections	(+/-20 year)	\$416k						\$416k
County	Latrobe Rd.; Various Locations: Widen roadway & shoulders	+20 year	\$676k	\$676k					
County	Shenandoah Rd.; Various Locations: Widen shoulders, improve drainage, overlay	+20 year	\$937k						\$937k
SR 49 Plymouth Corridor Improvement Project (\$16.5m total)									
Plymouth	PA&ED	20 Year	\$1.3m	\$1.3m					
	C. SR 49/Empire: Intersection & multimodal improvements	20 Year	\$3.5m	\$1.5m			\$2m		
	D. SR 49/Zinfandel Rd.: Intersection & multimodal improvements	20 Year	\$2.6m						\$2.6m
Western Ione Roadway Strategy (\$108.2m)									
Ione	SR 104/Golf Links Dr.: Intersection improvements	20 Year	\$1.5m	\$1.5m					
	A. Construct Collector w/ New Development	20 Year	\$6.9m						\$6.9m
	B. Construct Collector w/ New Development	20 Year	\$8m						\$6m
	C. Upgrade To Collector Standard	20 Year	\$722k						
	D. Upgrade To Collector Standard (bridge)	20 Year	\$629k				\$3m		\$1.1m
	E. Upgrade To Collector Standard	20 Year	\$2.7m						
Ione	SR 124/Howard Park/Ione Parkway Dr.: Turn Pockets and Intersection improvements	20 Year	\$1.5m	\$1.5m					
County	Latrobe Rd. @ Lorentz Rd.: Curve correction, widen shoulders, overlay	10 Year	\$559k	\$559k					
Drytown	SR 49; SR 16 to Drytown: Widen shoulders, improve ped crossing, safety signage	20 Year	\$250k			\$250k			
Jackson	China Grave Yard Rd.: Widen shoulders, drainage, shoulders, safety signage, overlay	10 Year	\$320k						\$320k
Ione	SR 104; Shakely Ln to Sutter Ln: sidewalks and bike signage	10 Year	\$250K						\$250k
Ione	Shakely Ln; Sidewalks and bike signage	10 Year	\$550k						\$550k
County	SR 16/Latrobe Rd.: Add WB RT turn lane & EB receiving pocket	10 Year	\$750k			\$750k			
Ione	SR 124; E. Main St. to Howard Park: Complete sidewalks & pedestrian crossings	20 Year	\$175k						\$175k
County	SR 88/Buckhorn Ridge Rd.: Widen EB shoulder, correct sight distance	20 Year	\$300k			\$300k			
County	SR 88; Columbia Dr. to Antelope Dr.: Nob Hill curve correction	20 Year	\$2.5m			\$2.5m			
County	SR 49/Bell Rd.: Curve correction, widen shoulders	20 Year	\$200k			\$200k			
County	SR 88/SR 104/Jackson Valley Rd. (E.): Signalize intersection	(+/-20 year)	\$1.5m			(X)			(X)
Sub-total:				\$24.7m		\$4m	\$10.8m		\$39.5m
Total				\$27.7m		\$4m	\$10.8m	\$300k	\$49.33m
TIER I TOTAL:				\$97.315M			\$97.315M		

Attachment D

Countywide Regional Traffic Mitigation Fees (adopted) 2016/17

Residential	Development Project Type	Adjusted Trip Rate	Fee Amount Residential \$388/trip end
Residential	Single Family Detached (Note: D.U. = Dwelling Unit)	10.0/D.U.	\$3,878/D.U.
	Multi-Family Attached Apartments, duplexes or condominiums are charged per dwelling unit without regard to square footage or number of bedrooms.	7.1/D.U.	\$2,753/D.U.
	Mobile Home Park or Subdivision An area or tract of land where more than two spaces are rented or individually owned to accommodate mobile homes. Retirement Community Five or more residential units, enforceably restricted to those 55 or over and designed for the elderly.	4.22/D.U.	\$1,637/D.U.
	Congregate Care Facility Congregate care facilities typically consist of one or more multi-unit buildings designed for elderly living; they may also contain common dining rooms, medical facilities and recreational facilities.	2.15/D.U.	\$834/D.U.
Non-Residential	Development Project Type	Adjusted Trip Rate	Commercial: \$167/Trip End
Retail Commercial	High Volume Retail: Drug Store Department Store Grocery Store Discount Store Mini Mart Automobile Sales Liquor Store Supermarket Laundromat Auto Parts Clothing/Apparel Store Delicatessen Bank Health Fitness Center Record/Video Rental & Sales Hardware Store Pharmacy Specialty Retail Center Small shopping centers that contain a variety of retail shops including apparel; hard goods; and services such as real estate offices, dance studios, florists, and small restaurants Shopping Center May contain Supermarkets, Drug Stores, Banks, Movie Theater and miscellaneous small retail shops.	20/1,000 S.F. (Note: Square Feet of the gross floor area, measured to the nearest square foot; applicable to structures only.)	\$3,344/1,000 S.F.
	Medium Volume Retail: Bakery Automobile Repair Child Care Club Store Dry Cleaner Shoe Store Gift Shop Lumber/Building Supplies Sporting Goods Store Nursery Jewelry Store Stationary Store Photo Store Print Shop (retail) Toy Store Electronics Store Book Store Factory Outlet Center Tire Store Health Food Store	13/1,000 S.F.	\$2,174/1,000 S.F.
	Low Volume Retail: Antique Store Boat/Equipment Repair Shop Appliance Store Furniture Store Gallery Museum Kennel Boat/RV/Mobile Home Sales Clock Store Repair Shop (TV, Radio, Vacuum, etc.) Wine or beer tasting rooms or product retail sales in conjunction with such	1.5/1,000 S.F.	\$251/1,000 S.F.
Food Services	Fast food standalone restaurant on a State highway	161/1,000 S.F.	\$26,919/1,000 S.F.

	Fast food drive-through restaurant within a shopping center or community (wherein fast food restaurant is not immediately adjacent to a State highway)	60/1,000 S.F.	\$10,032/1,000 S.F.
	Quality Sit-down Restaurant Drinking Establishment (Bar)	23/1,000 S.F.	\$3,846/1000 S.F.
Specialty Commercial	Gas Station with or without convenience store (Note: The number of fueling spaces is determined by the maximum number of vehicles capable of being fueled simultaneously.)	32/Fueling Space	\$5,350/Fueling Space
	Car Wash / Quick Lube	21/Stall	\$3,511/Stall
	Hotel/Motel/Resort/Bed and Breakfast (Note: Sleeping unit, dwelling unit, rental unit, or other component by which the development is marketed.)	5.2/Unit	\$869/Unit
Medical	Hospital	11.8/Bed	\$3,587/Bed
	Nursing Home / Convalescent Home	2.6/Bed	\$790/Bed
	Medical Office or Medical or Health Clinic providing diagnostic or treatment services	30/1,000 S.F.	\$9,120/1,000 S.F.
Non-Residential Category	Development Project Type	Adjusted Trip Rate¹	All Other Non-Residential: \$304/trip end
Office	General Office	11/1,000 S.F.	\$3,344/1,000 S.F.
Industrial	Light, including: Airport/Airstrip Livestock Feedlot/Auction Yard Material Testing Laboratory Meat Packing Facility Printing Plant Electronics Plant	6/1,000 S.F.	\$1,824/1,000 S.F.
	Heavy, including: Auto Wrecking and Junk Yard Foundry and Smelter Lumber Mill Mining Operation Refining Plant	1.5/1,000 S.F.	\$456/1,000 S.F.
	Manufacturing/Assembly/Agricultural Processing Manufacturing or assembly facilities where the primary activity is the conversion of raw materials, products or parts into finished commodities for sale or distribution, including a winery or brewery.	3/1,000 S.F.	\$912/1,000 S.F.
Institutional	Elementary School / Middle School Church or other place of worship	10/1,000 S.F.	\$3,040/1,000 S.F.
	High School	13/1,000 S.F.	\$3,952/1,000 S.F.
Public Utilities	Utilities (Publicly or privately owned) Production, generation, storage, transmission and treatment facilities, mechanical or industrial space, parts and equipment storage, repair areas, and office space in the same project and related to or used for these utility uses.	6/1,000 S.F.	\$1,824/1,000 S.F.
Warehousing/ Storage	Warehouse Facilities primarily devoted to the storage of materials, including wholesale distribution facilities.	5/1,000 S.F.	\$1,520/1,000 S.F.
	Mini-storage Facilities Buildings housing separate storage units or vaults used for storage.	2/1,000 S.F.	\$608/1,000 S.F.
Other	Golf Course	21/Hole	\$6,384/Hole
	Theater (Movie)	6.4/1,000 S.F.	\$1,946/1,000 S.F.
	Theater (Live)	1.5/1,000 S.F.	\$456/1,000 S.F.
	Recreational / Visitor Center	3.1/Parking Space	\$942/Parking Space

RESOLUTION 22-23-*

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK
APPROVING THE FISCAL YEAR 2021/2022
AMADOR COUNTY REGIONAL TRAFFIC MITIGATION FEE
PROGRAM ANNUAL REPORT**

WHEREAS, pursuant to its authority under Government Code 66000 et. seq., the City of Sutter Creek previously imposed regional traffic mitigation fees and amended said fees pursuant to Resolution 21-22-26; and

WHEREAS, the purpose of said fees is to mitigate the impact of new developments on the regional transportation system of Amador County; and

WHEREAS, The County of Amador and the County's five incorporated cities have all collected and deposited all regional traffic mitigation fees with the Amador County Transportation Commission ("ACTC") which has maintained the funds in a separate non co-mingled capital facilities fund ("capital facilities fund") established for the above stated purpose pursuant to Government Code Section 66006(a) and (b); and

WHEREAS, the ACTC and the City of Sutter Creek have made available to the public an annual program implementation report for fiscal year 2021/22 ("Annual Report") which is hereby incorporated by reference; and

WHEREAS, the Annual Report was prepared in accordance with Government Code Section 66001(d) and 66006(b)(1); and

WHEREAS, the City of Sutter Creek has reviewed the information provided in the Annual Report and determined the information contained therein is true and correct; and

WHEREAS, the Annual Report reflects implementation of prior year recommendations of the Regional Traffic Mitigation Fee Oversight Committee as approved by the cities and County for programming and expending funds for projects consistent with the Amended and Restated Memorandum of Understanding ("MOU") establishing the countywide Regional Traffic Mitigation Fee Program and the Regional Traffic Mitigation Fee Nexus Plan 2000-2025 ("Nexus Plan"); and

WHEREAS, City of Sutter Creek has agendized and considered the Annual Report at a regularly scheduled City Council/Board of Supervisor meeting and considered public comment concerning the Annual Report during said meeting.

NOW THEREFORE the City of Sutter Creek, County of Amador, State of California, finds and determines the following:

1. The above recitals are true and represent findings of the City Council.
2. The City Council hereby approves the Annual Report for fiscal year 2021/22 as presented.
3. That all recommendations for funding are consistent with the MOU and the Nexus Plan as required.
4. The approval of the Annual Report and programming and expenditure of funds consistent with the previously approved MOU and Nexus Plan is not a "project" or otherwise an act requiring environmental review pursuant to the California Environmental Quality Act.
5. That all Regional Traffic Mitigation Fees previously collected and not yet expended are accounted for and are still needed for the purposes for which they were collected.

The foregoing resolution was duly passed and adopted at a regular meeting of the City Council of the City of Sutter Creek on the 17th day of November, 2023 by the following vote.

AYES:

NOES:

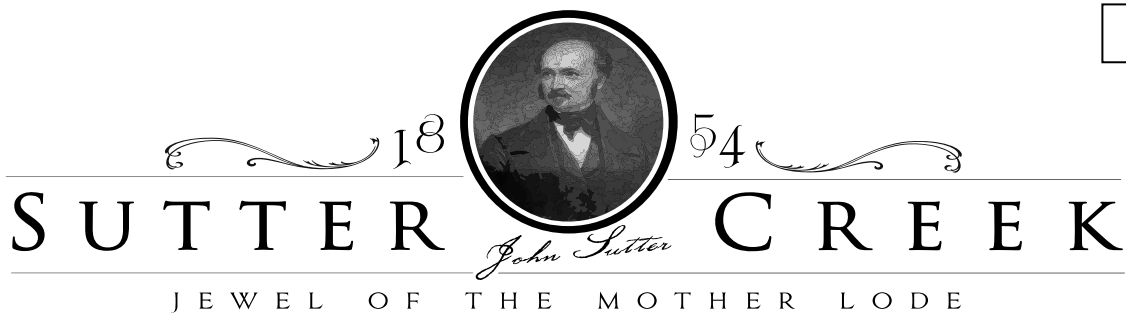
ABSTAIN:

ABSENT:

Claire Gunselman, Mayor

ATTEST:

Karen Darrow, City Clerk



TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

MEETING DATE: JANUARY 17, 2023

FROM: LARRY WHITE, BUILDING INSPECTOR
JODI ARROYOS, ACCOUNT TECHNICIAN

SUBJECT: ORDINANCE ADOPTING AND AMENDING THE 2022 CALIFORNIA BUILDING STANDARDS CODE AND OTHER UNIFORM CODES

RECOMMENDATION:

Introduce and Waive First Reading of Ordinance No. _____ Amending Sections 15.04.10 and 15.04.030 of the Sutter Creek Municipal Code adopting and amending the 2022 California Building Standards Code and other Uniform Codes.

BACKGROUND:

The City last amended Chapter 15.04 to reflect the 2019 California Building Standards Code and Other Uniform Codes in 2020.

DISCUSSION:

Every three years the various California and National Building Codes are revised to reflect the latest in building and fire safety standards. In July 2022, the California Building Standards Commission approved the 2022 California Building Standards Code. In addition to various California-specific codes, it adopts and amends the 2021 International Building Code, 2021 International Residential Code, 2021 National Electrical Code, 2021 Uniform Mechanical Code and the 2021 Uniform Plumbing Code. According to state law, the 2022 California Building Standards Code takes effect on January 1, 2023. Other codes being adopted by the City are the Uniform Housing Code, the Uniform Building Security Code, Uniform Swimming Pool, Spa and Hot Tub Code, the Uniform Code for the Abatement of Dangerous Buildings and the International Property Maintenance Code.

While the 2022 California Building Standards Code takes effect on January 1, 2023, regardless of City action, state law allows cities to adopt and amend the codes to meet local needs. Specifically, the City is permitted to establish more restrictive building standards than those contained in the Code that are reasonably necessary because of local climatic, geological, or topographical conditions. The City of Sutter Creek, therefore, has more restrictive requirements for snow load, Class "A" roofing and fire sprinklers for buildings exceeding 5,000 square feet. The City is located within a less restrictive seismic area than the other counties and cities. Most projects located within the city limits are governed more by wind than seismic regulations.

The DRAFT Ordinance will adopt the 2022 California Building Standards Code and make minor amendments to it. These amendments are consistent with those adopted by the City Council

during the 2019 code adoption cycle and include the amendments included in the 2019 code adoption cycle not adopted by the City. In addition to the California Building Standards Code, this ordinance adopts a number of other “building codes”. With the exception of the Uniform Housing Code, the City is not required to adopt these codes; however, their adoption assists staff’s enforcement of the California Building Standards Code and imposes additional beneficial regulations. These codes are the Uniform Housing Code, the Uniform Building Security Code, Uniform Swimming Pool, Spa and Hot Tub Code, the Uniform Code for the Abatement of Dangerous Buildings and the International Property Maintenance Code.

Procedurally, the City must take special steps whenever it adopts a code by reference. It must (1) introduce the ordinance and conduct (or waive) a first reading, (2) schedule a public hearing that may coincide with the second reading, (3) publish notice of the hearing for fourteen days and (4) conduct the public hearing and adopt the ordinance. The scheduled action for the City Council meeting is the first of these four actions.

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK
AMENDING SECTIONS 15.04.010 AND 15.04.030 OF THE SUTTER CREEK MUNICIPAL
CODE REGARDING ADOPTION OF BUILDING CODE UPDATES**

The City Council of the City of Sutter Creek, California does ordain as follows:

Section 1

Section 15.04.010 of the Sutter Creek Municipal Code is amended as follows:

15.04.010 - Adoption of codes and related appendices.

- A. The 2022 California Building Standards Administrative Code contained in Part 1 of Title 24 of the California Code of Regulations is hereby adopted by reference as the Building Standards Administrative Code of the City of Sutter Creek.
- B. The 2022 California Building Code contained in Part 2 of Title 24 of the California Code of Regulations, including Appendix C (Group U—Agricultural Building), Appendix H (Signs), Appendix I (Patio Covers) and Appendix J (Grading) is hereby adopted by reference as the Building Code of the City of Sutter Creek.
- C. The 2022 California Residential Building Code contained in Part 2.5 of Title 24 of the California Code of Regulations, is hereby adopted by reference as the Residential Building Code of the City of Sutter Creek.
- D. The 2022 California Electrical Code contained in Part 3 of Title 24 of the California Code of Regulations, including Article 89, is hereby adopted by reference as the Electrical Code of the City of Sutter Creek.
- E. The 2022 California Mechanical Code contained in Part 4 of Title 24 of the California Code of Regulations, is hereby adopted by reference as the Mechanical Code of the City of Sutter Creek.
- F. The 2022 California Plumbing Code contained in Part 5 of Title 24 of the California Code of Regulations, is hereby adopted as the Plumbing Code of the City of Sutter Creek.
- G. The 2022 California Energy Code contained in Part 6 of Title 24 of the California Code of Regulations, including Appendix 1-A is hereby adopted by reference as the Energy Code of the City of Sutter Creek.
- H. The 2022 California Historical Building Code contained in Part 8 of Title 24 of the California Code of Regulations is hereby adopted by reference as the Historical Building Code of the City of Sutter Creek.
- I. The 2022 California Fire Code contained in Part 9 of Title 24 of the California Code of Regulations, is hereby adopted as the Fire Code of the City of Sutter Creek.

- J. The 2022 California Existing Building Code contained in Part 10 of Title 24 of the California Code of Regulations, is hereby adopted by reference as the Existing Building Code of the City of Sutter Creek.
- K. The 2022 California Green Building Standards Code contained in Part 11 of Title 24 of the California Code of Regulations is hereby adopted by reference as the Green Building Standards Code of the City of Sutter Creek.
- L. The 2022 California Referenced Standards Code contained in Part 12 of Title 24 of the California Code of Regulations is hereby adopted by reference as the Referenced Standards Code of the City of Sutter Creek.
- M. The 2021 International Property Maintenance Code as published by the International Code Council and referenced in Title 24, Part 2, of the California Building Code is hereby adopted by reference as the Property Maintenance Code of the City of Sutter Creek.
- N. The 1997 Uniform Code for the Abatement of Dangerous Buildings, published by the International Conference of Building Officials, is hereby adopted by reference as the Dangerous Buildings Code of the City of Sutter Creek.
- O. The above-identified codes in this section 15.04.010 (hereinafter collectively referred to as the "Building Codes") are adopted for the purpose of prescribing regulations for the erection, construction, modification, repair, maintenance, demolition, use and occupancy of buildings and structures. One copy of each of the Building Codes shall be maintained for use and examination of the public in the office of the building official.

Section 2

The City Council finds as follows:

- A. California Health and Safety Code, Section 13869.7, 17958.7, and 18941.5, allow for amendments reasonably necessary because of local climatic, geographical or topographical conditions.
- B. The topography of the City of Sutter Creek presents several factors which impede response times: steep and narrow roadways, the city divided by a major water way, Sutter Creek, and areas with insufficient water supplies.
- C. The City of Sutter Creek is surrounded by State Resource Area (SRA) high hazard areas which gives potential for wildland fires moving into the city. With terrain and steep canyons creating challenging access, changes in the code allow for more self-sustaining defensible fire protection.
- D. The City of Sutter Creek presents problems for a timely response due to climatic conditions, from fog to occasional snow.
- E. Based on the afore-cited topographical and climatic findings the City of Sutter Creek finds it necessary to amend the Code to provide additional fire safety measures in an attempt to reduce the severity of fire and potential loss of life and property.

F. In addition, the City of Sutter Creek is at elevation 1,188 feet, and therefore receives snow at such intervals as require that roof of structures to be constructed to accommodate snow loads of a minimum of 20 pounds per square feet. Due to this topographical and climactic condition, the adoption of a local snow-load requirement is necessary to protect the potential loss of life and property.

Section 3

In light of the findings in the preceding section, Section 15.04.030 of the Sutter Creek Municipal Code is amended as follows:

15.04.030 - Amendments to California Building Code.

The provisions of this section 15.04.030 shall constitute local amendments to the cross-referenced provisions of the 2022 California Building Code, Title 24, Part 2 and shall be deemed to amend the cross-referenced section in said Code with the respective provisions set forth in this section 15.04.030.

A. Section 903.2 of the California Building Code is amended by adding, at the end of the text of that section, a new subsection to read as follows:

22. NEW STRUCTURES. An automatic fire sprinkler system shall be installed in occupancies 5,000 square feet and larger exclusive of area separations as defined in the California Building Code.

This requirement may be waived by the Building Official if the building is divided into areas of less than 5,000 square feet. Such division shall be made by the construction of fire wall(s) which meet the requirement of Chapter 3 and Chapter 7 of the California Building Code.

The integrity of the said fire wall shall be maintained as defined in the California Building Code. In the event such integrity is not maintained, the building shall be equipped with an approved automatic sprinkler system.

B. Section 903.2 of the California Building Code is amended by adding, at the end of the text of that section, a new subsection to read as follows: 23. EXISTING STRUCTURES. An automatic fire sprinkler system shall be provided in existing structures when there is a change of character of the occupancy or use of any building which may, in the opinion of the Building Official increase or may cause to increase the hazard of fire or threat to life and safety.

C. Section 1608A.1 of the California Building Code is amended to add the following sentence at the end of the subsection as follows: (1) The snow load for the City of Sutter Creek shall be 20 pounds per square foot.

Section 4

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 5

The City Council determines that the provisions of this Ordinance are exempt from the California Environmental Quality Act because the instant ordinance involves continuing administrative activities and thus is not a project, as the Act defines, pursuant to Section 15378(b)(2) of the California Environmental Quality Act Guidelines. To the extent the adoption of this Ordinance constitutes a project, the City Council finds pursuant to CEQA Guideline Section 15061(b)(3) that the project is exempt from environmental review because it can be seen with certainty that the adoption of the ordinance would not have any significant impact on the environment.

This ordinance shall be published and posted in the manner required by law by the City Clerk.

Introduced at a meeting of the City Council of Sutter Creek on January 17, 2023 and enacted by the City Council of the City of Sutter Creek at a regular meeting held on February 6, 2023.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Sutter Creek City Council, held on this 6th day of February 2023, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Claire Gunselman, Mayor

ATTEST:

Karen Darrow, City Clerk



Karen Darrow <kdarrow@cityofsuttercreek.org>

To All City Council members

1 message

Amy Gedney <agedney@cityofsuttercreek.org>
To: Amy Gedney <agedney@cityofsuttercreek.org>
Bcc: kdarrow@cityofsuttercreek.org

Fri, Jan 6, 2023 at 4:10 PM

It has been my privilege to serve the citizens of Sutter Creek since January 2014. During this time, the City has accomplished many good things for our residents and there are many completed or in-progress projects and improvements that will serve the community for decades into the future.

It is now time for me to submit my resignation as City Manager. My last day with the City will be February 24, 2023.

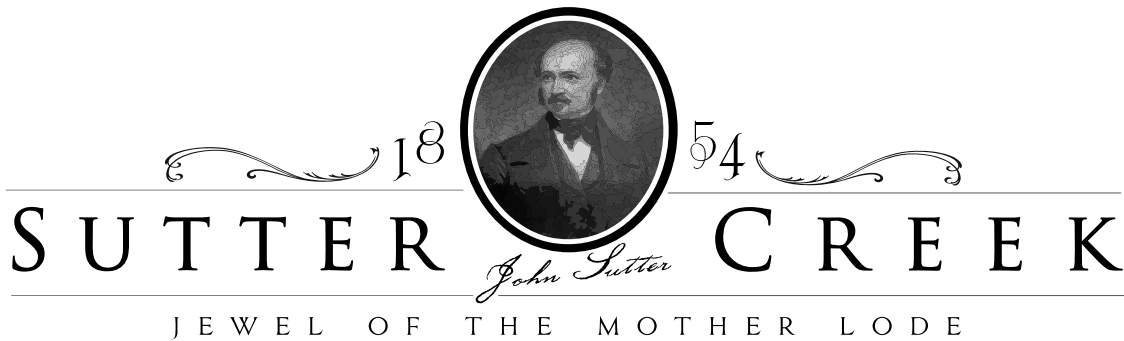
The City of Sutter Creek has a tremendous staff. It has been a privilege working alongside City staff and I can not underscore enough the value of their work and dedication. It is through their skill and dedication that the City has accomplished so much. They are the strength of the organization.

Thank you for the opportunities provided to me over my time of service and I extend my best wishes for the future success of the City of Sutter Creek.

Respectfully,

Amy

Amy Gedney
City Manager
City of Sutter Creek, CA



DATE: JANUARY 17, 2023

TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: AMY GEDNEY, CITY MANAGER & GRANT REYNOLDS, WASTEWATER ENGINEER

REQUESTED ACTION:

For information and staff direction.

BACKGROUND:

Since the early 2000s, the City of Sutter Creek's wastewater treatment plant has been an ongoing issue for the City Council. The costs for upgrade exceed the ability of the City to pay for such an expansive upgrade- even with grants. In general the system is an antiquated system with ties to multiple agreements linked to outside agencies from the 1980s. Over the years, the City has looked at multiple ways to address the collection system, while updating the treatment system and finding alternatives for the discharge of secondary effluent. Below is a synopsis of the overall system as well more recent information that pertains to the City's current grant funding.

Timeline:

1949 – City's first main collection system installed. First clarigester was built at current location.

1974 – Second clarigester was built along with the current trickling filter. Initial overflow storage Pond constructed. Permitted Average Daily Dry Weather Flow 200,000 gals./day.

1979-1980 – Line from WWTP added to ARSA system for disposal.

1982-1983 – Plant upgrade (Larry Baker) (2) rotostrainers installed in building. Chlorine contact chamber built. O&M Manual created by Larry Baker outlining WWTP expansion steps for additional capacity. Permitted Average Daily Dry Weather Flow increased from 200,000 gals./day to 300,000 gals./day.

1990 – Sludge Drying Bed constructed.

1991 – Plant Upgrade (Gene Weatherby). New bar screen installed. New grit chamber built. (2) additional rotostrainers installed with building. Office with Lab area below constructed. Permitted Average Daily Dry Weather Flow increased from 300,000 gals./day to 480,000 gals./day.

1993 – Existing Chlorine Building constructed.

1995 – Emergency Overflow Pond Expanded.

2000 – Replaced Trickling Filter Tower.

2001 – Shaftless Screw Conveyor from Bar Screen to Grit Bin Installed.

2001 – Smoke Testing of Collection System completed to address I & I at WWTP. City staff and a contractor completed repair items on findings list related to sewer lines maintained by the City. Action related to repairing laterals identified to be fixed was never taken.

2004 – WWTP/ARSA System Title 22 Engineering Report prepared by Thompson-Hysell Engineers as a part of Gold Rush Ranch proposed WWTP expansion.

2007

Original HDR Engineers Sutter Creek Wastewater Master Plan completed in August, 2007 as a condition of the Gold Rush Ranch Project. This Master Plan was updated June 2009 and February 2010.

Preliminary Design Report Interim Treatment Facility (PDRITF) completed by HDR.

September: ARSA, Ione, and California Department of Corrections and Rehabilitation, CDCR, sign an agreement on how Preston Reservoir water allocations will be managed.

2008

Plant Upgrade (HDR). This was completed as a result of the findings from PDRITF. Emergency Overflow Pond Expanded to approximately 1 million gallons. HDPE Liner for Pond was installed. Electrical Service Panel replaced and upgraded. Panel for

emergency pumps and recirculation pumps was not upgraded. Sludge Screw Press installed. Building for Sludge Screw Press, Emergency Generator, and sludge flocculation chemicals constructed. No additional treatment capacity occurred as a result of this upgrade.

2009 – June 2009 HDR Master Plan Updated. (Document available in City Files).

2010 – February 2010 HDR Master Plan Updated. (Document available in City Files).

2011

Wastewater Treatment Plant WWTP Process Evaluation completed by IRM/WL Troxel & Associates (Document available from WRFED). Capacities for each Unit Process at the WWTP are evaluated in this document.

Smoke testing of portions of the collection system completed to address I & I problems at WWTP. City staff completes some correction work. Rabb Street main line replaced by contractor.

2012

In conjunction with Aquality Engineers, who was a subconsultant to the City at the time, a Repair and Replacement plan for the WWTP was created for the window of the next four years (2013-2017). This plan was not implemented at the time due to direction of WWTP replacement. (Document available form WRFED).

November - Draft Wastewater Master Plan Update completed by HydroScience. (Document available in City Files)

2017

January – February – significant rain events increased the amount of water in both Henderson and Preston Reservoirs.

March: City Council authorized work on the Master Plan to commence.

May: Preston Reservoir nearly overtops.

July: Ione sends a letter to ARSA indicating that they would like to end the 5-year agreement.

September: The Regional Water Quality Control Board issued a Cleanup and Abatement Order, CAO, which would require ARSA to alter its operations significantly. (It should

be noted that ARSA does not own its facilities. They are leased from the State with the lease ending in 2037.)

November: ARSA, Ione, and CDCR settle negotiations regarding the 2007 Agreement and agree on terms of payment for tertiary treatment to Ione.

December:

HydroScience completed an additional Master Plan Update. (Document available in City Files). From this update the City decided to pursue the best economic alternative presented in the Update. The cost to build a Tertiary Plant with direct discharge was \$33.0 million (2017 dollars).

Trickling Filter Arms replaced at WWTP. Thoroseal applied to contact chamber.

Completed Creek Line CCTV and Manhole Lining Projects to attempt to track and reduce Infiltration & Inflow (I & I) to WWTP. After this work was completed three additional years of manhole lining projects were completed (2018-2020).

2018

January - February: Carollo Engineers completed a Peer Review of Hydroscience's 2017 Master Plan Update. They generally agreed with the conclusions presented in the 2017 Update. Carollo's conclusion on which WWTP alternative to pursue agreed with the City's decision. A Tertiary WWTP with discharge to Sutter. (Document available in City Files).

June- August: Grant application submitted and revised to develop a Plan of Study for a Design – Build of a tertiary treatment plant with a direct discharge option.

2019

May: Sewer Rate Study begins.

December: City Council adopted a Sewer Rate Study, effective January 2020. (**See Attachment A: Sewer Rate Study**).

2020

August: City of Sutter Creek approved for grant to pursue Design – Build option to construct Tertiary WWTP at existing site. City contracts with Carollo Engineers to

present preliminary engineering and funding avenues for the construction of a Tertiary WWTP.

2021

February - May: Carollo Engineers completed a preliminary design for proposed Tertiary WWTP. The estimated cost to design and construct the new Tertiary WWTP increased from \$33.0 million (Hydroscience, 2017 MP Update) to \$50 million in capital costs (Carollo, 2021). The I & I problem that the city was already investigating was brought up as large concern for the sizing of the new WWTP and its components. Due to the time constraints and difficulties in obtaining new Waste Discharge Requirements no additional WWTP capacity is planned with this upgrade. The attached documents (**See Attachment B: Carollo**) outline the discussions regarding estimated costs for tertiary treatment as well as exploration of alternatives and possible options.

December: ARSA sends Ione letter indicating the 5-year agreement is null as they did not satisfy the terms of the Agreement.

2022

March: ARSA staff began pursuing discussions with the City of Ione regarding 2022 water balances.

With the assistance of California Rural Water, staff completed smoke testing of the existing collection system to try and find I&I. No large infiltration points were found.

Summer:

The Sewer Committee met six times over the course of 2022. A WWTP Capital Improvement Plan was created from the 2012 Repair and Replacement (R&R) Plan to outline items at the existing plant that were in need of R&R that could help extend the life of the existing WWTP. A priority chart for the implementation of plan was also created. (**See Attachment C: Sewer Agendas**).

Ione continues to refuse to accept ARSA water.

Additional coating of Thoroseal applied to Chlorine Contact Chamber. *Last coating was applied in 2017.*

Staff continues to actively pursue I&I. City Council approved the purchase of two Manhole Flow Metering set-ups. To help track I&I during storm flows. Prior to this

approval, a search for rental companies that provided meters was pursued with no results. But, prior to purchasing the new meters the City was contacted by a company that provides the rental service. A rental agreement for 10 meters, for use for a month for \$14,400/month was obtained. This includes software for monitoring, staff training for moving and installing meters, and delivery and pick up of the meters. We are hoping this produces better information regarding I&I.

Two (2) new Emergency Pumps and (2) new Recirculation Pumps are on order for the WWTP.

Current permitted capacity at the WWTP is 480,000 gals./day. Current Average Daily Dry Weather Flow to the WWTP is 301,000 gals./day. The Current Committed Flow Capacity to the WWTP is approximately 422,000 gals./day. This Committed Capacity includes 39,000 gals./day to Amador City and 115,500 gals./day to the Amador Water Agency who operates CSA #4 (Martell Area).

September: ARSA files lawsuit against Ione and CDCR. **(See Attachment D: ARSA)**

DISCUSSION:

With the proposed Capital Improvement Plan (CIP) no additional capacity is planned. Many of the items on the list are delayed maintenance due to the direction of WWTP replacement planning. The plan of the CIP is to extend the life of the WWTP approximately 8-10 years in order to allow a solution for replacement and the possibility of eventual expansion to be obtained. As a slow growth community, capacity expansion would require significant growth to pay for the additional capacity. The City has been grappling with wastewater issues for many years in an effort to keep costs to a minimum and devise a best-case scenario, as all of the options require a significant capital investment.



City of Sutter Creek

2019 Sewer Rate Study

Final Report

September 11, 2019





September 11, 2019

Ms. Amy Gedney
City Manager
City of Sutter Creek
18 Main St.
Sutter Creek, CA 95685

Re: 2019 Sewer Rate Study

Dear Ms. Gedney,

Hildebrand Consulting and the Reed Group are pleased to present this 2019 Sewer Rate Study (Study) that we performed for City of Sutter Creek (City). We appreciate the fine assistance provided by you and all of the members of the City staff who participated in the Study.

If you or others at the City have any questions, please do not hesitate to contact me at:

mhildebrand@hildco.com
(510) 316-0621

We appreciate the opportunity to be of service to the City and look forward to the possibility of doing so again in the near future.

Sincerely,

Mark Hildebrand
Hildebrand Consulting, LLC

Robert Reed
The Reed Group, Inc.

Enclosure



Executive Summary

This Executive Summary presents an overview of the results of the 2019 Sewer Rate Study (Study) that was conducted for the City of Sutter Creek (City) by Hildebrand Consulting, LLC and The Reed Group, Inc. The full report provides details regarding the assumptions, procedures, and results of the Study.

Study Background - The City's Sewer Utility provides sewer collection, treatment and conveyance/disposal services for over 2,000 residential and business accounts located within the City of Sutter Creek, as well as to the City of Amador City (Amador City) and the Martell wastewater service area of the Amador Water Agency (AWA). The last sewer rate study (in 2008) recommended three sequential rate increases and, while the recommendations were accepted by the City, only the initial rate increase was actually implemented. The deferral of the two latter rate increases resulted in lost revenue of over \$2 million in rate revenue since 2009. Furthermore, it has now been more than ten years since the City last adjusted its sewer rates.

Scope and Objective of Study - The scope of this Study was to prepare a multi-year financial plan, update the cost-of-service analysis, review the City's existing rate structure, and propose a 5-year rate program. The primary objectives of this Study were to:

- i. Develop a multi-year financial management plan that integrates the City's operational and capital project funding needs;
- ii. Identify future adjustments to Sewer Rates and Service Charges to help ensure adequate revenues to meet the Sewer Utility's ongoing service and financial obligations;
- iii. Determine the cost of providing sewer service to the City's retail customers and two wholesale customers (Amador City and AWA) using industry-accepted methodologies; and

- iv. Recommend specific modifications to the City's existing rate structure in order to ensure that the City is equitably recovering the cost of service and comports with industry standards and California's legal requirements.

This Study applied methodologies that are aligned with industry standard practices for rate setting as promulgated by the Water Environment Federation (WEF) and all applicable law, including California Constitution Article XIII D, Section 6(b), commonly known as Proposition 218.

Study Approach - The City will likely incur significant capital costs in the near future as a result of a mandatory project to upgrade or replace the existing wastewater treatment plant with a tertiary plant (WWTP Project). The timing and the magnitude of those costs, however, are still under development. As it stands, even without the costs of the WWTP Project, the Sewer Utility requires rate revenue increases in order to pay for operating costs and to fund back-logged repair and replacement (R&R) capital projects for the sewer collection system. As such, this Study proposes to approach the sewer rate plan in two phases. A **Phase 1** rate plan that considers all costs with exception of the WWTP Project, and a **Phase 2** rate plan with a financial plan that includes the cost of the WWTP Project and associated financing. The Phase 2 rate plan is expected to supersede the Phase 1 rate plan within the next year.

Financial Plan - This Study's 10-year financial plan is designed to allow the Sewer Utility to meet Phase 1 revenue requirements and financial performance objectives throughout the financial planning period while striving to limit rate increases. The City provided historical and budgeted financial information associated with operation of the sewer system, including historical and budgeted operating costs, a multi-year capital improvement program (CIP), and outstanding debt service obligations. The Study recommends that the City adopt reserve policies, including a 3-month Operating Reserve and a \$1.0 million Emergency Reserve.

Rate revenue is collected by the City from retail customers (individual residential and commercial customers within the City of Sutter Creek) and wholesale customers

(Amador City and AWA). Rate revenue is collected from retail customers through Sewer Service Charges, which are assessed to the City's customers based on an assigned number of equivalent single-family units (ESFUs). Rate revenue is collected from wholesale customers through charges based on a cost allocation methodology.

The collection system capital costs for renewal and replacement are included in this Phase 1 study, while the WWTP Project costs will be addressed as part of Phase 2. This Phase 1 study does not propose any new debt in order to finance the collection system capital projects.

Based upon the financial data, assumptions, and reserve targets, this Study proposes a Phase 1 5-year schedule of rate adjustments as detailed in the table below.

Recommended Phase 1 Sewer Rate Revenue Increases

Rate Adjustment Date	Proposed Rate Revenue Increase
January 1, 2020	35.0%
July 1, 2021	2.0%
July 1, 2022	2.0%
July 1, 2023	2.0%
July 1, 2024	2.0%

It should be noted that a typical utility financial plan attempts to spread rate increases over several years rather than “front-load” a large rate increase in the first year. Because of the lapsed time since the last rate adjustment a single, large initial rate increase is necessary in order to address the majority of the Sewer Utility's existing revenue needs (i.e. all costs except for the WWTP Project) and financially position the Sewer Utility in advance of Phase 2.

Cost-of-Service and Rate Structure - A cost-of-service analysis evaluates the cost of providing sewer service and proportionately allocates those costs to customer classes and rate structure components to ensure the proposed rate structure is aligned with the costs of providing sewer service. This proportionate allocation of costs helps to ensure equity among the City's ratepayers, Amador City, and AWA and to comply with Proposition 218. To do this, this Study employed well-established industry practices as recognized by the WEF and other accepted industry standards.

The City's retail customers are currently charged based on ESFUs, which are the basic units of wastewater utility service and reflect the average volume of wastewater flow from residential dwelling units. All residential accounts pay a Sewer Service Charge rate of 1 ESFU per dwelling unit, while Commercial customers are assigned an ESFU value based on the respective account's average daily winter water usage divided by 213 gallons (the assumed daily indoor water usage by residential accounts). Based on conversations with City staff, this Study recommends retaining the existing rate structure with a couple modifications. The most material change was to lower winter water usage benchmark from 213 gallons per day to 131 gpd. This reduction is based on an analysis of current winter water usage characteristics, as described in more detail in the full report.

Wholesale Cost Allocation – The Study proposes to continue to allocate costs to Amador City and AWA in a manner that is nearly identical to the methodology that has historically been used by the City, which involves allocating costs based on actual wastewater flows, assigned capacity, and collection system utilization.

Proposed Sewer Service Charge – After accounting for costs that are shared with Amador City and AWA, the revenue requirement for the City's retail accounts for the first year of the Study (FY 2019/20, also referred to as the "Test Year") is \$1,767,200, which is divided by the (new) total number of ESFUs (2,031) to yield a Sewer Service Charge of \$72.49 during the first year of the Study. Following the first year, the Sewer Service

Charge is simply increased by the rate increases described by the financial plan. The proposed Phase 1 rate schedules for the next 5 years is summarized below.

Proposed Phase 1 5-Year Rate Schedule

	Current	Jan. 1, 2020	July 1, 2021	July 1, 2022	July 1, 2023	July 1, 2024
ESFU Rate:	\$60.57	\$72.49	\$73.94	\$75.42	\$76.93	\$78.47
ESFU Rate Increase:	(na)	19.7% *	2.0%	2.0%	2.0%	2.0%
Vacancy Rate:**	\$30.28	\$49.30	\$50.28	\$51.29	\$52.31	\$53.36

* Overall rate revenue increase (i.e. revenue across all customer classes) in 2020 will be 35%. The change to the ESFU rate is 19.7% because most commercial accounts will be assigned more ESFUs than previously. Commercial accounts will collectively pay 78.2% more in Year 1.

** Based on 68% of standard ESFU rate, based on utility fixed costs.

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Schedule 1 - Budgeted and Projected Cash Inflows

Schedule 2 - Budgeted and Projected Cash Outflows

Schedule 3 - Capital Improvement Program

Schedule 4 - Cash Flow Pro Forma

List of Acronyms

ARSA	Amador Regional Sanitation Authority
AWA	Amador Water Agency
AWWA	American Water Works Association
CIP	Capital improvement program
DCR	Debt service coverage ratio
ENR	<i>Engineering News Record</i> (periodical)
ESFU	Equivalent single-family unit; a standard unit measure of sewer utility service based on the estimated volume of sewer flow from an average residential dwelling
FY	Fiscal year (which ends on June 30 for the City)
gpd	Gallons per day
JPA	Joint powers agency
mgd	Millions of gallons per day
O&M	Operations and maintenance
R&R	Repair and replacement
SSMP	Sewer System Management Plan
TGAL	Thousands of gallons
WDR	Waste Discharge Requirements
WEF	Water Environment Federation
WWTP	Wastewater treatment plant

Section 1. INTRODUCTION

The Reed Group, Inc. and Hildebrand Consulting, LLC were retained by City of Sutter Creek (City) to conduct a Sewer Rate Study (Study). This report describes in detail the assumptions, procedures, and results of the Study, including conclusions and recommendations.

1.1 SEWER UTILITY BACKGROUND

The City's Sewer Utility provides sewer collection, treatment and conveyance/disposal services for over 2,000 residential and business accounts located within the City of Sutter Creek, the City of Amador City (Amador City), and the former Amador County Service Area #4 (CSA #4), which is now owned and operated by the Amador Water Agency (AWA) as Wastewater Improvement District #11 (WID #11 or Martell service area), which generally comprises the Martell and the Ridge Road areas. The Sewer Utility collects and treats about 138 million gallons of wastewater per year at the City's wastewater treatment plant (WWTP).

Secondary effluent produced by the WWTP is discharged to the Amador Regional Sanitation Authority (ARSA) system for storage and reuse/disposal. ARSA is a joint power agency (JPA) providing wastewater conveyance and disposal services to its member agencies: City of Sutter Creek, Amador City, and Amador County. The ARSA system is a series of pipelines, storage reservoirs, stock troughs, and land application sites southwest of the City's WWTP. The City of Lone currently accepts a portion of ARSA's treated effluent at the lower Henderson facilities as part of the 2007 Lone Disposal Agreement. The agreement with the City of Lone includes a five-year cancellation clause, which was invoked by Lone in July 2017. As a result, it is anticipated that the ARSA system will no longer be available to discharge treated effluent to the City of Lone for use beyond July 2022. The implication is that the City will need to find an alternative for discharging a portion of its treated wastewater. The most likely solution

will be to upgrade or replace the City’s WWTP to a tertiary treatment plant and also build a conveyance system for water re-use (collectively the “WWTP Project”).

1.2 RATE STUDY BACKGROUND

The last sewer rate study was conducted by The Reed Group in 2008. The 2008 study recommended three sequential rate increases (two increases in 2008 and another in 2009) in order to fund costs of upgrading the WWTP; implementing a Sewer System Management Plan (SSMP) as part of statewide Waste Discharge Requirements (WDRs); and increases in wastewater disposal costs.

While the recommendations of the 2008 study were accepted, only the initial rate increase was actually implemented. The deferral of the two latter rate increases (which would have increased rates by about 19%) resulted in lost revenue of over \$2 million in rate revenue since 2009. Furthermore, it has now been more than ten years since the City last adjusted its sewer rates. It is worth noting that the San Francisco Consumer Price Index has increased by approximately 33% since January 2009. The sewer fund has managed to maintain a positive fund balance through efficient operations and by deferring most capital spending.

1.3 SCOPE & OBJECTIVES OF STUDY

The scope of this Study was to prepare a multi-year financial plan, update the cost-of-service analysis, review the City’s existing rate structure, and propose a 5-year rate program. The primary objectives of this Study were to:

- i. Develop a multi-year financial management plan that integrates the City’s operational and capital project funding needs;
- ii. Identify future rate adjustments to Sewer Rates and Service Charges to help ensure adequate revenues to meet the Sewer Utility’s ongoing service and financial obligations;

- iii. Determine the cost of providing sewer service to the City's customers and wholesale customers (Amador City and AWA) using industry-accepted methodologies; and
- iv. Recommend specific modifications to the City's existing rate structure in order to ensure that the City is equitably recovering the cost of service and comporting with industry standards and California's legal requirements.

1.4 STUDY METHODOLOGY

This Study applied methodologies that are aligned with industry standard practices for rate setting as promulgated by the Water Environment Federation (WEF) and all applicable law, including California Constitution Article XIII D, Section 6(b), commonly known as Proposition 218.

The Study began with development of a multi-year financial management plan that determined the level of annual rate revenue required to cover projected annual operating expenses, debt service (including coverage targets), and capital cost requirements while maintaining adequate reserves. A financial planning model was customized to reflect the Sewer Utility's financial dynamics and latest available data for the sewer operations in order to develop a long-term financial management plan, inclusive of projected annual revenue requirements and corresponding annual rate adjustments.

Revenue requirements calculated in the financial plan for FY 2019/20 were then used to perform a detailed cost-of-service analysis. The cost-of-service analysis and rate structure design were conducted based upon principles outlined by the WEF, legal requirements (Proposition 218) and other generally accepted industry practices to develop rates that reflect the cost of providing service.

Recommendations for the financial plan and updated rate structure were presented to the City Council on October 7, 2019 and a Public Hearing to adopt the rates has been scheduled for December 2, 2019.

1.5 STUDY APPROACH

As indicated at the bottom of Section 1.1, the City will likely incur significant new costs as a result of the future WWTP Project. This will include significant capital cost to construct new facilities (including financing costs) as well as additional operating costs. The timing and the magnitude of those costs, however, are still under development at this time. As it stands, even without the costs of the WWTP Project, the Sewer Utility requires rate revenue increases in order to pay for operating costs (general inflation has been about 33% since the last rate increase, see Section 1.2) and fund back-logged repair and replacement (R&R) capital projects for the sewer collection system (which have been mostly deferred since 2009).

Given the above, this Study proposes to approach the sewer rate plan in two phases. **Phase 1** consists of a 10-year financial plan that considers all costs with exception of the WWTP Project. In addition to the fact that Phase 2 costs are still under development, the WWTP Project will create a significant change to the cost-of-service analysis by adding more annual costs (largely in the form of debt service) to the treatment function of the Sewer Utility. This, in turn, will have a material impact to the costs allocated to the City's customers, Amador City and AWA.

Phase 1 will propose a 5-year rate schedule, with the initial rate increases occurring on January 1, 2020. **Phase 2** will be a separate 10-year financial plan that will be completed once the costs and timing of the WWTP Project have been more completely developed. Phase 2 will include a 5-year rate plan that will supersede the Phase 1 rate plan. While the timing of the Phase 2 study is not yet known, it is currently expected to be completed in 2020.

Section 2. PHASE 1 FINANCIAL PLAN

This section presents the Phase 1 financial plan, including a description of the source data and financial assumptions. The section concludes with a 5-year, Phase 1 plan for sewer rate adjustments. Schedules 1 through 4 (attached at the end of this report) include detailed data supporting the financial plan discussed herein.

This Study's 10-year financial plan was developed through interactive work sessions with City staff and the City Council's Sewer Committee. As a result of this process, the Study has produced a robust financial plan that will allow the Sewer Utility to meet Phase 1 revenue requirements and financial performance objectives throughout the projection period while striving to minimize rate increases. This includes maintaining prudent reserves, positioning the Sewer Utility to meet the future financial requirements of Phase 2, and ensuring that the City's retail customers, Amador City and AWA are all paying fair and equitable amounts for services provided.

2.1 FINANCIAL DATA & ASSUMPTIONS

The City provided historical and budgeted financial information associated with operation of the sewer system, including historical and budgeted operating costs, a multi-year capital improvement program (CIP), and outstanding debt service obligations. City staff also assisted in providing other assumptions and policies, such as projected ARSA costs, operating and capital reserve targets, and escalation rates for operating costs (all of which are described in the following subsections).

2.1.1 SEWER UTILITY FUNDS

The Sewer Utility enterprise is comprised of six funds that are used to manage the Sewer Utility's use of funds in a transparent manner. While the financial plan model for this Study was developed with an understanding of those funds, the model did not attempt to replicate the movement of all moneys between funds. Rather the financial model was

used to evaluate the financial condition of the Sewer Utility fund as a whole. The following describes the purpose of each fund and how the financial plan model reflected the use of those funds.

Fund 10 (Wastewater Operating Fund) is the primary fund of the Sewer Utility and receives most Sewer Utility revenues, including wastewater rate revenues. Fund 10 pays for all operating and maintenance expenditures and transfers funds to other funds as described below.

Fund 11 (Wastewater Capital Replacement Fund or “WCRF”) controls and tracks the use of money for replacement and upgrade of wastewater treatment plant facilities. Fund 11 is a required fund under the terms of agreements for wastewater treatment for the Amador City and the Martell/Ridge Road areas. A portion of the wastewater rates charged to retail and wholesale users is transferred from Fund 10 to Fund 11 annually to cover current and future replacement costs. Fund 11 also received Connection Fee revenue which is restricted for the purpose of funding treatment plant capacity expansion projects.

Fund 12 (Wastewater Collection System Replacement Fund) controls and tracks the use of money for replacement of collection system facilities. A portion of the wastewater rates charged to the City’s customers is transferred from Fund 10 to Fund 12 annually to cover current and future replacement costs of the collection system. Fund 12 also received Connection Fee revenue which is restricted for the purpose of funding connection system capacity expansion projects.

Fund 15 (Wastewater Debt Service Reserve Fund)) controls and tracks the use of money for the repayment of debt. A portion of the wastewater rates charged to the City’s customers is transferred from Fund 10 to Fund 15 annually to cover current debt service obligations.

Fund 80 (Effluent Disposal Fund) controls and tracks the use of money for replacement and upgrade of effluent disposal facilities. A portion of the wastewater rates charged

to retail and wholesale users is transferred from Fund 10 to Fund 80 annually to cover current and future replacement costs.

The financial plan was developed to serve as a planning tool for managing the Sewer Utility's overall financial needs, constraints, and opportunities, as well as for determining annual rate revenue needs. It is primarily a cash flow model and differs from the City's budgets and financial statements.

2.1.2 BEGINNING FUND BALANCES

The FY 2018/19 beginning fund balances for each fund described in Section 2.1.1 are summarized in **Table 1**.

Table 1: FY 2018/19 Beginning Cash Balance

Fund 10 - Sewer M&O	\$1,430,000
Fund 11 - Sewer WCRF Hook up Fees (Restricted)	\$404,000
Fund 12 - Sewer Line Replacement (Restricted)	\$26,000
Fund 14 - Sewer Cap Reserves	-\$1,000
Fund 15 - Sewer Debt Service	\$0
Fund 80 - Effluent Disposal	\$11,000
Restricted:	\$430,000
Unrestricted:	\$1,440,000

The cash balances in Fund 11 and Fund 12 are assumed to have been funded by Connection Fee revenue and therefore, for the purposes of this Study, are treated as restricted. This financial plan utilizes the available unrestricted funds and does not evaluate the potential uses of restricted funds, which are limited and do not affect analyses for rate setting purposes.

2.1.3 RESERVE TARGETS

Reserves for utilities are cash balances that are maintained in order to (a) comply with contractual obligations (e.g. bond covenants), (b) protect the utility from unexpected financial events, and/or (c) accommodate operational and capital program cash flow

needs. Often multiple reserves are maintained, each with a specific function. In addition to the direct benefits of financial stability, reserves can help utilities obtain higher credit rankings, which can then help qualify the utility for cheaper debt. Credit rating agencies evaluate utilities on their financial stability, which includes adherence to formally adopted reserve targets.

The following recommended reserve policies for the City's Sewer Utility build on the recommendations made in 2008 rate study report. The recommended reserve policies are consistent with 1) the author's industry experience for similar systems, 2) findings of reserve studies conducted by the American Water Works Association (AWWA), and 3) healthy reserve levels for public utilities per the evaluation criteria published by rating agencies (e.g. Fitch, Moody's, and Standard & Poor's).

Operating Reserve – The Operating Reserve is maintained in order to meet the liquidity and cash flow needs for the Sewer Utility's day-to-day operations. This reserve ensures continuity of service regardless of short-term changes in cash flow or sudden increases in operating costs. As recommended in the 2008, this Study recommends that the Operating Reserve be maintained at twenty five percent (25%) of the annual operating budget, including debt service.

Given the FY 2018/19 O&M budget of \$1.62 million, the targeted Operating Reserve for that year would be about \$410 thousand.

Emergency Reserve – This Emergency Reserve is intended to be used during operational or financial emergencies or other unanticipated events, which can have a dramatic and immediate impact on the operations, assets or financial condition of the Sewer Utility. It is recommended that the target amount of the Emergency Reserve be at least \$1.0 million, which represents the estimated cash requirement for addressing the catastrophic failure of a major component in the Sewer Utility infrastructure. The targeted level for this Emergency Reserve should be increased by the *Engineering News Record's* (ENR) 20-Cities Construction Cost Index (CCI).

In the future, the City may want to also consider creating a Capital Improvement and Replacement Reserve designed to smooth the inherent variability of the capital spending program. In other words, this reserve would be drawn down during years of higher-than-average capital spending and conversely the reserve would be built up during years when capital spending is below average. Such an approach can help reduce the need for large rate adjustments and help ensure continuous funding for capital replacement and rehabilitation projects. This Study recommends that this reserve be considered in conjunction with the development of the Phase 2 financial plan.

2.1.4 CUSTOMER GROWTH

Over the past 5 years the Sewer Utility has experienced an average of 4 new accounts per year connecting to the sewer system. This corresponds with a growth rate of approximately 0.35%. This Study assumes that this rate of growth will continue over the 10-year planning period.

2.1.5 RATE REVENUES

Rate revenue is the revenue generated from customers for sewer service. In the City's case, rate revenue is collected from retail customers (individual residential and commercial customers within the City of Sutter Creek) and wholesale customers (Amador City and AWA). Rate revenue is collected from the City's customers through Sewer Service Charges, which are assessed to each customer based on an assigned number of equivalent single-family units (ESFUs). Rate revenue is collected from wholesale customers through charges determined based a cost allocation methodology as described in the City's Contract for Sewage Treatment Plant Capacity

(dated October 31, 2000) with Amador County¹. The allocation of costs to wholesale customers is described in more detail in Section 3.3.

This Study's financial plan proposes annual rate revenue adjustments that will meet the Sewer Utility's revenue requirements. Budget and projected rate revenues are listed in Schedule 1².

2.1.6 NON-RATE REVENUES

In addition to rate revenue, the Sewer Utility receives other revenue, including reimbursements from ARSA (for the City's operational support of the ARSA system), septic service fees (for septage discharged to the WWTP), miscellaneous fees, connection fee revenue³, and interest revenue on investments. Estimates of ARSA reimbursements were based on budgeted costs associated with supporting ARSA operations. Estimates of interest income were calculated annually based upon estimated average fund balances and historic effective return of 0.14% on cash and invested funds, which is consistent with the City's historical earnings. Projections of all other non-rate revenues were based on FY 2018/19 budgeted revenues. Budgeted revenues FY 2018/19 are depicted in Figure 2 below and listed in detail in **Schedule 1**.

¹ A similar agreement between the City of Sutter Creek and Amador City has expired.

² The rate revenue in Schedule 1 includes the proposed rate adjustment recommended by this Study, as described in Section 2.2

³ It should be noted that California law (Government Code 66013) requires that Connection Fee revenue be spent "solely for the purposes for which the charges were collected".

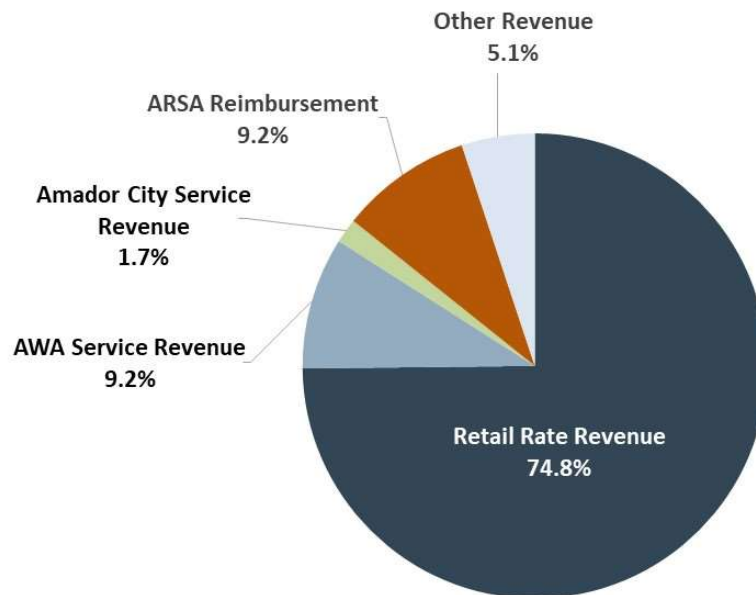


Figure 1: FY 2018/19 Budgeted Revenue Categories

2.1.7 OPERATION AND MAINTENANCE EXPENSES

The Sewer Utility's operating and maintenance expenses include all ongoing collection, treatment, disposal, and administrative expenses, payments to ARSA, and debt service payments. Annual operating and maintenance costs for collection and treatment, including ARSA costs, are based on the FY 2018/19 budget and are adjusted for future years based on inflation (see Section 2.1.8). The City has demonstrated foresight and fiscal prudence by already funding its employee benefit liabilities, such as OPEB (Other Post Employment Benefit) and PERS (Public Employment Retirement System).

The City's current outstanding debt is limited to a single Certificate of Participation (COP), which was issued by the USDA in 1997 for \$818 thousand and requires annual payments of approximately \$44 thousand through 2037.

Budgeted expense categories for FY 2019/20 are depicted in **Figure 2**. Budgeted and projected operating and debt expenses are listed in detail in **Schedule 2**. Capital program expenses are discussed in Section 2.1.10 and detailed in **Schedule 3**.

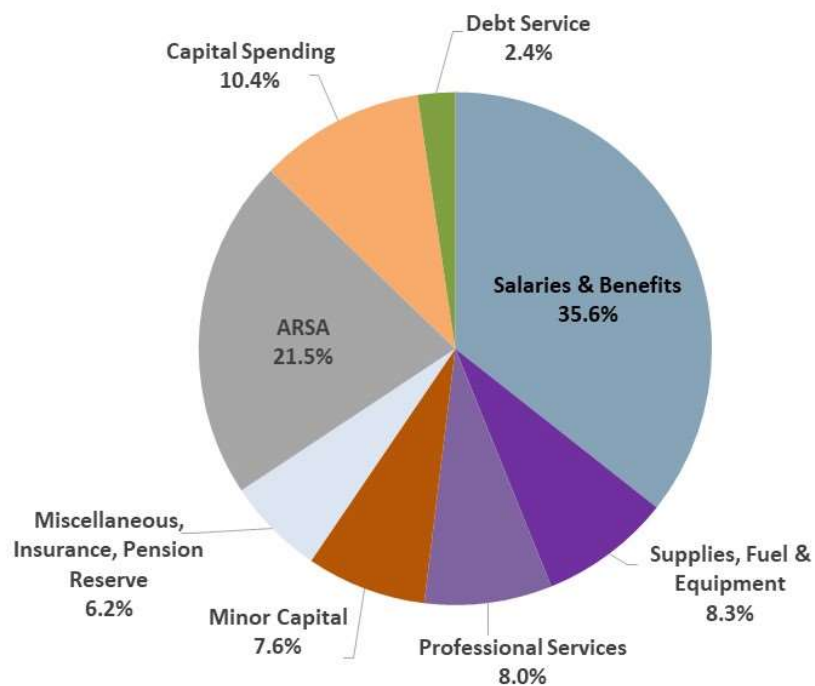


Figure 2: FY 2019/20 Budgeted Expense Categories

2.1.8 COST ESCALATION

Annual cost escalation factors for the various types of expenses were developed based upon a review of historical inflation trends, published inflation forecasts, industry experience, and discussions with City staff. During the projection period, the Sewer Utility's operating and capital expenses are projected to increase gradually at 3.0% per year.

2.1.9 DEBT SERVICE COVERAGE

While it is not clear whether the existing USDA Loan requires the City to maintain a specified debt service coverage ratio (DCR), this financial plan maintains a DCR that exceeds any requirement that the loan may have. Given the fact that the City may need to take out a significant amount of new debt during Phase 2 (to be determined), this financial plan ensures that a DCR of at least 1.50 was maintained throughout the planning period to help enable the City to access favorable borrowing terms in the future. Based on recently published guidance from Fitch Ratings⁴, utility systems with *midrange* financial profiles should maintain a DCR greater than 1.50 times annual debt service.

2.1.10 CAPITAL IMPROVEMENT PROGRAM

As discussed in Section 1.5, the City is facing two categories of capital spending: the collection system urgently requires repair and replacement (R&R) projects in order to address years of deferred maintenance and the treatment plant will require the WWTP Project. Planned and estimated future collection system R&R project costs are included in this Phase 1 study, while the WWTP Project costs will be addressed as part of Phase 2. The City is planning for a series of collection system R&R projects over the next ten years and expects to spend approximately \$300 thousand (in 2019 dollars) starting in FY 2022/23. As shown in Figure 3, many near-term projects have been specifically identified, while other longer-term projects are still being identified and planned.

⁴ As published on July 31, 2013.

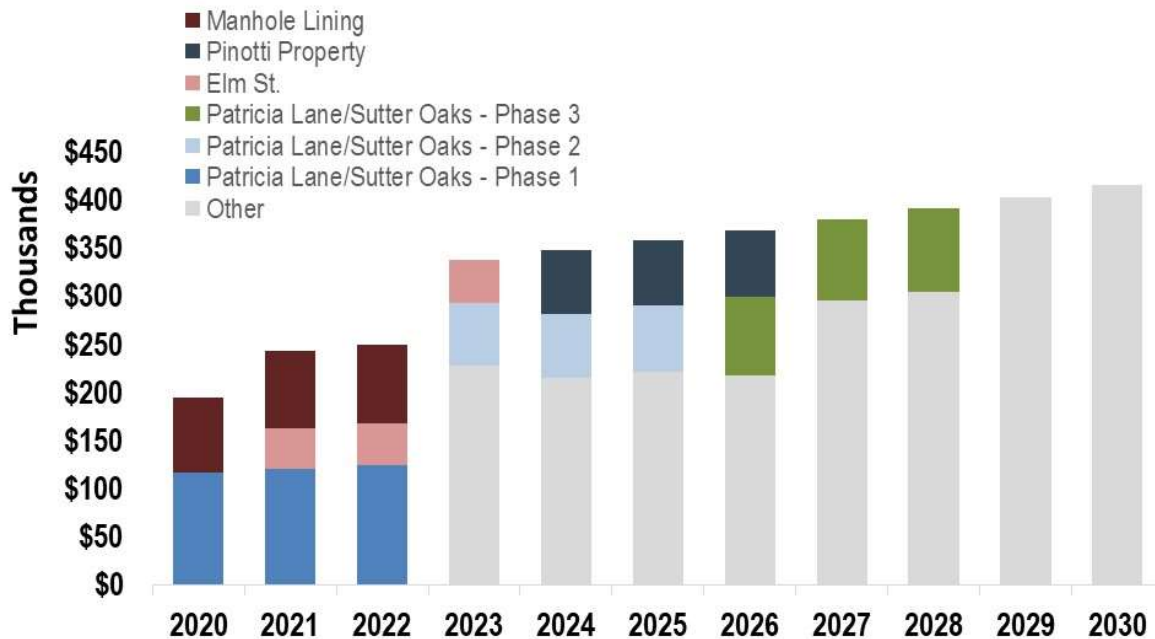


Figure 3: Current and projected capital spending

The detailed list of repair and replacement projects and associated costs is provided in **Schedule 3**.

2.1.11 FUTURE BORROWING ASSUMPTIONS

This Phase 1 study does not propose any new debt in order to finance the collection system R&R projects described above because (a) the City would be better served to cash-finance this level of capital spending given the fact that this level of annual spending is expected to be ongoing in the coming decades, and (2) the City may need to issue significant amounts of debt during Phase 2, meaning that the City needs to reserve its capacity to issue debt.

2.2 PROPOSED RATE REVENUE INCREASES

All of the above information was entered into a financial planning model to produce a 10-year financial plan that evaluated the sufficiency of current revenues to meet current

and estimated future financial obligations and determined the level of rate revenue increases necessary in each year of the planning period.

Based upon the previously discussed financial data, assumptions, and reserve targets, this Study proposes a 5-year schedule of rate adjustments as detailed in **Table 2**.

Table 2: Recommended Phase 1 Sewer Rate Revenue Increases

Rate Adjustment Date	Proposed Rate Revenue Increase
January 1, 2020	35.0%
July 1, 2021	2.0%
July 1, 2022	2.0%
July 1, 2023	2.0%
July 1, 2024	2.0%

It should be noted that a typical utility financial plan attempts to spread rate increases over several years rather than “front-load” a large rate increase in the first year. Because of the lapsed time since the last rate adjustment a single, large initial rate increase is necessary to align revenues with costs following the ten-year period without a rate adjustment and addresses the majority of the Sewer Utility’s existing revenue needs (i.e. all costs except for the anticipated WWTP Project). It also financially positions the Sewer Utility to take on the higher costs associated with the WWTP Project in Phase 2.

The numbers provided in **Schedule 4** (cash flow proforma) are summarized graphically in **Figure 4**, which shows that the financial plan is positioning the City to meet the expected financial demands of Phase 2.

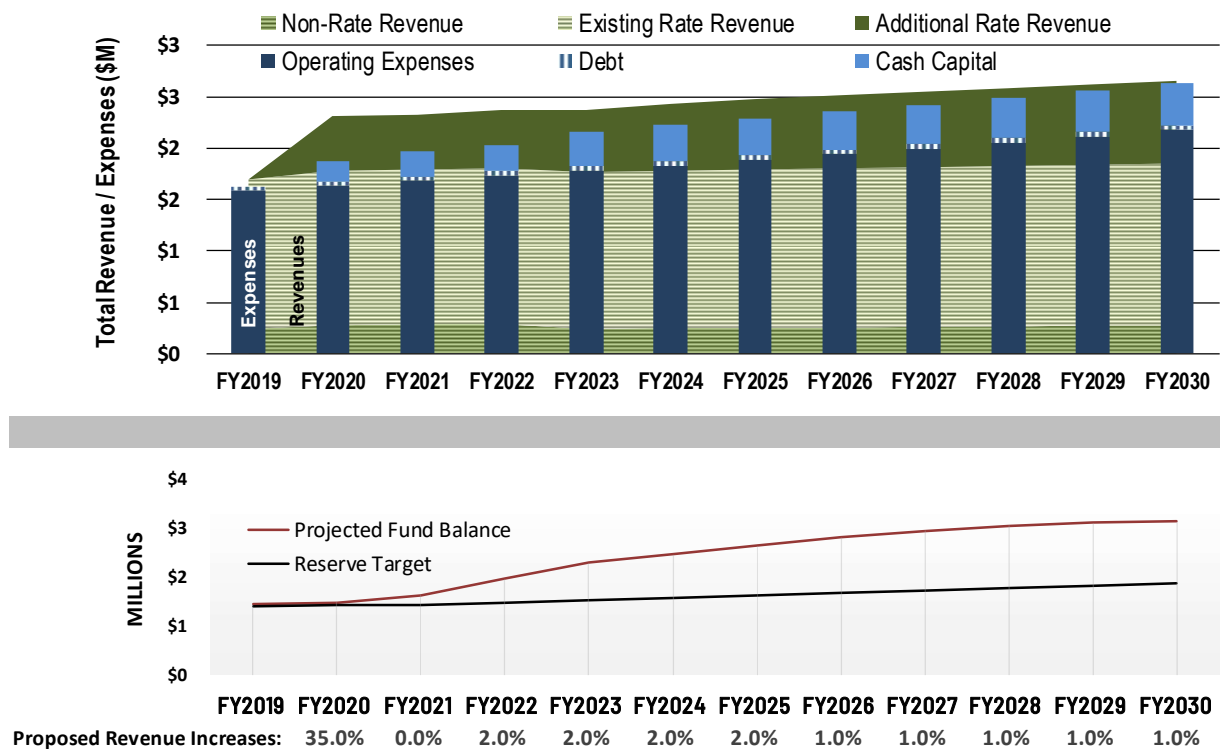


Figure 4: Financial Plan Estimates with Recommended Rate Increases

To summarize, the initial (January 2020) increase in rate revenue is necessary to cover ongoing O&M expenses, support the needed level of capital investment in the sewer system’s aging collection system infrastructure (see Section 2.1.10), and maintain reserve targets. No rate increase is proposed for FY 2020/21 because July 1 of that fiscal year (the first day of the fiscal year and the City’s preferred day for rate adjustments) falls only 6 months after the initial rate increase. Starting on July 1, 2021 this Study recommends minimal (2% will likely fall below inflation) rate adjustments until the Phase 2 rate plan is completed and supersedes the remainder of the Phase 1 rates. While the forecast shows the reserves growing beyond the reserve target levels, one of the objectives of this Phase 1 study is to prepare the Sewer Utility for Phase 2 costs. In the event that Phase 2 doesn’t come to pass and if reserves are exceeding the reserve target at that time, the City can elect to defer further rate increases until it is appropriate.

Section 3. COST-OF-SERVICE & RATE STRUCTURE

A cost-of-service analysis evaluates the cost of providing sewer service and proportionately allocates those costs to customer classes and rate structure components to ensure the proposed rate structure is aligned with the costs of providing sewer service. This is done in order to be equitable among the City's retail ratepayers and wholesale agencies, and to comply with Proposition 218. This Study employed well-established industry practices as recognized by the WEF and other accepted industry standards. The cost-of-service analysis and rate structure proposed by this Study is designed to:

- ▶ Fairly and equitably recover costs through sewer rates;
- ▶ Conform to accepted industry practice and legal requirements; and
- ▶ Provide financial stability and recovery of system fixed costs.

The following section presents a detailed description of the cost-of-service and rate structure methodology and the corresponding results.

3.1 CUSTOMER STATISTICS

The Sewer Utility serves over eleven hundred sewer accounts within the City, as summarized in Table 3. In addition, the Sewer Utility provides wastewater treatment and disposal services to Amador City and AWA. The volume of wastewater received from the City, Amador City and AWA is presented in Section 3.3.

Table 3 - Summary of Retail Accounts

	Accounts	Dwellings
Single Family	962	997
Multifamily	46	342
Commercial	135	(na)
Total:	1143	1339

3.2 RATE STRUCTURE RECOMMENDATIONS

Retail customers are currently charged based on equivalent single-family units (ESFUs). An ESFU is the basic unit of wastewater utility service and reflects the average volume of flows from residential dwellings, which make up most of the City’s customer base. All residential accounts pay a Sewer Service Charge rate of 1 ESFU per dwelling unit (which includes multifamily dwelling units and accessory dwelling units (ADUs)). Commercial customers are assigned an ESFU value (recalculated biennially) based on the respective account’s average daily winter water usage (per AWA water usage records) divided by 213 gallons. Commercial accounts are assigned a minimum value of one (1) ESFU.

The current structure has a fixed rate for all residential accounts, meaning that the Sewer Service Charge for those customers remains the same regardless of how much water they use, or sewer flow generated. Residential customers make up the vast majority of the City’s retail customers (see Section 3.1), which means that the City’s retail rate revenue is very stable. Water usage only enters into the calculation of commercial customer rates and wholesale customer cost sharing. It is reasonable for the City to continue to charge fixed Service Charges to its customers since the Sewer Utility’s costs change very little as a result of water usage fluctuations. Most of the Sewer Utility’s costs, such as personnel costs, maintenance, administration, debt service, and capital expenses, are incurred regardless of how much sewer flow is produced by customers.

The current rate structure does not charge a higher rate to commercial accounts that may have higher “strength” (as commonly measured by biochemical oxygen demand and/or suspended solids). This decision is based on the fact that the strength of sewage is not currently considered to materially drive costs at the WWTP and the fact that the service area has few higher strength users. While the Martell Area has a higher concentration of industry, the City has been able to work collaboratively with AWA and its customers to mitigate against higher strength sewage entering the sewer system.

Based on conversations with City staff and the Sewer Committee, this Study recommends retaining the existing rate structure with a couple modifications. The following sub-sections address specific elements of the rate structure and discuss the reasoning for retaining the existing methodology or proposing a modification.

3.2.1 WINTER WATER USAGE AS ESTIMATOR OF SEWER FLOW

As previously discussed, the ESFU value assigned to commercial accounts is recalculated biennially based on each account's respective average winter-time water usage. The purpose of considering only winter-time water usage is to exclude as much outdoor water usage as possible. This is an industry-standard approach for estimating sewer flows. Historically the City has used water usage data from November through April. This Study recommends only looking at the months of January, February and March, which were found to generally be the lowest months of water usage.

In order to be consistent with the above recommendation, this Study also analyzed the average water usage for residential accounts during the winter months of January, February, and March. We found that the average water usage per residential dwelling unit during those months is 131 gallons per day (gpd). As such, this Study recommends changing the ESFU definition to 131 gpd based on the logic that winter usage data used for the commercial accounts should be synchronized with the winter usage data used to establish the benchmark.

It should be noted that this change will result in more ESFUs being assigned to commercial accounts. As a consequence, the rate increases being proposed by this Study will be more impactful on commercial customers than on residential customers.

3.2.2 VACANCY CHARGE

The City currently allows accounts that have been vacant for at least 6 months to request a "Standby Charge" in place of the Sewer Service Charge, which is currently equal to 50% of one ESFU. This Study recommends that the nomenclature be changed to "Vacancy Charge" (since "Standby Charge" carries a specific legal connotation in

Proposition 218 which doesn't apply to this scenario) and the charge should be calculated to reflect the reduction in costs to the Sewer Utility as a result of wastewater not being discharged by an account. In reviewing the FY 2019/20 budget, we found that 68% of operating budget is fixed (salaries, professional services, debt service, insurance, etc.) while 32% of the operating budget is variable (i.e. the reduction in wastewater flow reduces costs for the Sewer Utility). The variable costs were primarily the ARSA payment (which is calculated based on flow), as well as electricity (primarily pumping) and chemicals for treatment. Capital costs were not considered since capital spending changes considerably from one year to the next.

As such, this Study recommends that the Vacancy Charge be set to 68% of the Sewer Service Charge for one ESFU.

3.3 WHOLESALE COST ALLOCATION

The Sewer Utility provides wholesale wastewater treatment services to Amador City and AWA in the Martell & Ridge Road areas. Sutter Creek uses the terms of its October 31, 2000 agreement with Amador County (which was superseded by AWA) as the basis for how it allocates operating and capital costs to both the AWA and Amador City⁵. The agreement requires that the amount paid for wholesale treatment and disposal services be derived by allocating costs based on the relative flow of wastewater contributed by the County. Furthermore, the charges include reasonable costs for administration, engineering, and legal expenses incurred by City.

In recognition of the 2000 agreement between the City and the County, and consistent with applicable law in California, this Study proposes to continue to allocate costs based on the methodology that has historically been used by the City. The method

⁵ A similar agreement between the City of Sutter Creek and Amador City has expired.

consists of grouping costs into categories (as summarized in Table 5) and allocating those costs to the three parties based on one of the following allocation bases.

- 1) Wastewater Flows – as metered at the Sutter Creek satellite pump station.
- 2) Assigned Capacity: Based on the original (and subsequently amended) operating agreements between Sutter Creek and Amador City / AWA (respectively).
- 3) Collection System Utilization – Based on a 2002 Revenue Programs as cited by the 2008 rate study, which measured the length of pipeline used to convey sewage to the City’s WWTP.
- 4) Sutter Creek Only ... for costs or revenue (such as for miscellaneous fees and septic service fees) that are allocated only to Sutter Creek
- 5) Indirect method... allocates costs based on the proportion of all other costs allocated to each party until that point.

The percentages of the above allocation bases are summarized in Table 4.

Table 4 - Summary of Cost Allocation Bases

	Total	City of Sutter	Amador Water	Amador City
Annual Wastewater Flows (Tgals)	138,438	110,733 80.0%	23,432 16.9%	4,273 3.1%
Assigned Capacity (gpd)	480,000	325,500 67.81%	115,500 24.06%	39,000 8.13%
Collection System Utilization		94.80%	4.12%	1.08%
Sutter Creek Only		0.00%	0.00%	0.00%
Indirect Allocation		87.06%	10.85%	2.09%

Table 5 - Wholesale Cost Allocation – FY 2019/20

	Total	City of Sutter Creek	Amador Water	Amador City	
Budget Categories					
Treatment Costs					Allocation Basis
1 Treatment Operations	\$478,000	\$382,400	\$80,900	\$14,800	Wastewater Flows
2 Effluent Operations	\$143,000	\$114,400	\$24,200	\$4,400	Wastewater Flows
3 Sutter Creek's ARSA O&M	\$403,000	\$403,000	\$0	\$0	Sutter Creek Only
4 WWTP Debt Service	\$0	\$0	\$0	\$0	Assigned Capacity
5 WWTP Capital (cash)	\$0	\$0	\$0	\$0	Assigned Capacity
Collection Costs					
6 Collection Operations	\$328,000	\$310,900	\$13,500	\$3,500	Collection System Utilization
7 Collection Debt Service	\$44,000	\$41,700	\$1,800	\$500	Collection System Utilization
8 Collection System Capital (cash)	\$195,000	\$184,900	\$8,000	\$2,100	Collection System Utilization
General and Administrative Costs					
9 Administrative Costs	\$282,000	\$225,600	\$47,700	\$8,700	Wastewater Flows
10 Engineering Costs	\$0	\$0	\$0	\$0	Assigned Capacity
11 Interest Earnings	(\$2,000)	-\$1,400	-\$500	-\$200	Assigned Capacity
12 Other Non-Rate Revenue	(\$253,000)	-\$253,000	\$0	\$0	Sutter Creek Only
13 Contributions to (from) reserves	\$412,000	\$358,700	\$44,700	\$8,600	Indirect
14 Revenue Requirement:	\$2,030,000	\$1,767,200	\$220,300	\$42,400	
		87.1%	10.9%	2.1%	

In a modest departure from the City's current methodology, this Study recommends using the indirect allocation basis for allocating contributions (or drawdown) from reserves. This is appropriate because it smooths cost volatility that inherently occurs when passing from a year that builds the reserves to a year that draws down on reserves (or vice versa).

The Revenue Requirements shown on Row 14 of Table 5 does not match the projected rate revenue in Rows 2 through 8 of Schedule 4 (financial plan Cash Flow Proforma), although intuitively it may seem as though it should. This occurs because the rate increases and cost allocation adjustments in the first year (FY 2019/20, as referred to as the "Test Year") of this Study will only be effective for 6-month of the fiscal year. So, while the above cost allocations and rate calculations use a full year of cost and revenue

data, the financial plan must account for the fact that the rate increases (and changes to cost allocations to Amador City and AWA), will only be effective for part of FY 2019/20.

After allocating the wholesale costs to Amador City and AWA in the Test Year, in the subsequent years the financial plan for this Study assumes that the wholesale cost allocations will increase proportionately with the annual rate adjustments. While this is a reasonable estimate for purposes of this Study, in reality the wholesale cost allocations will be calculated every year based on actual cost and reserve contributions.

3.4 CALCULATION OF THE SEWER SERVICE CHARGES

The following describes the calculation of ESFUs and the Sewer Utility's revenue requirement in the Test Year, which forms the basis for the recommended Sewer Service Charges. These calculations culminate in a specific 5-year rate schedule for implementation starting on January 1, 2020.

3.4.1 SUMMARY OF EQUIVALENT SINGLE-FAMILY UNITS

As explained in Section 3.2.1, this Study recommends the use of 131 gpd as the benchmark for average winter water use by single family homes. Table 6 summarizes the number of ESFUs in Sutter Creek based on residential dwelling units and water usage by commercial accounts during January, February and March of 2018.

Table 6 - Summary of ESFUs

	Accounts	ESFUs
Single Family	962	997
Multifamily	46	342
Commercial	135	692
Total:		2031

3.4.2 CALCULATION OF SEWER SERVICE CHARGE

The revenue requirement for retail accounts within Sutter Creek for the Test Year rates as shown in Row 14 of Table 5 is \$1,767,200. This value divided by the total number of ESFUs (2,031) yields a Sewer Service Charge of \$72.49.

The following demonstrates how this rate will meet the City's revenue requirements during the Test Year. The current Sewer Service Charge is budgeted to generate \$1.32 million during FY 2019/20 (see Row 2 of Schedule 4). The City will collect rate revenue at these budgeted levels for 6 months, thus generating \$661 thousand in revenue (half of \$1.32 million). During the second half of the fiscal year (after the adoption of the new rates) the City will collect \$883 thousand ($\$72.49 \times 2,031 \text{ ESFUs} \times 6 \text{ months}$). Together these values add up to meet the retail revenue requirement of \$1.54 million for FY 2019/20 as shown in Rows 2 and 3 of Schedule 4.

3.4.3 PROPOSED RATE SCHEDULE

Following the Test Year, the Sewer Service Charge is simply increased by the rate adjustments proposed in Table 2 beginning in July 2021. The proposed rate schedules for the next 5 years is summarized in Table 7. This schedule does not include any costs for the anticipated WWTP Project or related financing. Those costs will need to be considered in the Phase 2 financial plan and a subsequent 5-year rate schedule.

Table 7: Proposed Phase 1 5-Year Rate Schedule

	Current	Jan. 1, 2020	July 1, 2021	July 1, 2022	July 1, 2023	July 1, 2024
ESFU Rate:	\$60.57	\$72.49	\$73.94	\$75.42	\$76.93	\$78.47
ESFU Rate Increase:	(na)	19.7%	2.0%	2.0%	2.0%	2.0%
Vacancy Rate:	\$30.28	\$49.30	\$50.28	\$51.29	\$52.31	\$53.36

It should be noted that the reason that the ESFU rate only increases by 19.7%, while rate revenues will increase by 35% (see Table 2 and the Proforma in Schedule 4), is because of the increase in ESFUs being assigned to Commercial customers (see Section 3.2.1). Under the current rate structure there are 494 ESFUs assigned to Commercial customers, while the changes proposed by this Study results in 692 Commercial ESFUs (an increase of 40%). This 11% increase in the overall number of ESFUs results in a lower increase to the actual Sewer Service Charge rate.

Section 4. CONCLUSION

This Study used methodologies that are aligned with industry standard practices for rate setting as promulgated by WEF, AWWA and all applicable laws, including California's Proposition 218. The proposed annual adjustments to the rates will allow the City to continue to provide reliable sewer service to customers while meeting the state's mandates.

The Sewer Service Charges will need to be adopted in accordance with Proposition 218, which will require a detailed notice describing the proposed rates to be mailed to each affected property owner or customer at least 45 days prior to conducting a public hearing to adopt the rates.

The City anticipates significant capital costs in the near future as a result of a mandatory project to upgrade or replace the existing wastewater treatment plant with a tertiary plant (WWTP Project). The timing and the magnitude of those costs, however, are still under development. As it stands, even without the costs of the WWTP Project, the Sewer Utility requires rate revenue increases in order to pay for operating costs and to fund back-logged repair and replacement (R&R) capital projects for the sewer collection system. The **Phase 1** sewer rate plan presented in this report addresses these needs. As such, this Study proposes to approach the sewer rate plan in two phases. A **Phase 2** rate plan with a financial plan that includes the cost of the WWTP Project and associated financing will be developed in a second phase. The **Phase 2** rate plan is expected to supersede the Phase 1 rate plan within the next year.

SCHEDULES

Schedule 1 - Budgeted and Projected Cash Inflows

Schedule 2 - Budgeted and Projected Cash Outflows

Schedule 3 - Capital Spending Plan

Schedule 4 - Cash Flow Pro Forma

Budgeted and Projected Cash Inflows

Schedule 1

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
1 Growth in Sewer Accounts	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%	0.35%
2 Proposed Sewer Rate Increase	(na)	35.0%*	0.0%	2.0%	2.0%	2.0%	2.0%	1.0%	1.0%	1.0%	1.0%
Rate Revenue											
3 Sewer Service Charge	\$1,456,000	\$1,503,000	\$2,030,000	\$2,036,000	\$2,082,000	\$2,129,000	\$2,178,000	\$2,229,000	\$2,257,000	\$2,286,000	\$2,315,000
4 Increase due to growth		\$0	\$6,000	\$6,000	\$6,000	\$6,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
5 Increase due to new rate adjustments		\$263,000	\$0	\$40,000	\$41,000	\$43,000	\$44,000	\$21,000	\$22,000	\$22,000	\$22,000
6 Total Rate Revenue	\$1,456,000	\$1,766,000	\$2,036,000	\$2,082,000	\$2,129,000	\$2,178,000	\$2,229,000	\$2,257,000	\$2,286,000	\$2,315,000	\$2,344,000
Other Revenue:											
7 ARSA Reimbursement	\$156,000	\$193,000	\$196,000	\$200,000	\$154,000	\$158,000	\$162,000	\$167,000	\$171,000	\$176,000	\$181,000
8 Septic Service Fees	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000
9 Miscellaneous Fees	\$20,000	\$22,000	\$22,000	\$23,000	\$23,000	\$23,000	\$23,000	\$24,000	\$24,000	\$24,000	\$24,000
11 Interest Income	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
12 Connection Fees **	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000
13 Total Other Revenue	\$216,000	\$255,000	\$258,000	\$263,000	\$217,000	\$221,000	\$225,000	\$231,000	\$235,000	\$240,000	\$245,000
14 TOTAL REVENUE	\$1,672,000	\$2,021,000	\$2,294,000	\$2,345,000	\$2,346,000	\$2,399,000	\$2,454,000	\$2,488,000	\$2,521,000	\$2,555,000	\$2,589,000

* Rate increase in FY 2019/20 effective on January 1, therefore only active for half of the fiscal year

** Connection Fee revenue not included in totals since the revenue is restricted for growth projects and not used as part of this financial plan

Budgeted and Projected Cash Outflows (1 of 2)

Schedule 2

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
<u>Treatment Operating Costs</u>											
1 Salaries	\$93,500	\$96,300	\$99,200	\$102,100	\$105,200	\$108,400	\$111,600	\$115,000	\$118,400	\$122,000	\$125,600
2 Benefits	\$89,200	\$91,900	\$94,700	\$97,500	\$100,400	\$103,500	\$106,600	\$109,800	\$113,100	\$116,400	\$119,900
3 Supplies	\$21,000	\$21,600	\$22,300	\$22,900	\$23,600	\$24,300	\$25,100	\$25,800	\$26,600	\$27,400	\$28,200
4 Utilities & Fuel	\$55,500	\$57,200	\$58,900	\$60,600	\$62,500	\$64,300	\$66,300	\$68,300	\$70,300	\$72,400	\$74,600
5 Minor Capital	\$30,000	\$30,900	\$31,800	\$32,800	\$33,800	\$34,800	\$35,800	\$36,900	\$38,000	\$39,100	\$40,300
6 Chemicals	\$60,000	\$61,800	\$63,700	\$65,600	\$67,500	\$69,600	\$71,600	\$73,800	\$76,000	\$78,300	\$80,600
7 Professional Services	\$22,200	\$22,900	\$23,600	\$24,300	\$25,000	\$25,700	\$26,500	\$27,300	\$28,100	\$29,000	\$29,800
8 Services	\$69,500	\$71,600	\$73,700	\$75,900	\$78,200	\$80,600	\$83,000	\$85,500	\$88,000	\$90,700	\$93,400
9 Miscellaneous	\$22,800	\$23,500	\$24,200	\$24,900	\$25,700	\$26,400	\$27,200	\$28,000	\$28,900	\$29,700	\$30,600
10 Treatment Operating Costs Subtotals	\$463,700	\$477,700	\$492,100	\$506,600	\$521,900	\$537,600	\$553,700	\$570,400	\$587,400	\$605,000	\$623,000
<u>Collection Operating Costs</u>											
11 Salaries	\$95,800	\$98,700	\$101,700	\$104,700	\$107,800	\$111,100	\$114,400	\$117,800	\$121,400	\$125,000	\$128,800
12 Benefits	\$76,200	\$78,500	\$80,900	\$83,300	\$85,800	\$88,400	\$91,000	\$93,800	\$96,600	\$99,500	\$102,500
13 Supplies	\$2,500	\$2,600	\$2,700	\$2,700	\$2,800	\$2,900	\$3,000	\$3,100	\$3,200	\$3,300	\$3,400
14 Utilities & Fuel	\$300	\$300	\$300	\$300	\$300	\$300	\$400	\$400	\$400	\$400	\$400
15 Minor Capital	\$107,000	\$110,200	\$113,500	\$116,900	\$120,400	\$124,000	\$127,800	\$131,600	\$135,500	\$139,600	\$143,800
16 Professional Services	\$5,000	\$5,200	\$5,300	\$5,500	\$5,600	\$5,800	\$6,000	\$6,100	\$6,300	\$6,500	\$6,700
17 Transfer	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200
18 Services	\$10,700	\$11,000	\$11,400	\$11,700	\$12,000	\$12,400	\$12,800	\$13,200	\$13,600	\$14,000	\$14,400
19 Miscellaneous	\$4,100	\$4,200	\$4,300	\$4,500	\$4,600	\$4,700	\$4,900	\$5,000	\$5,200	\$5,300	\$5,500
20 Collection Operating Costs Subtotals	\$318,800	\$327,900	\$337,300	\$346,800	\$356,500	\$366,800	\$377,500	\$388,200	\$399,400	\$410,800	\$422,700

Budgeted and Projected Cash Outflows (2 of 2)

Schedule 2

	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
<u>Effluent Costs</u>											
21 Salaries	\$45,400	\$46,800	\$48,200	\$49,600	\$51,100	\$52,600	\$54,200	\$55,900	\$57,500	\$59,300	\$61,000
22 Benefits	\$76,200	\$78,500	\$80,900	\$83,300	\$85,800	\$88,400	\$91,000	\$93,800	\$96,600	\$99,500	\$102,500
23 Transfer	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200
24 ARSA	\$391,700	\$403,400	\$415,500	\$428,000	\$440,800	\$454,100	\$467,700	\$481,700	\$496,200	\$511,000	\$526,400
25 Effluent Costs Subtotals	\$530,500	\$545,900	\$561,800	\$578,100	\$594,900	\$612,300	\$630,100	\$648,600	\$667,500	\$687,000	\$707,100
<u>Administrative Costs</u>											
26 Salaries	\$111,200	\$114,500	\$117,900	\$121,500	\$125,100	\$128,900	\$132,700	\$136,700	\$140,800	\$145,000	\$149,400
27 Benefits	\$59,900	\$61,700	\$63,600	\$65,500	\$67,500	\$69,500	\$71,600	\$73,700	\$75,900	\$78,200	\$80,600
28 Supplies	\$8,000	\$8,300	\$8,500	\$8,800	\$9,000	\$9,300	\$9,600	\$9,900	\$10,200	\$10,500	\$10,800
29 Utilities & Fuel	\$2,900	\$3,000	\$3,100	\$3,200	\$3,300	\$3,400	\$3,500	\$3,600	\$3,700	\$3,800	\$3,900
30 Minor Capital	\$400	\$400	\$400	\$400	\$500	\$500	\$500	\$500	\$500	\$500	\$500
31 Professional Services	\$19,200	\$19,800	\$20,400	\$21,000	\$21,600	\$22,300	\$22,900	\$23,600	\$24,300	\$25,100	\$25,800
32 Transfer	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200	\$17,200
33 Services	\$19,600	\$20,200	\$20,800	\$21,400	\$22,100	\$22,700	\$23,400	\$24,100	\$24,800	\$25,600	\$26,300
34 Insurance	\$34,700	\$35,700	\$36,800	\$37,900	\$39,000	\$40,200	\$41,400	\$42,700	\$43,900	\$45,300	\$46,600
35 Miscellaneous	\$700	\$700	\$700	\$800	\$800	\$800	\$800	\$900	\$900	\$900	\$900
36 Administrative Costs Subtotals	\$273,800	\$281,500	\$289,400	\$297,700	\$306,100	\$314,800	\$323,600	\$332,900	\$342,200	\$352,100	\$362,000
37 Total Operating Expenses	\$1,586,800	\$1,633,000	\$1,680,600	\$1,729,200	\$1,779,400	\$1,831,500	\$1,884,900	\$1,940,100	\$1,996,500	\$2,054,900	\$2,114,800

Phase 1 Capital Spending Plan *

Schedule 3

	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
1 Sewer Main R&R at Patricia Lane/Sutter Oaks - Ph. 1	\$114,000	\$114,000	\$114,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2 Sewer Main R&R at Patricia Lane/Sutter Oaks - Ph. 2	\$0	\$0	\$0	\$58,000	\$58,000	\$58,000	\$0	\$0	\$0	\$0
3 Sewer Main R&R at Patricia Lane/Sutter Oaks - Ph. 3	\$0	\$0	\$0	\$0	\$0	\$0	\$66,000	\$66,000	\$66,000	\$0
4 Sewer Main Replacement at Elm St.	\$0	\$40,000	\$40,000	\$40,000	\$0	\$0	\$0	\$0	\$0	\$0
5 Sewer Main Replacement at Pinotti Property	\$0	\$0	\$0	\$0	\$57,000	\$57,000	\$57,000	\$0	\$0	\$0
6 Manhole Lining	\$75,000	\$75,000	\$75,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0
9 Future planned R&R projects	\$0	\$0	\$0	\$202,000	\$186,000	\$186,000	\$177,000	\$234,000	\$234,000	\$300,000
10 Total Phase 1 Capital Expenses	\$189,000	\$229,000	\$229,000	\$300,000	\$301,000	\$301,000	\$300,000	\$300,000	\$300,000	\$300,000

* Costs in this table are expressed in current dollars, while financial plan (including the Proforma in Schedule 4, show the values after inflation.

Cash Flow Proforma												Schedule 4
	Budget FY 2019	Estimated FY 2020	Forecast FY 2021	Forecast FY 2022	Forecast FY 2023	Forecast FY 2024	Forecast FY 2025	Forecast FY 2026	Forecast FY 2027	Forecast FY 2028	Forecast FY 2029	Forecast FY 2030
1 Rate Revenue Increases	(na)	35.00%	0.00%	2.00%	2.00%	2.00%	2.00%	1.00%	1.00%	1.00%	1.00%	1.00%
Rate Revenue (see Schedule 1)												
2 Sewer Service Charge Revenue	\$1,271,000	\$1,322,000	\$1,767,000	\$1,773,000	\$1,814,000	\$1,856,000	\$1,899,000	\$1,944,000	\$1,970,000	\$1,997,000	\$2,024,000	\$2,051,000
3 Increase due to Sutter Creek rate adjustments		\$226,000	\$0	\$35,000	\$36,000	\$37,000	\$38,000	\$19,000	\$20,000	\$20,000	\$20,000	\$21,000
4 Change due to growth & use		\$0	\$6,000	\$6,000	\$6,000	\$6,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000
5 Amador City Cost Allocation	\$29,000	\$30,000	\$42,000	\$42,000	\$43,000	\$44,000	\$45,000	\$46,000	\$46,000	\$46,000	\$46,000	\$46,000
6 Increase to cost allocation		\$6,000		\$1,000	\$1,000	\$1,000	\$1,000	\$0	\$0	\$0	\$0	\$0
7 Amador Water Agency Cost Allocation	\$156,000	\$151,000	\$220,000	\$220,000	\$224,000	\$228,000	\$233,000	\$238,000	\$240,000	\$242,000	\$244,000	\$246,000
8 Increase to cost allocation		\$34,000		\$4,000	\$4,000	\$5,000	\$5,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
Non-Rate Revenues (see Schedule 1)												
9 ARSA Reimburs.	\$156,000	\$193,000	\$196,000	\$200,000	\$154,000	\$158,000	\$162,000	\$167,000	\$171,000	\$176,000	\$181,000	\$186,000
10 Septic Fees	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000
11 Miscellaneous Fees	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
12 Grants	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
13 Interest Income	\$0	\$2,000	\$2,000	\$3,000	\$3,000	\$3,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000
14 Connection Fee Revenue (Fund 11 & 12)	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500
15 Total Fund 10 Revenue (Excl. Conn. Fees)	\$1,672,000	\$2,024,000	\$2,294,000	\$2,345,000	\$2,346,000	\$2,400,000	\$2,455,000	\$2,488,000	\$2,521,000	\$2,555,000	\$2,589,000	\$2,624,000
O&M Costs												
16 Total Operating Expenses (see Schedule 2)	\$1,587,000	\$1,633,000	\$1,680,000	\$1,729,000	\$1,780,000	\$1,831,000	\$1,885,000	\$1,940,000	\$1,996,000	\$2,055,000	\$2,115,000	\$2,177,000
Capital Costs												
17 Total Capital Spending (see Schedule 3)	\$0	\$195,000	\$243,000	\$250,000	\$338,000	\$348,000	\$358,000	\$369,000	\$380,000	\$391,000	\$403,000	\$415,000
18 Existing Debt Service	\$44,000	\$44,000	\$44,000	\$44,000	\$44,000	\$44,000	\$44,000	\$44,000	\$44,000	\$45,000	\$44,000	\$44,000
19 Cash Funded Capital Projects	\$0	\$195,000	\$243,000	\$250,000	\$338,000	\$348,000	\$358,000	\$369,000	\$380,000	\$391,000	\$403,000	\$415,000
20 Grant-Funded Capital Projects	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
21 New Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
22 Total Capital Expenses	\$44,000	\$239,000	\$287,000	\$294,000	\$382,000	\$392,000	\$402,000	\$413,000	\$424,000	\$436,000	\$447,000	\$459,000
23 Total Revenue Requirement	\$1,631,000	\$1,872,000	\$1,968,000	\$2,024,000	\$2,162,000	\$2,224,000	\$2,287,000	\$2,353,000	\$2,420,000	\$2,491,000	\$2,562,000	\$2,635,967
24 Beginning Year Balance	\$1,443,000	\$1,485,000	\$1,637,000	\$1,963,000	\$2,285,000	\$2,469,000	\$2,645,000	\$2,813,000	\$2,948,000	\$3,048,000	\$3,113,000	\$3,140,000
25 Surplus/(Shortfall)	\$41,000	\$152,000	\$327,000	\$321,000	\$184,000	\$176,000	\$168,000	\$135,000	\$101,000	\$65,000	\$27,000	(\$12,000)
26 End of Year Balance (Fund 10)	\$1,485,000	\$1,637,000	\$1,963,000	\$2,285,000	\$2,469,000	\$2,645,000	\$2,813,000	\$2,948,000	\$3,048,000	\$3,113,000	\$3,140,000	\$3,128,000
27 Minimum Reserve Target	\$1,408,000	\$1,438,000	\$1,438,000	\$1,481,000	\$1,525,000	\$1,570,000	\$1,617,000	\$1,665,000	\$1,715,000	\$1,766,000	\$1,818,000	\$1,873,000
28 Available Cash	\$77,000	\$199,000	\$525,000	\$804,000	\$944,000	\$1,075,000	\$1,196,000	\$1,283,000	\$1,333,000	\$1,347,000	\$1,322,000	\$1,254,552
Debt Coverage Calculations												
29 Total Revenue Available for Debt Service	\$112,000	\$418,000	\$641,000	\$642,000	\$593,000	\$595,000	\$597,000	\$574,000	\$551,000	\$527,000	\$501,000	\$474,000
30 Debt Coverage Ratio	2.54	9.46	14.47	14.49	13.38	13.42	13.49	13.02	12.54	11.77	11.26	10.73



MEETING MINUTES

WWTP REPLACEMENT PROJECT

City of Sutter Creek

Issue Date: 1-29-2021

Project No.: 12029A.60

Purpose:	Project Check-In/Update with Permitting and Funding Group		
Meeting Date:	January 21, 2021		
Meeting Location:	MS Teams		
Prepared By:	Beverly Hann		
Attendees:	<u>Client:</u>	<u>Carollo:</u>	<u>SWRCB:</u>
	Amy Gedney	Beverly Hann	Elvira Reyes (DFA)
	Grant Reynolds	Eli Weintraub	Jim Marshall (NPDES)
		Christina Romano	James Garcia (DFA)
		Larry Parlin	Josh Palmer (NPDES)
			Armando Martinez (DFA)
Distribution:	Attendees		

Discussion:

The following is our understanding of the subject matter covered in this conference. If this differs from your understanding, please notify us.

Background

Amy and Larry provided some background on the project, as a reminder for the meeting attendees.

Key Project Drivers – The City of Lone issued a termination of an existing agreement to accept excess flow from the Amador Regional Sanitation Authority (ARSA) distribution system, effective in July 2022, which restricts the overall capacity of the ARSA system and requires the City of Sutter Creek (City) to pursue additional avenues for effluent discharge. Additionally, condition evaluations of the City's existing wastewater treatment plant (WWTP) and of the ARSA system indicate that the WWTP and ARSA system as a whole require improvements for long-term reliability.

The City has been investigating options related to WWTP upgrades, alternate effluent discharge, regionalization with neighboring cities, etc., and has recently secured a planning grant from the State to complete a final evaluation of alternatives for long-term treatment and disposal of the City's municipal flow.

Carollo has been contracted by the City to assist in an Owner's Advisor (OA) role leading many of the planning activities funded by the planning grant (see below).

The City has had ongoing discussions with the City of Lone, the City of Jackson, and the California Department of Corrections (CDCR) regarding regionalization, ARSA system improvement, shared recycle water projects, etc. Amy mentioned that the City has been frustrated with ultimately non-productive discussions with these agencies over the years, that each has explored separate facility upgrades that would negate any potential benefit from a shared project, and that the City is committed to moving forward with

MEETING MINUTES

independent upgrades as a result. She also mentioned that the City doesn't want to end up in a position where they could be forced to provide water supply to the City of Lone.

Planning

Planning Phase Funding Requirements: The requirements of the planning grant were summarized for all meeting attendees. These include the development of a Project Report, contractor selection for final design and construction of facility improvements, completion of a rate study, submittal of a funding application for CWSRF money and report of waste discharge (ROWD) for permit application, and completion of environmental (CEQA) efforts necessary for the CWSRF funding application.

Carollo is contracted to assist the City with all except the environmental work (Ascent Environmental is contracted for this work) and the rate study work (City will contract with the rate consultant previously used).

Alternatives Evaluation

Review Project Alternatives: Per the planning grant agreement, Carollo is working with the City to evaluate the following project alternatives:

- Secondary treatment with discharge to ARSA
- Regionalization with the City of Jackson
- Regionalization with the City of Lone
- Tertiary treatment at the existing site with year-round discharge
- Tertiary treatment at the existing site with seasonal discharge (wet season to Sutter Creek and dry season to ARSA)
- Tertiary treatment at the existing site with discharge to Sutter Creek based on effluent flow pacing in response to measured creek flows (20:1 minimum for creek: effluent flows)

Project Update

Preliminary results of the alternatives analysis are pointing towards tertiary treatment upgrades at the existing site with year-round discharge to Sutter Creek.

New Findings/Limitations

There has been ongoing work to finalize the design criteria for facility improvements, with note that design flow values have been particularly challenging to nail down due to high inflow and infiltration (I/I). Large winter storm events result in a peaking factor (PF) approaching 10.

Other constraints/limitations:

- The site is space constrained; not a lot of room to build new treatment systems while maintaining operation through construction.
- The geology and topography on-site adds additional challenge, as well as the Caltrans easements for the elevated highway that runs above a portion of the site.

Based on Carollo's initial layout efforts, it appears that a WWTP sized to handle average flows will fit, but not one sized for the peak flow condition. This means that storage/flow equalization will be needed to handle the peak flows.

- There is not adequate space for flow equalization/storage within the existing WWTP area to provide final needed capacity.

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Permitting Relief?

Assuming that the option to construct a new tertiary plant at the existing site with year-round discharge to Sutter Creek is the most feasible option, the City will pursue a blending waiver for the elevated peak flows coming into the facility during large storm events. This would reduce the size of the equalization storage required and avoid sunk costs for storage that may not be needed long-term (Larry noted that the City has been diligently working through smoke testing and lining/repairing the collection system for many years).

Related discussion:

- Jim Marshall asked if the City is looking for a bypass of the tertiary treatment, noting that it is unlikely that this would be included in a new permit. He also noted that the high I/I could be an issue for the City's SRF funding request.
- Larry noted that many Bay Area dischargers have blending waivers, mentioning that previous discussions also included a bypass allowance for large thunderstorms.
- Jim said that a blending waiver may be a possibility, but is unlikely since it wouldn't meet best practicable technology requirements.
- Larry asked if economics would be part of the final decision.
- Jim agreed that economics would be considered, and indicated that he would be willing to look into the option in more detail (reviewing related regulations).

Jim asked if there were other locations for the treatment plant and/or flow storage. Eli responded that the new treatment facilities will likely fit on-site and that the existing site is the most appropriate location for these facilities. Eli also reiterated that the storage facilities will not fit on the existing site.

Additional discussion:

- DFA wants to see the viability of other options like reclamation and regionalization evaluated within the planning phase.
- Beverly noted that we are looking at reclamation as part of the continued use of the ARSA system; but it's not the City's preference especially because it keeps them tied to CDCR and will require costly improvements to the ARSA system.
- Jim also wants to see reclamation and regionalization discussed within the ROWD.

Construction Funding

Delivery of the final project is still anticipated to be via a design-build (DB) process, due to schedule requirements and the challenging site constraints.

Beverly asked if DFA has a current projection for funding availability for this type of project? As a severely disadvantaged (and small) community, the City will seek maximum grant funding to increase the feasibility of accomplishing the needed facility improvements.

James Garcia responded that the typical max grant for a project like this is \$6M (minus the planning funding amount that is already contracted [\$500K]). If the City moves forward with a regionalized project, this maximum amount could increase to \$8M (depending on funding availability). The Division of Financial Assistance (DFA) gets approximately \$55M to \$60M for grant funding each fiscal year (July to June); and that funding is absorbed very quickly. To obtain funding, the City will need to have to have a discharge permit in place (or at least be working on one via submittal of a ROWD).

MEETING MINUTES

NPDES Permit

Carollo expects that the ROWD will be drafted for submittal within the next four months. Sampling (influent, effluent, and creek) has been completed, data has been compiled, and a preliminary reasonable potential analysis (RPA) has been completed.

Beverly shared a few initial results from the RPA, noting a few constituents that caught our eye (various metals, bis-2[ethylhexyl phthalate, and pentachlorophenol). The Carollo team will consider all as new treatment facilities are evaluated, but a few may prove problematic and (as such) the City would benefit from dilution credits for long-term compliance.

Jim said that the City will need to complete a mixing zone analysis if they wish to pursue dilution credits. This approach could become problematic since Sutter Creek doesn't have flow year-round.

Beverly mentioned that a stream bioassessment is required by planning grant, and asked if this is something that could be delayed until after the permit is adopted (as a deliverable). Jim responded that the SWRCB is interested in establishing a baseline for the discharge. As such, this should be conducted as part of the permit adoption process, but can be submitted separately from the ROWD.

Schedule

A modified schedule to the requirements in the planning grant agreement was submitted by the City in August 2020, which included the delayed submittal of the Draft Project Report until January (due to the delayed receipt of the planning agreement). Progress on the report has been delayed due to additional effort necessary to properly assess the facility design flow criteria, and new projections are as follows: Draft Project Report (March 2021) and Final Project Report (May 2021).

Elvira mentioned that the City should include schedule updates in the quarterly reports (she sent a template after the meeting). She noted that work cannot surpass the final disbursement date listed in the agreement (September 2023).

James mentioned that since recycled water funding was used for this grant, reclamation alternatives do need to be considered (per earlier discussion). He understands that reclamation/recycling can sometimes be an expensive alternative, but that the City does need to address possible options in the Project Report.

Elvira also reiterated that the Project Report should include an explanation of observed I/I, including how the City intends to address I/I in the future.

Action Items:

1. Review regulations for blending waivers (all).
2. Include a discussion summarizing possible reclamation/recycling options in the Project Report and the ROWD (Carollo).
3. Include an I/I discussion in the Project Report (Carollo).
4. Send Quarterly Report template (Elvira) – COMPLETE.
5. Submit updated schedule details with the City's Quarterly Report (City/Carollo).

PROJECT MEMORANDUM

SUTTER CREEK WWTP PROJECT

City of Sutter Creek

To: Amy Gedney, City Manager**Date:** February 1, 2021**Project No.:** 12029A.60**Subject:** Sutter Creek Wastewater Flow Model Re-Calibration

Carollo submitted a Project Memorandum on January 7th, 2021 that summarized the modeling performed to establish peak flow design criteria for use in the Project Report. Subsequently, the City asked Carollo to rerun the model excluding 2017 storm data. A summary of the results of the updated model are described below.

I&I Model Re-Calibration

Carollo re-calibrated the I&I model to exclude information from storms in 2017. The updated model only included rainfall and flow data from 2018 and 2019 storm events.

In the updated model, the simulated 10-year 24-hour storm event resulted in a peak-hour flow of 4.4 million gallons per day (mgd) and a peak day flow of 3.0 mgd. The same simulated storm in the original model resulted in peak-hour flow of 5.0 mgd with associated peak-day flow of 3.3 mgd. Predicted flows for these simulated storm events are shown below in Figures 1 and 2 below.

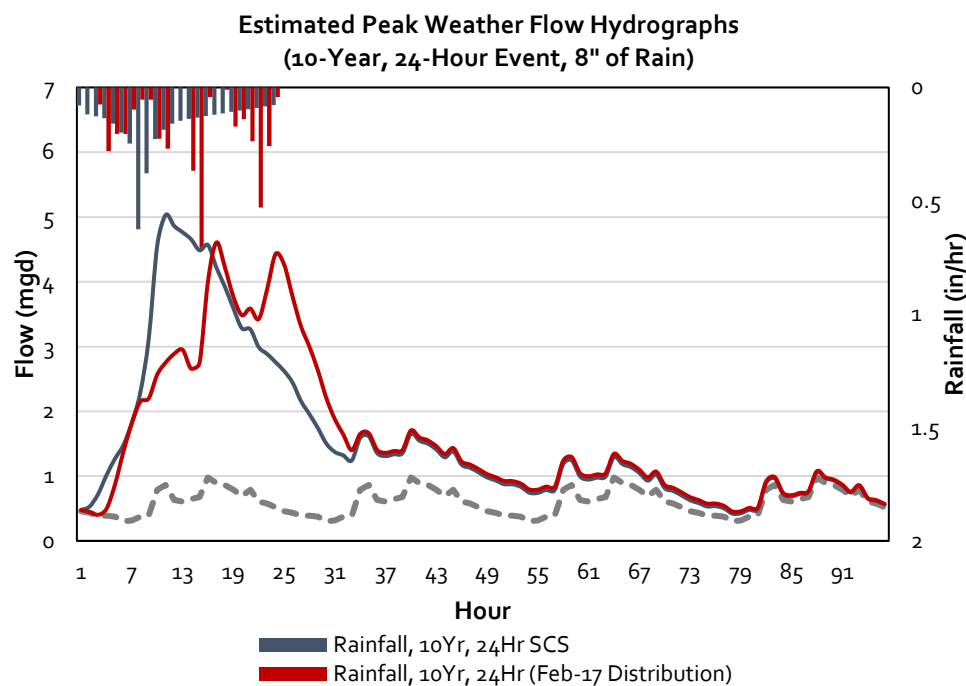


Figure 1. Predicted 10-Year Storm Including 2017 Data

PROJECT MEMORANDUM

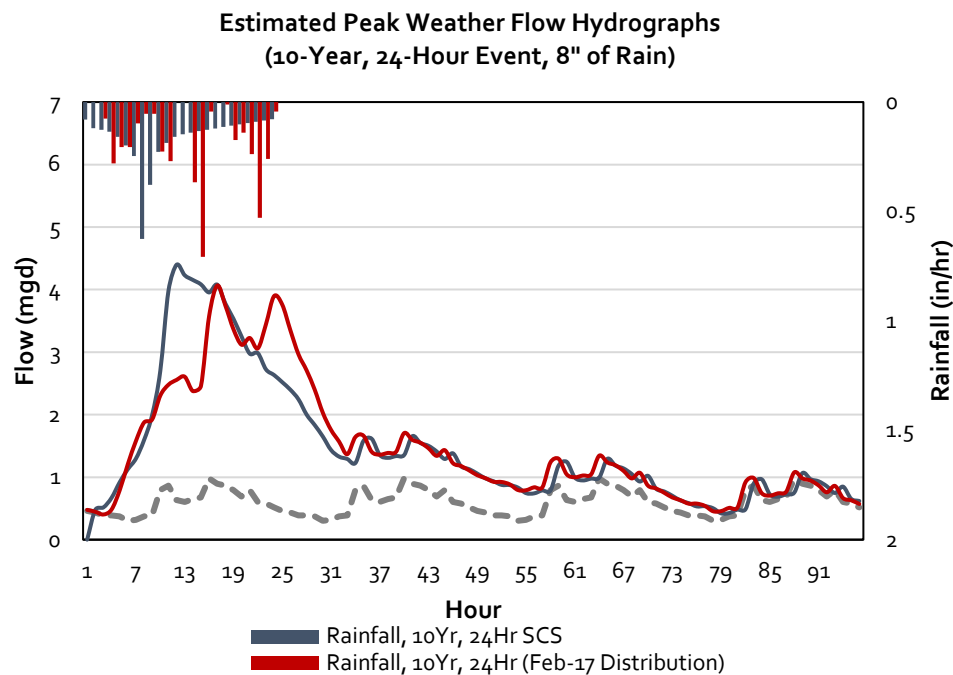


Figure 2. Predicted 10-Year Storm Excluding 2017 Data

Additional Observations

It is important to note the following:

- The 2017 storm flow data was collected when there was an open manhole that the City believes was contributing additional flow into the system. However, the flow was not measured and cannot be verified. Therefore, it is estimated that the original modeling that included the 2017 data provides an upper boundary for the design flow conditions.
- The 2018 and 2019 storms occurred when the soil was less saturated and therefore, do not represent the impact of a large storm during fully saturated soil conditions. In other words, I/I during the 2018 and 2019 storms is estimated to be lower than if a 10 yr/24 hr storm occurred during a fully saturated condition. Therefore, the flows observed in 2018 and 2019 are estimated to be the lower boundary for design flow conditions.

Conclusion

Based on the modeling performed, Carollo estimates the peak-day flow to be between 3.0 mgd and 3.3 mgd and the peak-hour flow to be between 4.4 mgd and 5.0 mgd. Because the impacts of the open manhole during the 2017 storm cannot be verified and I/I during the 2018 and 2019 storms is believed to be less than if the soil were saturated, we recommend that an average of the two model runs be used as the design criteria for the Project Report as follows:

- Peak Day Flow: 3.15 mgd
- Peak Hour Flow: 4.7 mgd

Project Alternatives Meeting

City of Sutter Creek WWTP



Sutter Creek Community Center // February 10, 2021

// Agenda

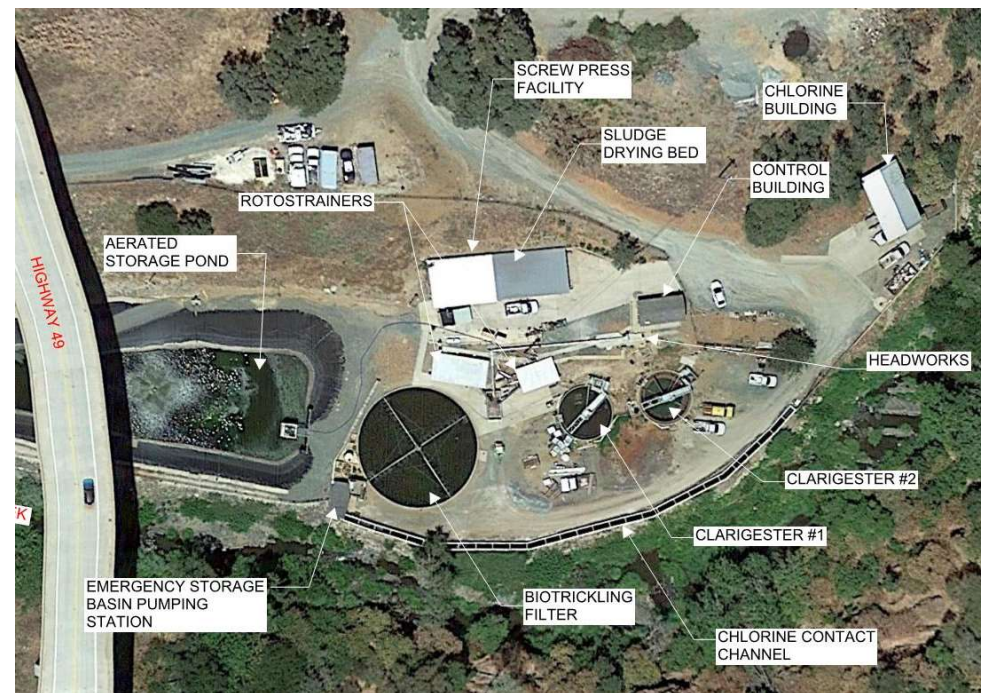
1. Introductions
2. Design Criteria
3. Funding Agreement Alternatives
4. Project Funding Cost Analysis and Recommendation
5. Next Steps and Action Items

Introductions

Design Criteria

// Design Criteria Discussion

- Current WWTP
 - Permitted capacity – 0.48 mgd
 - Master Plan maximum treatment capacity – 0.96 mgd
- Equalization Storage
 - 1.1 MG



// Design Criteria Discussion

	Current	Future
Average dry weather flow	0.33 mgd	0.58 mgd
Max month average daily flow	0.66 mgd	1.17 mgd
Peak day flow	3.15 mgd	3.5 mgd
Peak hour flow	4.7 mgd	5.8 mgd

// Design Criteria Discussion

- Regional Board will use the average dry weather flow as a starting point to establish the permitted capacity of the new treatment facility
 - Current permitted capacity – 0.48 mgd
 - Current ADWF – 0.33 mgd
 - New plant permitted capacity – to be determined by Regional Board
- Proposed Design Criteria:
 - Max month average daily flow = treatment plant capacity of 0.66 mgd
 - Equalization storage: 10-yr/24-hr storm – 3.9 MG

Funding Agreement Alternatives

// Alternative 1.1.1

- New Secondary Treatment Plant
 - Replace current treatment equipment
 - Upgraded secondary treatment facilities
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Chlorine contact basin
 - Continuous year-round ARSA discharge



Aero-Mod Secondary Treatment System

// Alternative 1.1.2

- Regionalization with the City of Jackson
 - Sewer conveyance to the City of Jackson WWTP
 - Construction of 5-mile raw sewage pipe
 - New pump station
 - Increased capacity and upgrades at the Jackson WWTP
- Considerations
 - Site constraints
 - Pumping costs
 - Discharge limitations
 - Capacity issues



City of Sutter Creek WWTP



City of Jackson WWTP

// Alternative 1.1.3

- Regionalization with the City of Lone
 - Sewer conveyance to the City of Lone WWTP
 - Construction of 11-mile raw sewage pipe
 - New pump station
 - Increased capacity and upgrades at the lone WWTP
- Considerations
 - Pumping costs
 - Discharge limitations – not all water is treated to a tertiary level
 - Capacity issues



City of Sutter Creek WWTP



City of Lone WWTP



// Alternative 1.1.4

- New Tertiary Treatment Plant – Surface Water Discharge
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Year-round discharge to Sutter Creek



// Alternative 1.1.5

- New Tertiary Treatment Plant – ARSA/Surface Water Discharge (Dry/Wet Season)
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Dry season discharge to ARSA system
 - Wet season discharge to Sutter Creek



// Alternative 1.1.6

- New Tertiary Treatment Plant – ARSA/Surface Water Discharge (20:1 Dilution)
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Discharge to ARSA system when dilution is less than 20:1
 - Discharge to Sutter Creek when dilution is greater than 20:1



Project Funding Cost Analysis and Recommendation

// Preliminary Cost Analysis – Life Cycle Cost

Alternative	Capital Cost	Annual O&M	Annual Rehab and Recovery	Present Value	Relative Difference
1.1.1	\$64M	\$1.7M	\$1.0M	\$106M	19%
1.1.2	\$68M	\$2.8M	\$1.1M	\$130M	46%
1.1.3	\$79M	\$3.4M	\$1.2M	\$152M	70%
1.1.4	\$50M	\$1.7M	\$0.8M	\$89M	0%
1.1.5	\$61M	\$1.9M	\$0.9M	\$104M	17%
1.1.6	\$61M	\$1.9M	\$0.9M	\$104M	17%

// Project Recommendation

- Alternative 1.1.4
 - Lowest present worth value
 - Lowest capital cost
 - Lowest combined annual O&M and R&R costs
 - Second lowest energy cost alternative



Tertiary Treatment



Sutter Creek, year-round



// Project Recommendation – Alternative 1.1.4 Site Plan

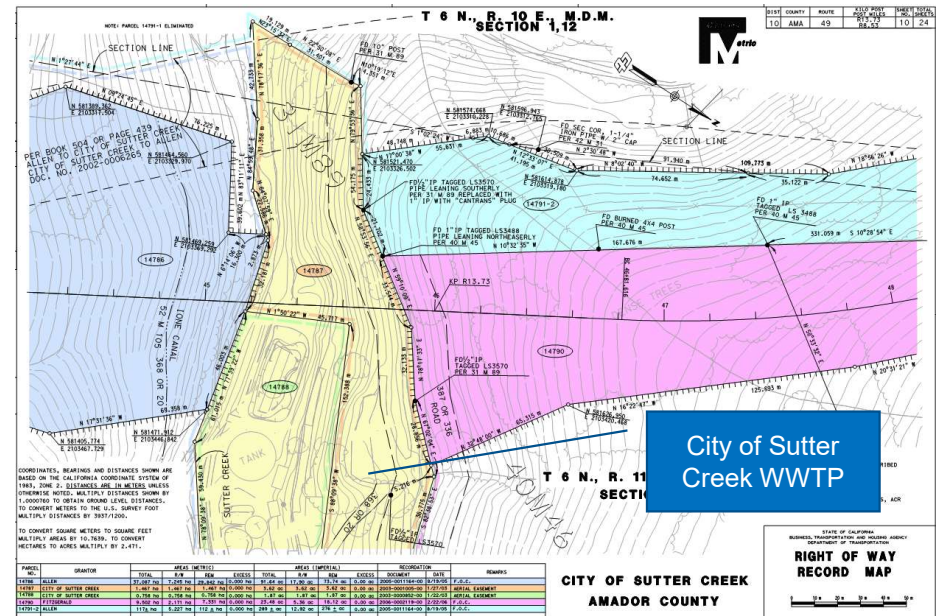


// Project Recommendation – Alternative 1.1.4 Site Plan



// Project Recommendation – Alternative 1.1.4 Considerations

- Land Acquisition
 - Location of Equalization Tank
- Construction Challenges
 - Construction Sequencing
 - Maintaining Operation of Existing Facility
 - Geotechnical considerations
- Easement Limitations
 - CALTRANS Right of Way



Right of Way Map

Next Steps and Action Items

// Next Steps and Action Items

- Next Steps
 - Board approval of project alternative
 - Confirm funding opportunities
 - Environmental documentation
 - Rate study
 - Land acquisition
 - Caltrans coordination
 - ROWD – NPDES permit application
 - SRF Application
- Review Action Items

MEETING MINUTES

WWTP REPLACEMENT PROJECT

City of Sutter Creek

Issue Date: 2-12-2021

Project No.: 12029A.60

Purpose: Project Alternatives Review Meeting**Meeting Date:** February 10, 2021**Meeting Location:** Sutter Creek/Teams**Prepared By:** Christina Romano**Attendees:****Client:**

Amy Gedney

Grant Reynolds

Jim Swift

Robin Peters

Carollo:

Beverly Hann

Christina Romano

Eli Weintraub

Micaela Robertson

Yifan Zhang

Distribution: Attendees**Discussion**

The following is our understanding of the subject matter covered in this meeting. If this differs from your understanding, please let us know. A copy of the slides reviewed during the meeting are attached for reference.

Design Criteria

Existing facility information was discussed:

- Permitted capacity of 0.48 mgd
- Existing flows – 0.33 mgd ADWF, 0.66 mgd max month ADF

Robin mentioned that he's seen previous calculations for ADWF at 0.28 mgd. Grant concurred and Yifan described that the ADWF above was calculated using the past three years of data, as opposed to just one year (as was done for the 0.28 mgd ADWF).

Christina described future flow projections based on a 20-year horizon. The projections are based on current data and growth rates described in the master plan.

Robin asked about permitted capacity and noted that the City has committed to not increasing permitted capacity as it relates to the CEQA process. Robin also noted his preference to avoid a growth inducing scenario and that he understands the permitted capacity to be based on ADWF. Christina confirmed that conversations with the Regional Board will be focused on maintaining the current permitted capacity.

Christina also shared that all of the alternatives to be discussed next were based on designing the plant to handle a 0.66 mgd max month ADF and storage for a 10-yr/24-hr storm. The City agreed with moving ahead based on these design criteria.

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Funding Agreement Alternatives

The alternatives outlined in the City's funding agreement were reviewed. These are the alternatives the City is required to review based on what was included in their planning funding agreement.

Alternative 1.1.1 – Secondary treatment with ARSA disposal: Christina described the need for a storage tank with this alternative and noted that it would be included for all alternatives.

Jim asked why a tank would be needed, if there isn't one now. Eli and Yifan explained that the equalization tank is required to handle 10-yr/24-hr storm events, and Christina noted designing for peak storm events is a criteria the plant must meet. Eli and Yifan described site constraints and the history of spills that make it necessary.

Robin noted that this alternative doesn't address disposal, and Yifan stated that costs for upgrades/expansion to the ARSA system are included.

Alternative 1.1.2 – Regionalization with Jackson: Robin noted that minutes from a previous meeting (January meeting w/ state stakeholders) included a description of "extensive" conversation with Jackson about regionalization. He said that was not an accurate description of the level of communication about regionalization. Yifan and Christina acknowledged Robin's concern and requested feedback from the City when reviewing the Project Report to make sure this is reflected properly.

Alternative 1.1.3 – Regionalization with Ione: Christina noted that this alternative is similar to 1.1.3 with a longer pipeline.

Alternative 1.1.4 – Tertiary treatment with year-round discharge to Sutter Creek: Christina confirmed Carollo's understanding that this is the preferred alternative.

Alternative 1.1.5 – Tertiary treatment with wet-season discharge to Sutter Creek, dry season discharge to ARSA: Eli mentioned that costs held in this alternative for the ARSA system are lower than those held in the 1.1.1 cost estimate. This is because ARSA would only be needed for dry-season flow.

Alternative 1.1.6 – Tertiary treatment with discharge to Sutter Creek when dilution is > 20:1, discharge to ARSA when dilution is < 20:1: Eli noted that costs for Alternative 1.1.5 and 1.1.6 are assumed to be the same because there is no creek flow information available to determine when dilution would be possible.

Robin and Yifan discussed flow dilution and calculated that approximately 20 cfs would be required in the creek for discharge to be allowed.

Alternative Cost Analysis

Christina summarized the costs and described Alternative 1.1.4 as being the lowest cost alternative – approximately \$50M capital cost. Robin shared that alternative 1.1.4 would be the preferred option, but noted that he doesn't think the City can get stakeholder buy-in at \$50M. Funding from SRF would cover \$5.5M and USDA funds are not currently an option because this is proposed as a design-build project. One potential option is to switch the project procurement to a design-bid-build scenario to allow for USDA funding. Christina mentioned that Carollo is looking at all funding options and will present findings to the City in an upcoming meeting. Robin asked about the upgrade cost that was used for the most recent rate study. Amy noted that she believed \$12M was assumed for the treatment plant project costs.

Jim asked if a storage tank could fit on the existing site. Christina and Yifan said no, that space needs to be used for the planned secondary treatment. Christina and Yifan noted additional construction challenges

MEETING MINUTES

including steep hillsides and rock that limit options for storage basin locations and maintaining ongoing plant operation during construction.

Christina mentioned the City's I/I issue drives the need for the equalization tank and addressing I/I issues could lower project costs.

Robin asked about other lower cost options, beyond the six prescribed alternatives. The group discussed the option of year-round land application as a possibility, especially if the existing plant could continue to be used without major modifications. Robin shared that the portion of the ARSA system upstream of Henderson Reservoir is in good shape compared to the rest of the system. He asked about expanding the ARSA system so that it could handle all flows without a connection to Lone. This would likely include looking at new sprayfields and rehabbing reservoirs. Robin would like to see a cost comparison between rehabbing the upper Henderson Reservoir versus the entire system for additional disposal capacity.

The project team discussed possible solutions involving upgrades to the ARSA system and possibly the treatment plant. Amy mentioned that the political environment is different than it was last time the ARSA system was looked at in detail. Robin said that it's possible that Henderson Reservoir could be used after repairs. The team also talked about the possibility of step-wise implementation to spread costs out.

Amy asked if costs within each alternative are broken down further than what was presented. Yifan and Christina confirmed that to be the case and said Carollo could provide those detailed cost breakdowns to The City.

Robin said that a previous ARSA engineer did some calculations for rehabbing Henderson Reservoir and said he would share those with Carollo. He said that a new tertiary plant made a lot of sense at \$25M but less so at \$50M. He noted that he believes that the costs we're talking about today are more realistic than those in the master plan.

Christina also noted that the City's I/I challenges should continue to be part of the discussion as making improvements to laterals, etc. could reduce overall treatment/disposal project costs.

Moving Forward

Christina laid out potential options to keep things moving forward:

- 1) Hold off on finalizing the draft Project Report.
- 2) Allow Seema to complete her funding information TM – this is in process and will be available in the next two weeks.
- 3) Look at other alternatives beyond the six prescribed alternatives including a Plan B, year-round land application scenario.
- 4) Move the status meeting originally scheduled for Thursday, February 18th to the following Thursday (February 25th) to allow the team time to pull this additional information together and share it prior to meeting again.

The City agreed with this approach.

Next steps

The project update meeting that was scheduled for 2/18 has been moved to 2/25 and will now be focused on funding opportunities and a discussion about the Plan B year-round land application option.

MEETING MINUTES

Action Items:

1. Provide more detailed cost breakdowns to the City (Carollo).
2. Provide funding options for the project (Carollo).
3. Look into alternatives that are more cost effective than the six currently proposed project alternatives (Carollo).
4. Share Henderson Reservoir calculation with Carollo and team (Robin).

Project Alternatives Meeting

City of Sutter Creek WWTP



Sutter Creek Community Center // February 10, 2021

// Agenda

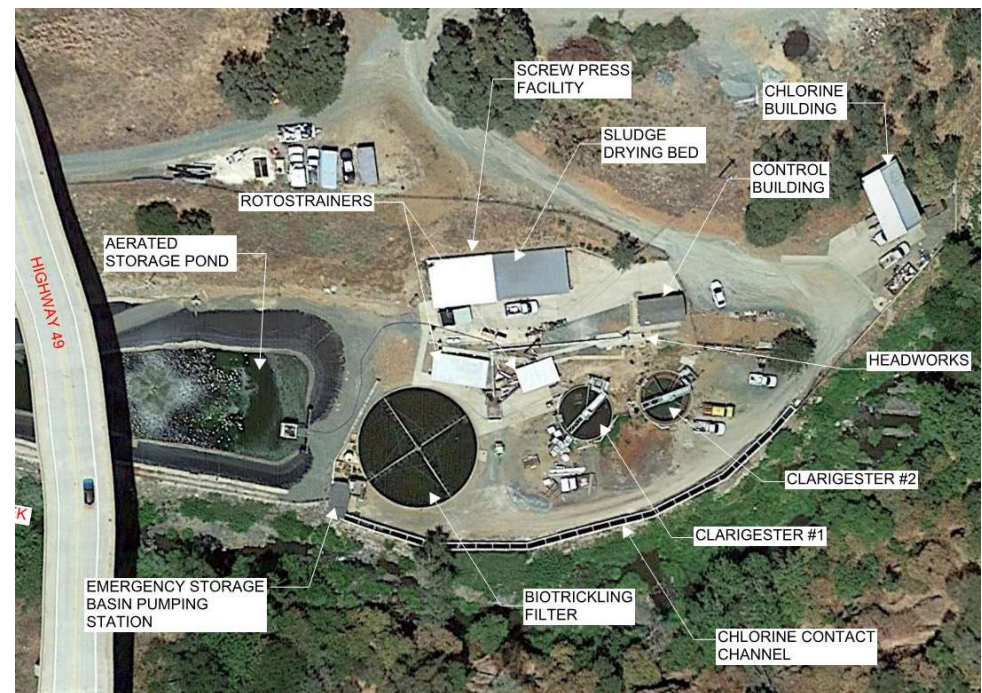
1. Introductions
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5. Next Steps and Action Items

Introductions

Design Criteria

// Design Criteria Discussion

- Current WWTP
 - Permitted capacity – 0.48 mgd
 - Master Plan maximum treatment capacity – 0.96 mgd
- Equalization Storage
 - 1.1 MG



// Design Criteria Discussion

	Current	Future
Average dry weather flow	0.33 mgd	0.58 mgd
Max month average daily flow	0.66 mgd	1.17 mgd
Peak day flow	3.15 mgd	3.5 mgd
Peak hour flow	4.7 mgd	5.8 mgd

// Design Criteria Discussion

- Regional Board will use the average dry weather flow as a starting point to establish the permitted capacity of the new treatment facility
 - Current permitted capacity – 0.48 mgd
 - Current ADWF – 0.33 mgd
 - New plant permitted capacity – to be determined by Regional Board
- Proposed Design Criteria:
 - Max month average daily flow = treatment plant capacity of 0.66 mgd
 - Equalization storage: 10-yr/24-hr storm – 3.9 MG

Funding Agreement Alternatives

// Alternative 1.1.1

- New Secondary Treatment Plant
 - Replace current treatment equipment
 - Upgraded secondary treatment facilities
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Chlorine contact basin
 - Continuous year-round ARSA discharge



Aero-Mod Secondary Treatment System

// Alternative 1.1.2

- Regionalization with the City of Jackson
 - Sewer conveyance to the City of Jackson WWTP
 - Construction of 5-mile raw sewage pipe
 - New pump station
 - Increased capacity and upgrades at the Jackson WWTP
- Considerations
 - Site constraints
 - Pumping costs
 - Discharge limitations
 - Capacity issues



City of Sutter Creek WWTP



City of Jackson WWTP

// Alternative 1.1.3

- Regionalization with the City of Lone
 - Sewer conveyance to the City of Lone WWTP
 - Construction of 11-mile raw sewage pipe
 - New pump station
 - Increased capacity and upgrades at the lone WWTP
- Considerations
 - Pumping costs
 - Discharge limitations – not all water is treated to a tertiary level
 - Capacity issues



City of Sutter Creek WWTP



City of Lone WWTP



// Alternative 1.1.4

- New Tertiary Treatment Plant – Surface Water Discharge
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Year-round discharge to Sutter Creek



// Alternative 1.1.5

- New Tertiary Treatment Plant – ARSA/Surface Water Discharge (Dry/Wet Season)
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Dry season discharge to ARSA system
 - Wet season discharge to Sutter Creek



// Alternative 1.1.6

- New Tertiary Treatment Plant – ARSA/Surface Water Discharge (20:1 Dilution)
 - Replace current equipment with tertiary treatment equipment
 - Influent pump station
 - Headworks
 - 4-MG equalization tank
 - Secondary treatment system (Aero-Mod)
 - Tertiary treatment system (disc filtration, UV disinfection)
 - Outfall pipeline with diffusers
 - Discharge to ARSA system when dilution is less than 20:1
 - Discharge to Sutter Creek when dilution is greater than 20:1



Project Funding Cost Analysis and Recommendation

// Preliminary Cost Analysis – Life Cycle Cost

Alternative	Capital Cost	Annual O&M	Annual Rehab and Recovery	Present Value	Relative Difference
1.1.1	\$64M	\$1.7M	\$1.0M	\$106M	19%
1.1.2	\$68M	\$2.8M	\$1.1M	\$130M	46%
1.1.3	\$79M	\$3.4M	\$1.2M	\$152M	70%
1.1.4	\$50M	\$1.7M	\$0.8M	\$89M	0%
1.1.5	\$61M	\$1.9M	\$0.9M	\$104M	17%
1.1.6	\$61M	\$1.9M	\$0.9M	\$104M	17%

// Project Recommendation

- Alternative 1.1.4
 - Lowest present worth value
 - Lowest capital cost
 - Lowest combined annual O&M and R&R costs
 - Second lowest energy cost alternative



Tertiary Treatment

Sutter Creek, year-round



// Project Recommendation – Alternative 1.1.4 Site Plan

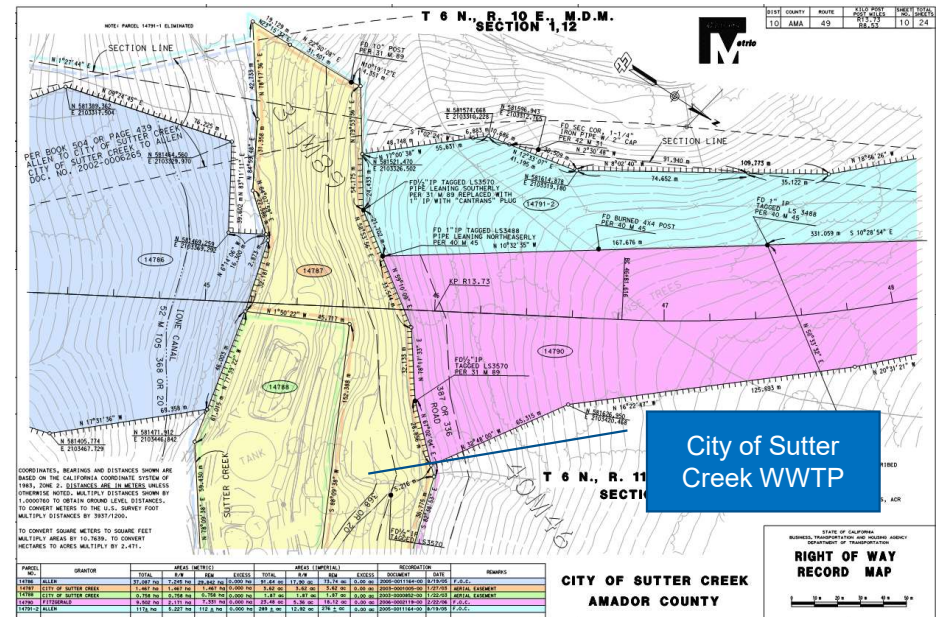


// Project Recommendation – Alternative 1.1.4 Site Plan



// Project Recommendation – Alternative 1.1.4 Considerations

- Land Acquisition
 - Location of Equalization Tank
- Construction Challenges
 - Construction Sequencing
 - Maintaining Operation of Existing Facility
 - Geotechnical considerations
- Easement Limitations
 - CALTRANS Right of Way



Right of Way Map

Next Steps and Action Items

// Next Steps and Action Items

- Next Steps
 - Board approval of project alternative
 - Confirm funding opportunities
 - Environmental documentation
 - Rate study
 - Land acquisition
 - Caltrans coordination
 - ROWD – NPDES permit application
 - SRF Application
- Review Action Items

MEETING MINUTES

ALTERNATIVES ANALYSIS

City of Sutter Creek/ARSA

Issue Date: 2/25/2021

Project No.: 12029A.60

Purpose: Review project alternative B scenarios and funding opportunities for the Sutter Creek WWTP Improvements project.

Meeting Date: 2/25/2021 4PM-5:30PM

Meeting Location: Zoom Meeting

Prepared By: Micaela Robertson

Attendees:**Client:**

Amy Gedney
Grant Reynolds
Jim Swift
Robin Peters

Carollo:

Christina Romano
Yifan Zhang
Eli Weintraub
Beverly Hann
Micaela Robertson
Maddi Rasmus
Seema Chavan

Other:

Sydney Coatsworth
(Ascent Environmental)
Andrea Shephard (AE)

Distribution: Attendees, File

Discussion:

The following is our understanding of the subject matter covered in this conference. If this differs from your understanding, please notify us.

1. Christina started the PowerPoint meeting with introductions
2. Alternative B Scenarios
 - a. Master Plan
 - i. Includes WWTP upgrades and 3-MG EQ basin.
 - ii. Assumes year-round discharge to ARSA/land application.
 - iii. Total cost escalated to midpoint of construction 2023 is \$63.6M.
 - iv. Robin noted the cost of WWTP upgrades is \$23.5M and asked if it is best spent on upgrading a secondary plant versus other improvements. He described the wastewater issue as a disposal problem, not a treatment problem.
 - 1) Christina explained the WWTP costs are based on the alternative 1 costs from the Master Plan.
 - v. Jim noted the Master Plan includes higher costs for dredging less volume from Henderson, than the Plan B scenario which costs less for dredging more. He asked why the discrepancy exists.

- 1) Christina explained the unit costs for each scenario are different (\$10,000/AF dredged for Master Plan vs \$25,400/AF for Plan B) and these costs will need to be verified.
- b. Plan B Scenario
 - i. WWTP upgrades and 3-MG EQ basin
 - ii. Assumes year-round discharge to ARSA/land application and seasonal discharge to Sutter Creek.
 - iii. Robin asked how the WWTP can discharge secondary treatment to Sutter Creek. Robin explained his vision for this alternative included providing enough land application area to discharge all effluent to the land without tertiary treatment.
 - 1) Christina explained the seasonal discharge was included since it was referenced in the 2019 letter, however the water balance was not provided for verification of the design assumptions.
- c. Gap analysis
 - i. Gaps in available information: a water balance, condition assessment, unit cost verification, and Sutter Creek flows
 - ii. Amy asked what level of detail is needed for the condition assessment.
 - 1) Christina explained the condition assessment can be phased with engineers assessing current equipment. The condition assessment would give us confidence about how long the current equipment is going to last.
 - 2) Robin reiterated that the City current has a disposal problem that is the main focus, not the treatment. Upgrading the WWTP to tertiary was the least expensive way to solve the discharge problem in the Master Plan, but it may not be the case anymore. He doesn't think it makes sense to spend half the project cost on upgrading the WWTP when the main problem is disposal, not treatment.
 - 3) Grant suggested tackling the disposal issue first and then focus on the plant, as there is not much population growth and the disposal problem is the immediate need.
 - 4) Robin voiced concern over \$24 million in treatment cost being included in both the master plan alternative and Plan B.
 - 5) The City does not want to take on a cost commitment that they cannot fulfill- the selected alternative must be carefully analyzed in terms of funding.
3. Funding Opportunities
 - a. Overview
 - i. Funding opportunities are highly competitive, and depend heavily on whether the project elements align with the funding requirements.
 - ii. Federal and state funding options were analyzed. Most grant programs do not cover the project cost, but loans partner well with grants.
 - iii. Important to note that grants are reimbursements and require payment up-front. Grant disbursements from funding agencies are currently taking a long time to be sent out due to COVID.
 - iv. USDA is on both the federal and state lists because USDA funds are national funds that are administered through the state.
 - b. USDA funding
 - i. Aligns well with the project, but cannot be used for a design-build project.
 - ii. Robin asked if there is a max amount they fund and if the reimbursement is of the incurred costs. Seema answered they allow for monthly disbursements for smaller projects (quarterly for larger projects), and the reimbursement does include the incurred costs. If the

- project cost is higher than the state allotment, then the funding application goes through the federal level.
- iii. Seema pointed out that USDA does not typically give a large grant; the USDA loan is more attractive. She suggested applying for the SRF grant and USDA loan.
 - c. Seema suggested securing a loan program first, and then apply for grants to reduce the total project cost.
 - d. Seema noted that funding agencies have historically looked for shovel-ready projects to fund, and are making a slight shift to looking for shovel-worthy projects.
 - e. CWSRF funding
 - i. Opportunity to increase the grant total to \$10M if the project can be split into 2 parts (one for I/I, and one for disposal possibly).
 - f. Strategies & Recommendations
 - i. Most of the programs require cost adders (reporting requirements, CEQA, etc.).
 - ii. Seema recommends the following funding options:
 - 1) 100% SRF funding
 - 2) 100% USDA funding
 - 3) SRF/USDA funding (may be the best option)
 - 4) WIFIA/USDA
 - g. Other potential opportunities
 - i. There is an SSO/CSO funding program slowly rolling out (that can be used for the I/I aspect of the project).
 - ii. The American Wastewater Infrastructure Act program (\$50M, state allotment) is an upcoming program that has not been developed fully yet.
 - h. Seema reiterated that the funding needs to match the project and the project needs to be developed to match the funding.
4. Discussion
- a. Robin asked if the City should assume that they will receive a funding program - i.e. should the City assume that either grants or low-interest loans will be available for whatever project is selected? He explained that if funding availability is assured for any selected project, then selection of the preferred alternative is not driven by funding availability - taking one variable off of the table. That said, if funding availability is not an issue - i.e. is not guiding alternative selection - then the range of viable alternatives will include only those projects having costs the ratepayers will tolerate. He suggested that no project, regardless of funding availability, will go to construction unless the ratepayers accept it as the lowest cost alternative to solving the problem.
 - i. Christina answered there are large info gaps that we could map out for each alternative. Carollo can give some idea of what the funding would look like, based on other projects of similar size and scale. When all the alternatives are mapped out, the risk tolerances can be identified.
 - ii. Seema noted that Carollo can sit down with the funding agency and explain the project and situation with a project description from the City to assess the likelihood of funding being available.
 - b. Jim asked what the rate estimates are under the different levels of project costs.
 - i. Robin wants to understand the rate impact to taxpayers to determine what is tolerable and establish certainty around funding.
 - c. Robin asked if the WWTP planning process changes from the alternatives listed in the SRF application, then would it jeopardize funding.

- i. Eli mentioned the alternative B scenarios are similar to alternative 1.1.1. and could be presented to line up with key elements of that option.
- 5. Next Steps
 - a. The City to internally review the current information
 - i. Model rate scenarios for \$10M, \$20M, through \$50M project sizes to understand rate impacts.
 - ii. Determine the remaining useful life of the existing treatment plant before it requires a major replacement.
 - b. The City to provide a project description for Seema to sit down with funding agencies
 - c. Christina to circle back with Amy 2/26
 - d. Christina to send out the PowerPoint and draft summary form

Project Alternatives and Funding Discussion

City of Sutter Creek WWTP Replacement Project



February 25, 2021

// Agenda

1. Introductions
2. Master Plan Scenario and Plan B Discussion
3. Project Funding Alternatives
4. Next Steps and Action Items

Introductions

Master Plan Scenario and Plan B Discussion

// Master Plan Scenario

- Upgraded Secondary Treatment Plant
 - Upgrade existing treatment equipment
 - 3-MG EQ tank & pump station**
- Continuous year-round ARSA discharge
- Additional storage capacity in Henderson Reservoir
 - 44 acre-feet dredging/sludge removal
- New Lone Canal Reservoir and pipeline
- New 121 acres of sprayfields
 - New Holbo/Kraft Ranch & Paine Road sprayfields
 - Buildout of Bowers/Hoskins Ranch sprayfields

City of Sutter Creek WWTP

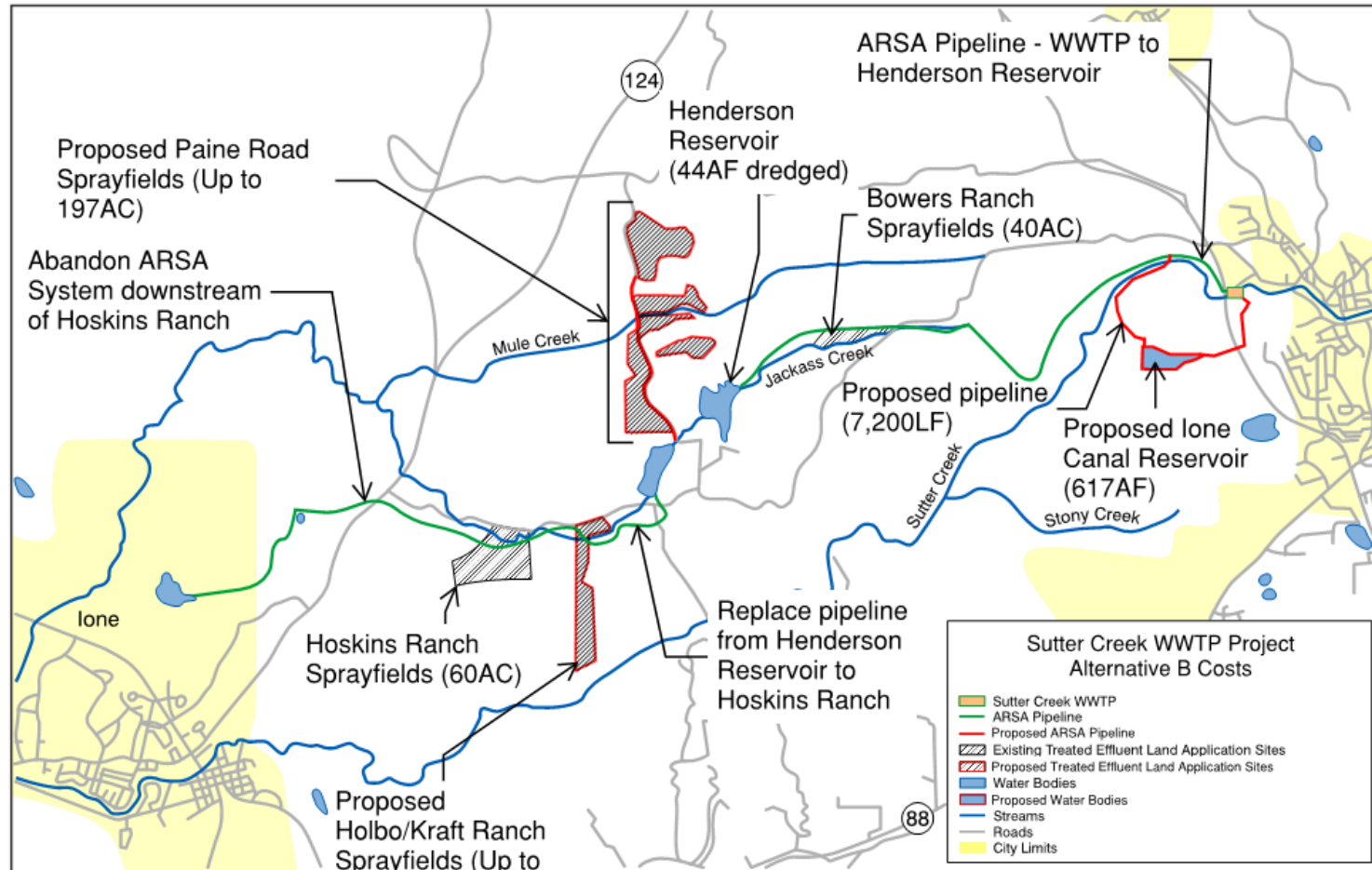


44 ACF Dredged



Henderson Reservoir

// Master Plan



// Master Plan - Preliminary Cost Analysis

Costs escalated to the midpoint of construction (2023)

Alternative	Influent Pump Station & EQ Tank	WWTP Upgrades	Pipeline to new lone Reservoir	ARSA Pipeline Upgrades	Henderson Dredging or Repair	New Storage Reservoir (lone)	Land Acquisition	New Sprayfields	Total Cost
Master Plan	\$8.9M	\$23.5M	\$4.0M	-	\$4.4M	\$19M	\$2M*	\$1.8M*	\$63.6M
Description	3-MG concrete tank on hill, pump station	Headworks, EQ basin, sludge treatment, chlorine contact basin	7,200LF total (20" pipe to lone Reservoir, 12" from lone Reservoir)	-	44AF dredged at \$25,000/AF and potential outlet repairs	617AF reservoir, including embankment access road, outlet piping	100 acres (existing sprayfields) \$15,000/ac and reservoir at \$0.5M	121 acres at \$15,000/ac includes irrigation improvements	

*Land acquisition costs were not escalated to the midpoint of construction (2023).

// Plan B Scenario

- Upgraded Secondary Treatment Plant
 - Upgrade existing treatment equipment
 - 3-MG EQ tank & pump station
- Continuous year-round ARSA discharge
- Additional storage capacity in Henderson Reservoir
 - 157 acre-feet dredging/sludge removal
- New 80 acres of sprayfields & seasonal discharge to Sutter Creek

City of Sutter Creek WWTP



157ACF Dredged



Henderson Reservoir

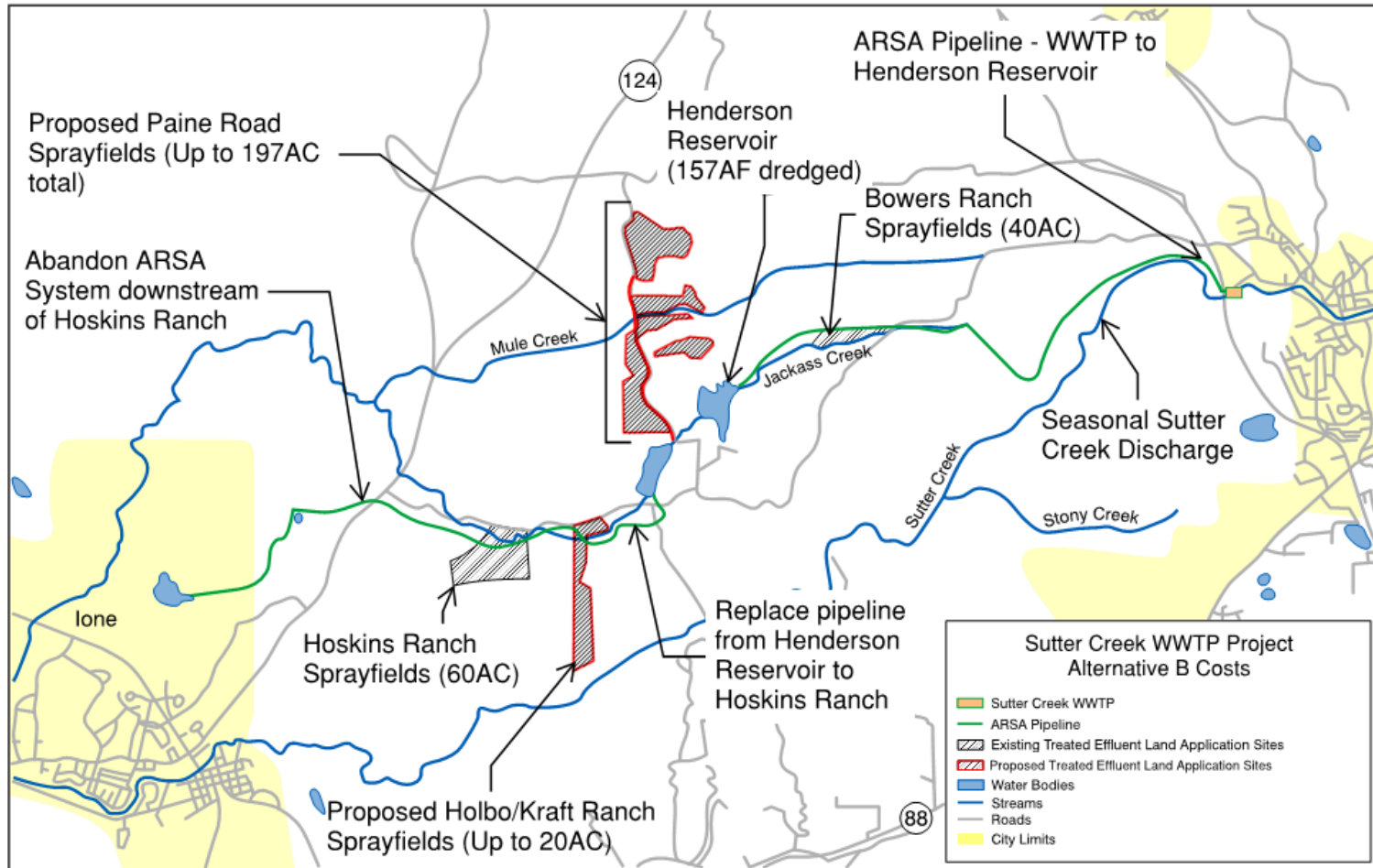


Seasonal Discharge



Sutter Creek

// Plan B



// Plan B - Preliminary Cost Analysis

Costs escalated to the midpoint of construction (2023)

Alternative	Influent Pump Station & EQ Tank	WWTP Upgrades	Pipeline to new lone Reservoir	ARSA Pipeline Upgrades	Henderson Dredging or Repair	New Storage Reservoir (lone)	Land Acquisition	New Sprayfields	Total Cost
Plan B	\$8.9M	\$23.5M	-	\$1.4M	\$2.2M	-	\$1.5M*	\$1.2M*	\$38.7M
Description	3-MG concrete tank on hill, pump station	Outfall pipe, headworks, EQ basin, sludge treatment, chlorine contact basin	-	7,900 LF replaced	157 AF dredged at \$10,000/AF and underdrain repairs	-	100 acres (existing sprayfields) at \$15,000/ac	80 acres at \$15,000/ac includes irrigation improvements	

*Land acquisition costs were not escalated to the midpoint of construction (2023).

// Summary – Land Application Scenarios

Master Plan	Plan B
WWTP Upgrades	WWTP Upgrades + outfall to Sutter Creek
Effluent land discharge	Effluent land discharge and Seasonal Surface Water discharge
New Ione Canal Reservoir and piping (7,200 LF) construction	ARSA pipeline (7,900 LF) replacement
44 AF Dredged from Henderson Reservoir + Potential Outlet Repairs	157 AF Dredged from Henderson Reservoir + Underdrain Repair
Land acquisition – 100 ac + Ione Canal Reservoir	Land acquisition – 100 ac
121 ac new sprayfields needed	80 ac new sprayfields needed
Cost: \$63.6M	Cost: \$38.7M

// Gap Analysis

- Water balance
- Condition assessment
 - WWTP and pipelines
- Unit cost verification
 - Dredging Henderson
 - \$25,400/AF (Master Plan)
 - \$10,000/AF (Plan B)
 - Land acquisition
- Sutter Creek flows to support seasonal discharge of secondary effluent



ARSA pipeline

Project Funding Alternatives

Funding opportunities: Low-interest loans or Grant funding

- Federal/state and local funding opportunities available
 - Planning, design, research, and construction
 - Highly competitive requiring project/project purpose to closely match funding program objective/requirements
 - Funding program must coincide with project term (“readiness to proceed”)
 - Most low interest loans and grants are reimbursements (not cash up front)
 - Application process can be time-consuming and costly
- Grants:
 - Require a minimum cost share by the project sponsor (in-kind donations maybe applicable match)

Contemplating low-interest loans or grant funding?

- Pursue planning, design and/or construction financing
 - Under planning effort develop required documentation for construction financing
- Identify project “hooks” to meet intent of funding programs:
 - Project Purpose
 - Regional Benefit/Consolidation
 - Energy/Water Efficiency
 - Disadvantaged Community (DACs)
 - Risk/Resiliency
 - Flood protection
- Key to securing funding
 - Identify project elements, benefits, and opportunities to enhance project
 - Planning ahead, strong project description/packaging and project “readiness to proceed”

Potential Grant and Low Interest Loan Opportunities

Federal Funding

- EPA - Water Infrastructure Finance Innovation Act (WIFIA)*
- U.S. Bureau of Reclamation*
 - Title XVI Water Reclamation
 - Water Marketing
 - Drought Projects
- U.S. Dept. of Agriculture
- FEMA – Building Resilient Infrastructure and Communities
- Other (Dept. of Energy,...)
- *AWIA 2018/2020*

State Funding

- SWRCB
 - Clean Water SRF Fund*
 - Small Community Clean Water/WW Funding*
 - Water Recycling Fund
- USDA
 - Water and Waste Disposal Loan/Grant Program
 - Rural Development Rural Utilities Service Guaranteed and Direct Loan and Grants
- Community Development Block Grant (CDBG) Program
- EDA Public Works and Development Facilities Program
- Infrastructure State Revolving Fund (ISRF)

// Federal Funding Programs

Program	Agency	Type	Requirements
Water Infrastructure Finance and Innovation Act (WIFIA)	EPA	Loan	<ul style="list-style-type: none"> • Small community projects min project cost \$5M • Provides 49% financing • 35 year loan term; 5yr defer
Water & Waste Disposal Loan & Grant Program	USDA	Grant/Loan	<ul style="list-style-type: none"> • <10,000 population • Interest rate vary (1.25%) • 40 year loan term; small grant funding • Can not use DB Delivery
NRWA Revolving Loan Fund	National Rural Water Association	Loan	<ul style="list-style-type: none"> • <10,000 population • Short-term repairs, small projects, pre-development cost • Max \$100,000 or 75% cost) • 10 year loan term • 3% interest

// Federal Funding Programs

Program	Agency	Type	Requirements
Public Works and Economic Adjustment Assistance Programs	Dept. of Commerce	Grant	<ul style="list-style-type: none"> Funding up to \$3,000,000 or 50% of project cost based on job development \$10,000/permanent job Requires economic impact statement, A&E Procurement, federal cross cutters
Community Development Block Grant Programs (CDBG)	Department of Housing and Urban Development	Grant	<ul style="list-style-type: none"> Benefit low to moderate income in cities of fewer than 50,000 people Up to \$1.5 million
Title XVI/WIIN Water Reclamation/Reuse	US Bureau of Reclamation	Grant	<ul style="list-style-type: none"> Up to \$20M (requires match funding) Feasibility Study Recycled Water Projects
WaterSMART Water Marketing Strategy Grants	US Bureau of Reclamation	Grant	<ul style="list-style-type: none"> \$200K (2 year) or \$400K (3 year) Planning activities to develop water marketing strategy to establish or expand water markets

// State Funding Programs

Program	Agency	Type	Requirements
Clean Water State Revolving Fund (CWSRF)	State Water Resources Control Board (SWRCB)	Loan	<ul style="list-style-type: none"> Wastewater treatment, transmission, distribution system, recycled water, etc Low interest (0.9%); 30-year loan term Green Project Reserve (up to \$4m grant) Federal Cross Cutters
Small Community Clean Water/Wastewater (SCWW) Funding	SWRCB	Grant/Loan	<ul style="list-style-type: none"> Small communities <6,000 or expanded small communities (<20,000) DAC (<80% MHI) Grant: \$6M; Up to \$10M if can break up project (phases, ww vs collection, et.) Low interest loans (0.9%); 30 year
Water Recycling Funding (WRF) Program – Planning and Construction Grants	SWRCB	Grant	<ul style="list-style-type: none"> For recycled water projects Prop 1 grant funding is fully or close to allocated; however may have some DAC funding

// State Funding Programs

Program	Agency	Type	Requirements
Infrastructure State Revolving Fund (ISRF)	CA Infrastructure and Economic Development Bank	Loan	<ul style="list-style-type: none">• Variety of infrastructure and economic development projects including WWTP Improvements, flood control, public safety• Loans from \$50,000 up to \$25M• 30 year loan term

Potential Funding Strategies

100% Small Community Clean Water/WW (SRF) Funding	<ul style="list-style-type: none"> • Low Interest Loan Financing (FY 2021 0.9% interest/30 years) • \$6M grant but possible to secure up to \$10M grant • Considerations: Federal Cross Cutter Requirements
100% USDA Funding	<ul style="list-style-type: none"> • Low interest loan financing (1.25%; 40 year loan term) • Grant funding would be dependent on MHI • Considerations: <ul style="list-style-type: none"> • Program will not fund DB project delivery • USDA has limited funding capacity (annual cap is \$30-\$40M); would require national approval
Small Community Clean Water/WW (SRF) /USDA Funding	<ul style="list-style-type: none"> • CWSRF grant funding up to \$10M • USDA Low Interest Loan Financing (perhaps small grant) <ul style="list-style-type: none"> • Considerations: <ul style="list-style-type: none"> • Program will not fund DB project delivery • USDA has limited funding capacity (annual cap is \$30-\$40M); would require national approval
WIFIA & Small Community Clean Water/WW (SRF)/USDA	<p>49% WIFIA and 51% SRF/USDA Financing</p> <p>WIFIA is competitive; low demand on program for DAC projects</p>

Next Steps and Action Items

// Next Steps and Action Items

- Next Steps
 - Project Size – \$40M to \$50M
 - Option 1 – Verify Plan B Assumptions and NPV Analysis
 - Option 2 – Move ahead with Project Alternative 1.1.4 – Tertiary Facility with Sutter Creek Discharge
 - Select Funding Options to Pursue
- Review Action Items

MEETING MINUTES

ALTERNATIVES ANALYSIS

City of Sutter Creek WWTP

Issue Date: 3/22/2021

Project No.: 12029A.60

Purpose: Review Revised Project Alternative B Scenario for the Sutter Creek WWTP Improvements Project

Meeting Date: 3/22/2021 4PM-5:30PM

Meeting Location: Sutter Creek Community Center

Prepared By: Christina Romano

Attendees:	Client:	Carollo:
	Amy Gedney	Christina Romano
	Grant Reynolds	
	Jim Swift	
	Robin Peters	

Distribution: Attendees, File

The following is our understanding of the subject matter covered in this meeting. If this differs from your understanding, please notify us.

Discussion

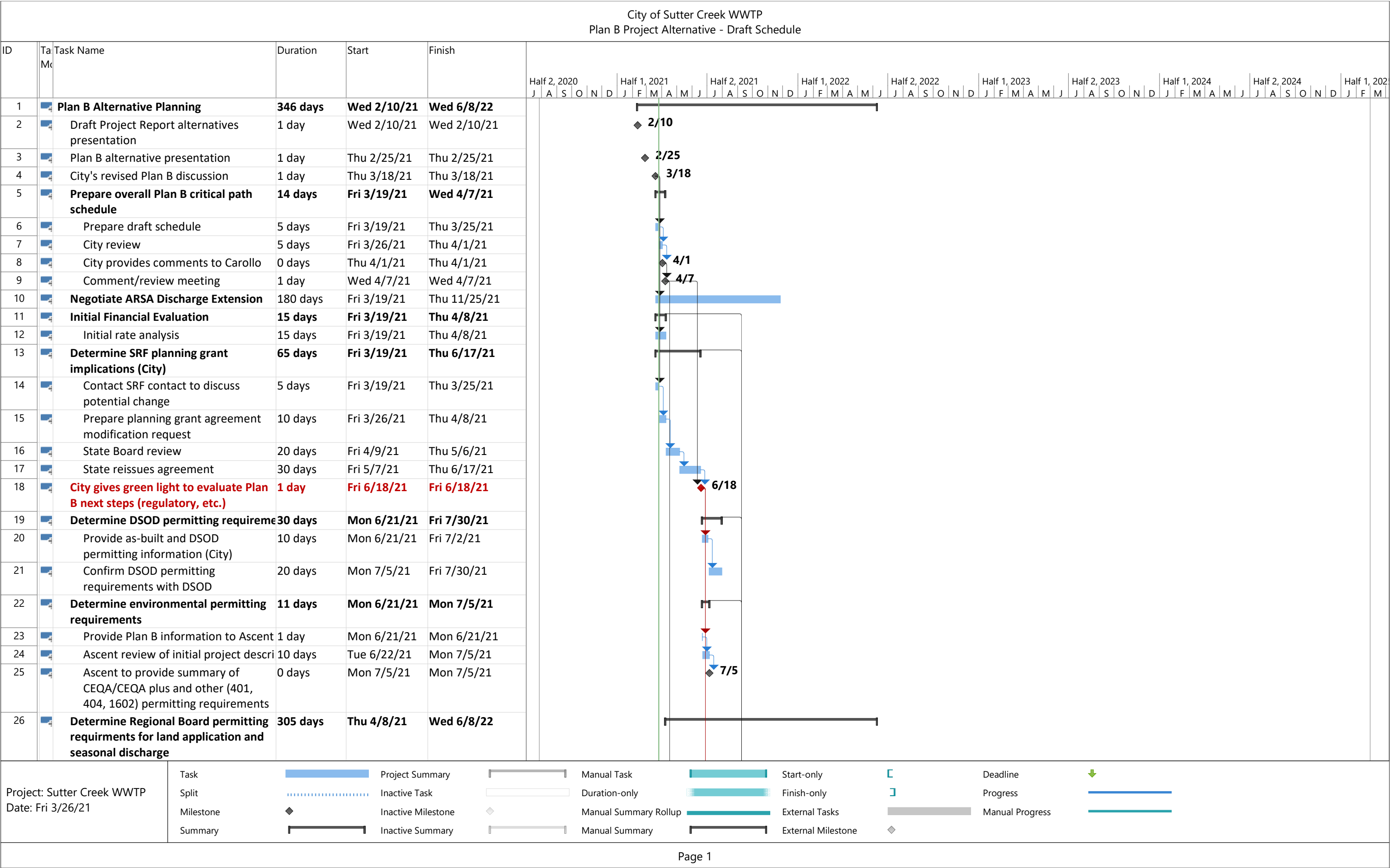
- Robin noted that the original Carollo scope included preparation of a Project Report for a tertiary treatment facility. After our last meeting, City staff discussed the challenges of getting a \$40M to \$50M project through City Council and worked through some potential funding scenarios. Robin also noted that the funding information provided by Seema was very helpful.
- The City team brainstormed how they might execute this project one step at a time within funding limitations. Robin shared a revised "Plan B" project as outlined below:
 - Influent EQ tank – \$8.9M
 - WWTP upgrades – \$1.5M
 - Grant looked at the WWTP and estimates approximately \$1.5M of deferred maintenance would be required to keep it running.
 - Henderson dredging – \$2.2M
 - The City also shared that Henderson Dam was build in 1912 and DSOD has noted some repairs are required. The City has been holding off on these repairs until a project could be funded and executed. The estimate from the Master Plan above includes these repairs.
 - The State owns the Henderson Dam property
 - Land application area acquisition – \$2.6M

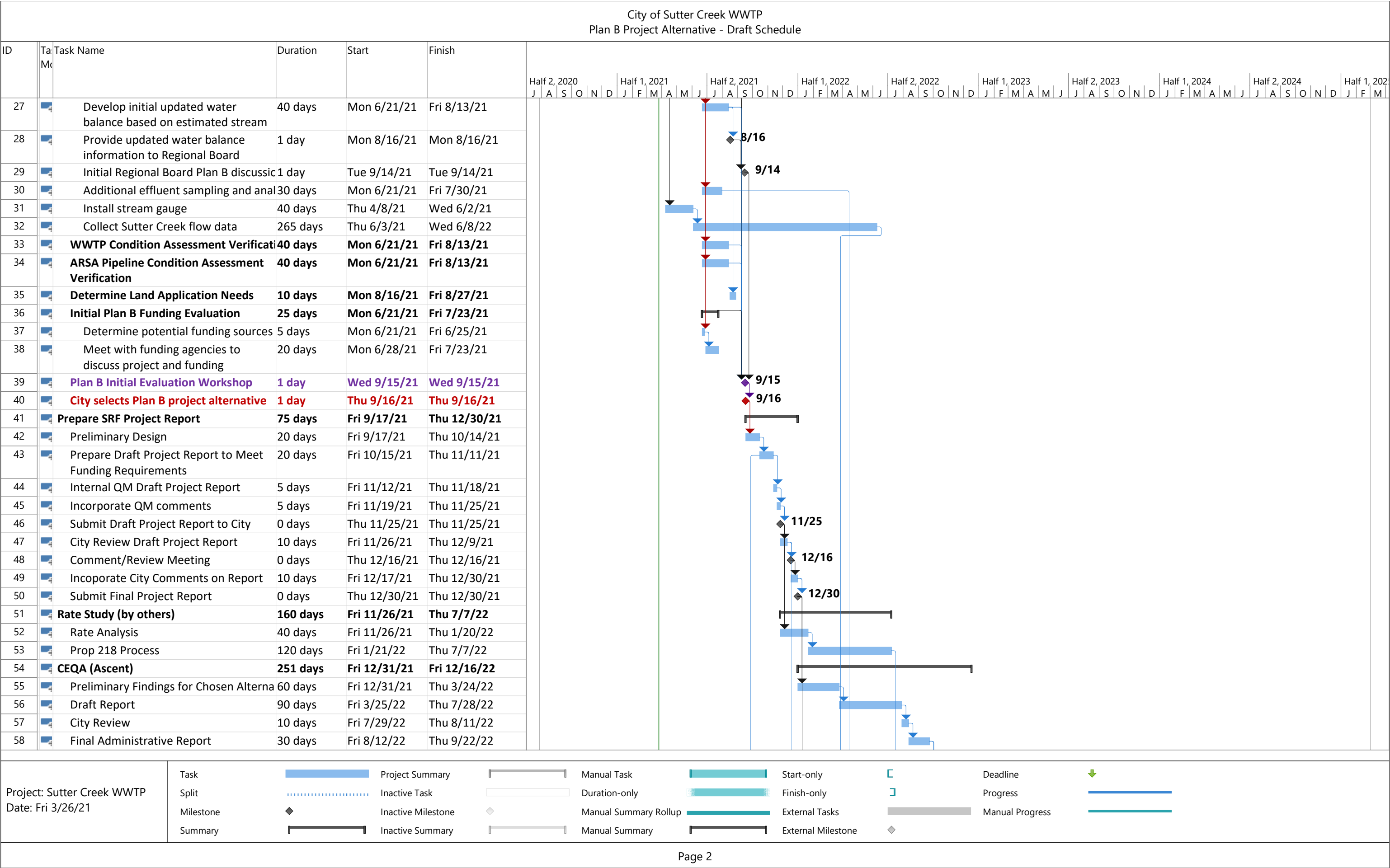
- Assumes 180 acres will need to be purchased.
 - There is an internal debate as to whether or not this land can be purchased. It may need to be a long-term lease, but it is unknown if this will satisfy State requirements for land application permitting.
 - ARSA Pipeline upgrades – \$1.4M
 - Robin noted that these repairs may or may not be needed but the City includes the cost for planning purposes
 - Total potential cost of \$16.7M capital – estimated by the City at \$20M total project with contingencies and design/CM costs included.
- Robin then walked through a potential funding scenario that the City team feels might be supported by the City Council. Assuming the City was successful in obtaining the full \$6M in SRF grant funding, and \$14M in loans from USDA, it is estimated that the monthly rate increase would be approximately \$30/month per EUD. This calculation was based on a USDA loan at 2% for 40 years (\$42K per month). City residents currently pay \$72/month with increases already occurring over the next few years.
- Christina shared some of the assumptions and considerations for this revised “Plan B” scenario, including:
- Assumption is that we can get enough storage at Henderson through dredging. Additional storage volume estimates are currently based on flows estimated in the master plan which do not take into account a 10-year 24-hour storm. Therefore, additional storage may be required.
 - During the meeting it was shared that Henderson Dam is under the jurisdiction of DSOD. Doing any expansion or repairs to the dam and reservoir will require permitting with DSOD. Christina shared her experience going through this process on a recent project – it involves geotechnical investigations and seepage calculations to support the proposed improvements. It can be done, but needs to be considered in the schedule for the project.
 - The Master Plan water balance was based on lower flow assumptions. An update water balance will be required to confirm storage and land application area requirements.
 - A seasonal discharge to Sutter Creek will require flow monitoring in the creek to confirm winter flow rates.
 - Need to confirm with the Regional Board if Sutter Creek needs to own the land for application.
 - The City needs to contact the State Board to confirm if/how the SRF planning grant can be used if the project changes from DB to DBB.
- Christina mentioned that the bioassessment work was ready to be released at the City’s direction. This is required for any new discharges to Sutter Creek and the group agreed this work should proceed as a creek discharge is part of any project moving forward.
- Amy asked Carollo to prepare a critical path schedule to help the City understand the path forward and decisions required to select a final project. Christina committed to generating a draft schedule for City review by Thursday, March 25th so the City can review it while she is on vacation and return comments to her when she returns to the office on Thursday, April 1st. A

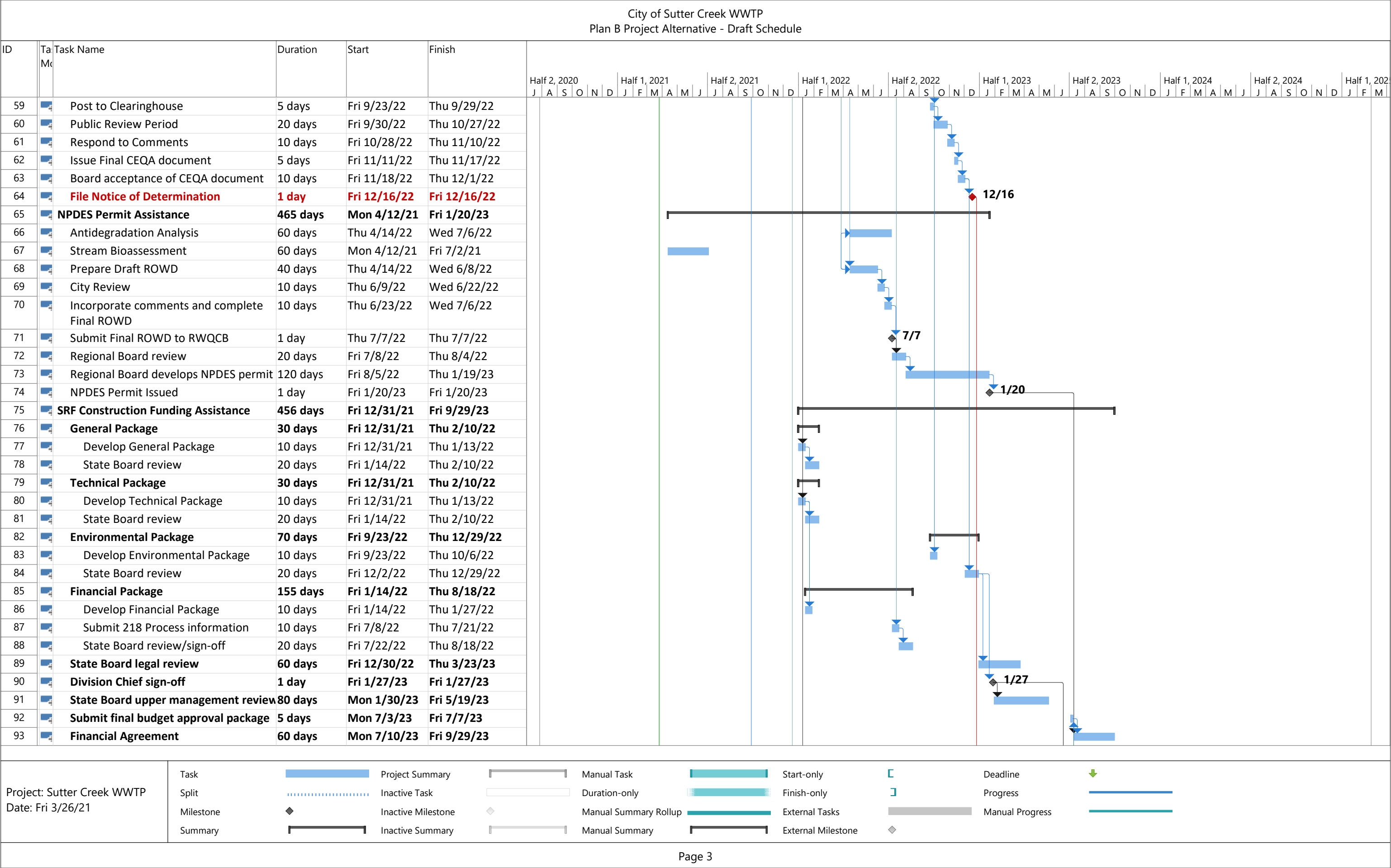
follow-up meeting was also scheduled for Wednesday, April 7th at 4 pm to review comments and next steps as a team.

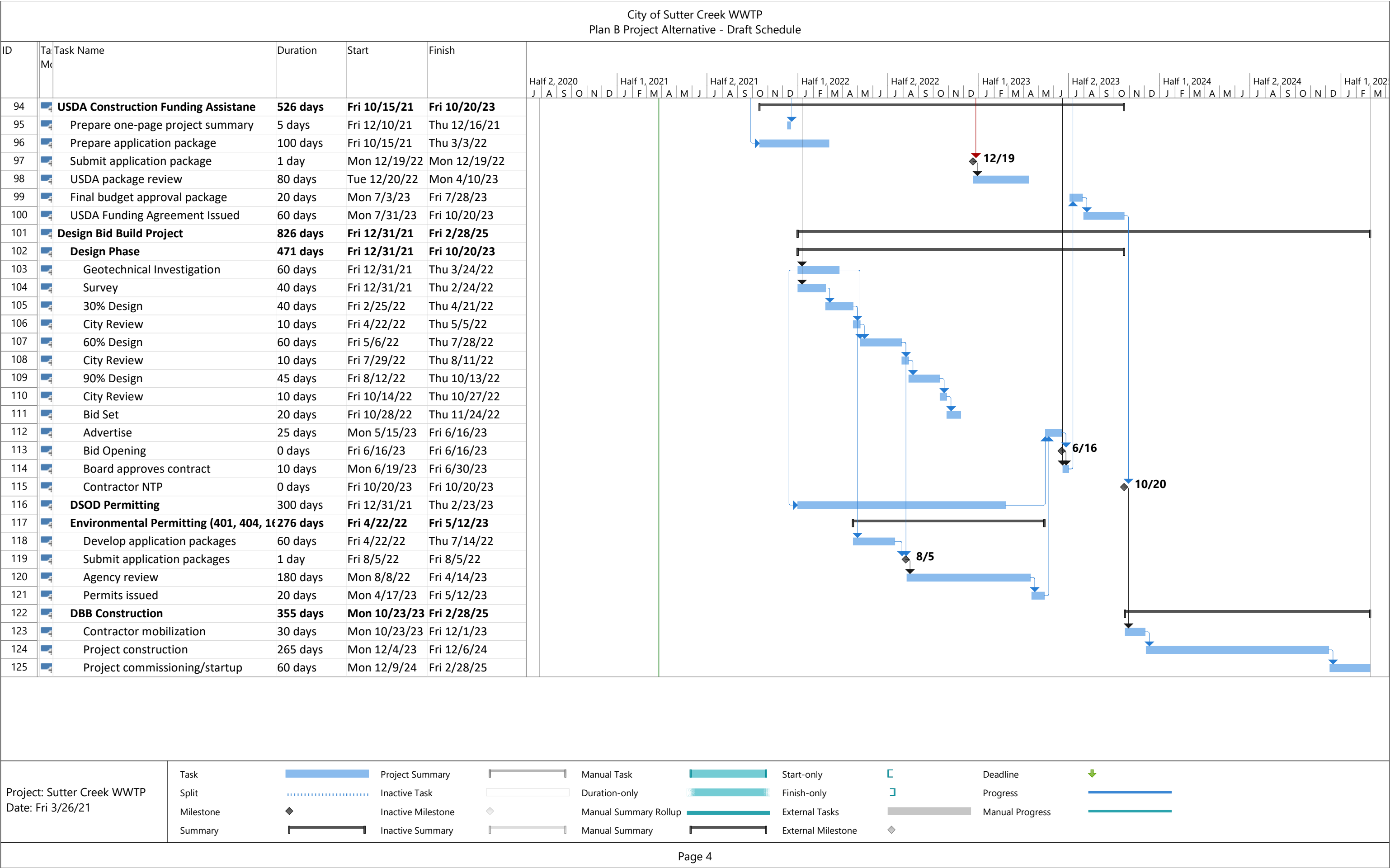
Action Items

- **Amy** - Call SRF to confirm planning grant usage for non-DB work
- **Christina** - Prepare critical path schedule with offramps and detailed discussions/decisions that are needed
- **Christina** - Release bioassessment work and get it scheduled for the month of April









Sutter Creek WWTP Project Pathway Discussion



Sutter Creek Community Center // March 10, 2021

// **Path A On Hold** – *Alternative 1.1.4 – New Tertiary Facility and Sutter Creek Discharge*

- Currently on hold:
 - Project Report
 - CEQA
 - ROWD
 - Bioassessment: fieldwork would need to occur in April 2021
- Project Report – required for:
 - CEQA to begin
 - ROWD to continue for new NPDES permit
 - SRF construction funding application

// **Path B Gaps** – *Land Application with Potential Seasonal Discharge to Sutter Creek*

- Water balance update
- Condition assessment
 - WWTP and pipelines
- Unit cost verification
 - Dredging Henderson
 - \$25,400/AF (Master Plan)
 - \$10,000/AF (Plan B)
 - Land costs
- Ability to acquire property
 - EQ tank
 - Land application sites
- Regional Board appetite for Sutter Creek discharge permit for secondary treated wastewater
 - No Sutter Creek flow data available

// Potential Next Steps

- Open conversations with funding agencies
- Better understand rate impacts
- Open conversation with Regional Board about secondary discharge opportunity
- Assess condition of WWTP
- Consider I/I reduction opportunities and funding
- Update SWRCB funding on current project status
- Develop project phasing alternatives

Previous Presentation Slides

// Master Plan Scenario

- Upgraded Secondary Treatment Plant
 - Upgrade existing treatment equipment
 - 3-MG EQ tank & pump station**
- Continuous year-round ARSA discharge
- Additional storage capacity in Henderson Reservoir
 - 44 acre-feet dredging/sludge removal
- New Lone Canal Reservoir and pipeline
- New 121 acres of sprayfields
 - New Holbo/Kraft Ranch & Paine Road sprayfields
 - Buildout of Bowers/Hoskins Ranch sprayfields

City of Sutter Creek WWTP

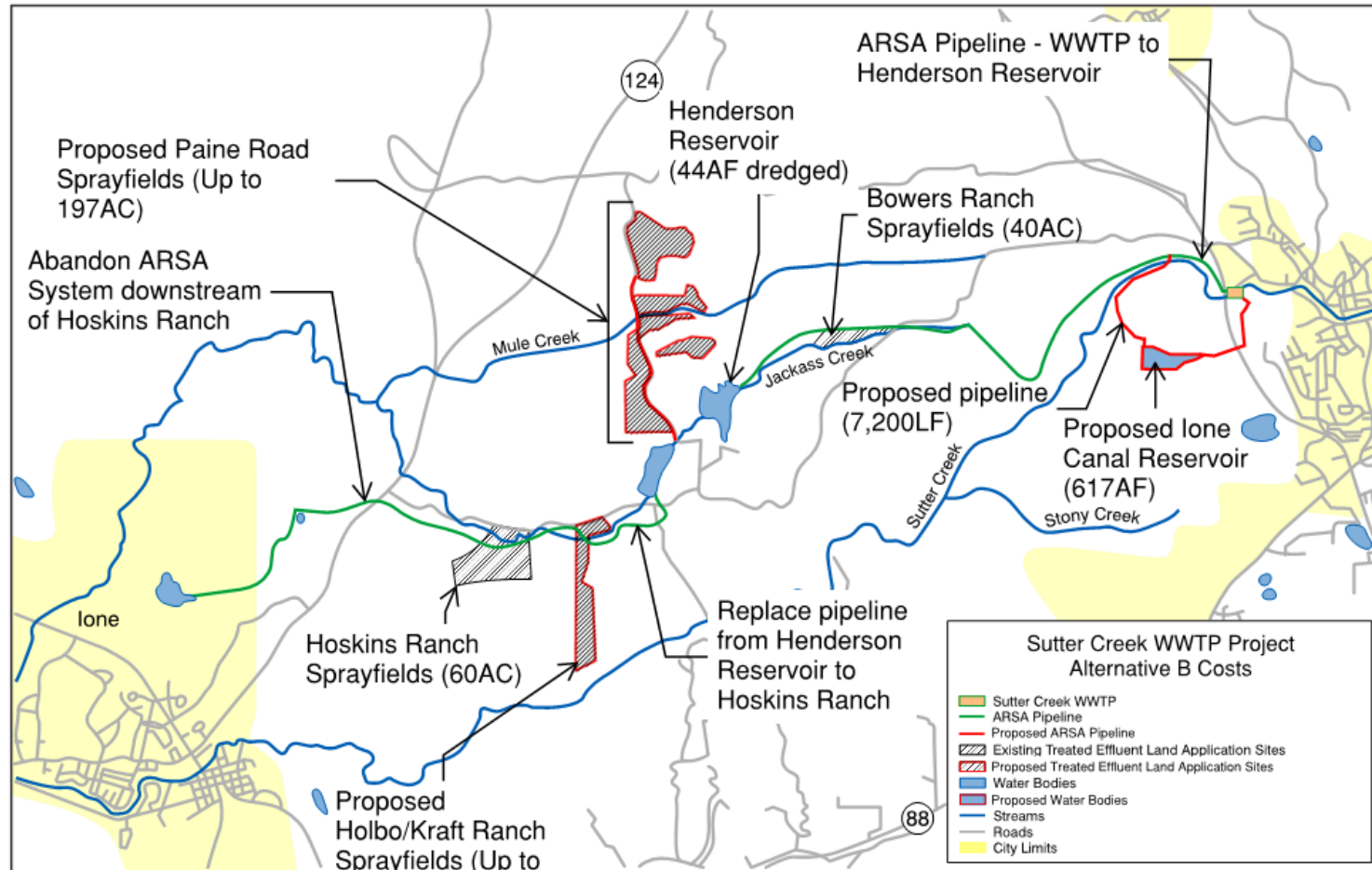


44 ACF Dredged



Henderson Reservoir

// Master Plan



// Master Plan - Preliminary Cost Analysis

Costs escalated to the midpoint of construction (2023)

Alternative	Influent Pump Station & EQ Tank	WWTP Upgrades	Pipeline to new lone Reservoir	ARSA Pipeline Upgrades	Henderson Dredging or Repair	New Storage Reservoir (lone)	Land Acquisition	New Sprayfields	Total Cost
Master Plan	\$8.9M	\$23.5M	\$4.0M	-	\$4.4M	\$19M	\$2M*	\$1.8M*	\$63.6M
Description	3-MG concrete tank on hill, pump station	Headworks, EQ basin, sludge treatment, chlorine contact basin	7,200LF total (20" pipe to lone Reservoir, 12" from lone Reservoir)	-	44AF dredged at \$25,000/AF and potential outlet repairs	617AF reservoir, including embankment access road, outlet piping	100 acres (existing sprayfields) \$15,000/ac and reservoir at \$0.5M	121 acres at \$15,000/ac includes irrigation improvements	

*Land acquisition costs were not escalated to the midpoint of construction (2023).

// Plan B Scenario

- Upgraded Secondary Treatment Plant
 - Upgrade existing treatment equipment
 - 3-MG EQ tank & pump station
- Continuous year-round ARSA discharge
- Additional storage capacity in Henderson Reservoir
 - 157 acre-feet dredging/sludge removal
- New 80 acres of sprayfields & seasonal discharge to Sutter Creek

City of Sutter Creek WWTP



157ACF Dredged



Henderson Reservoir

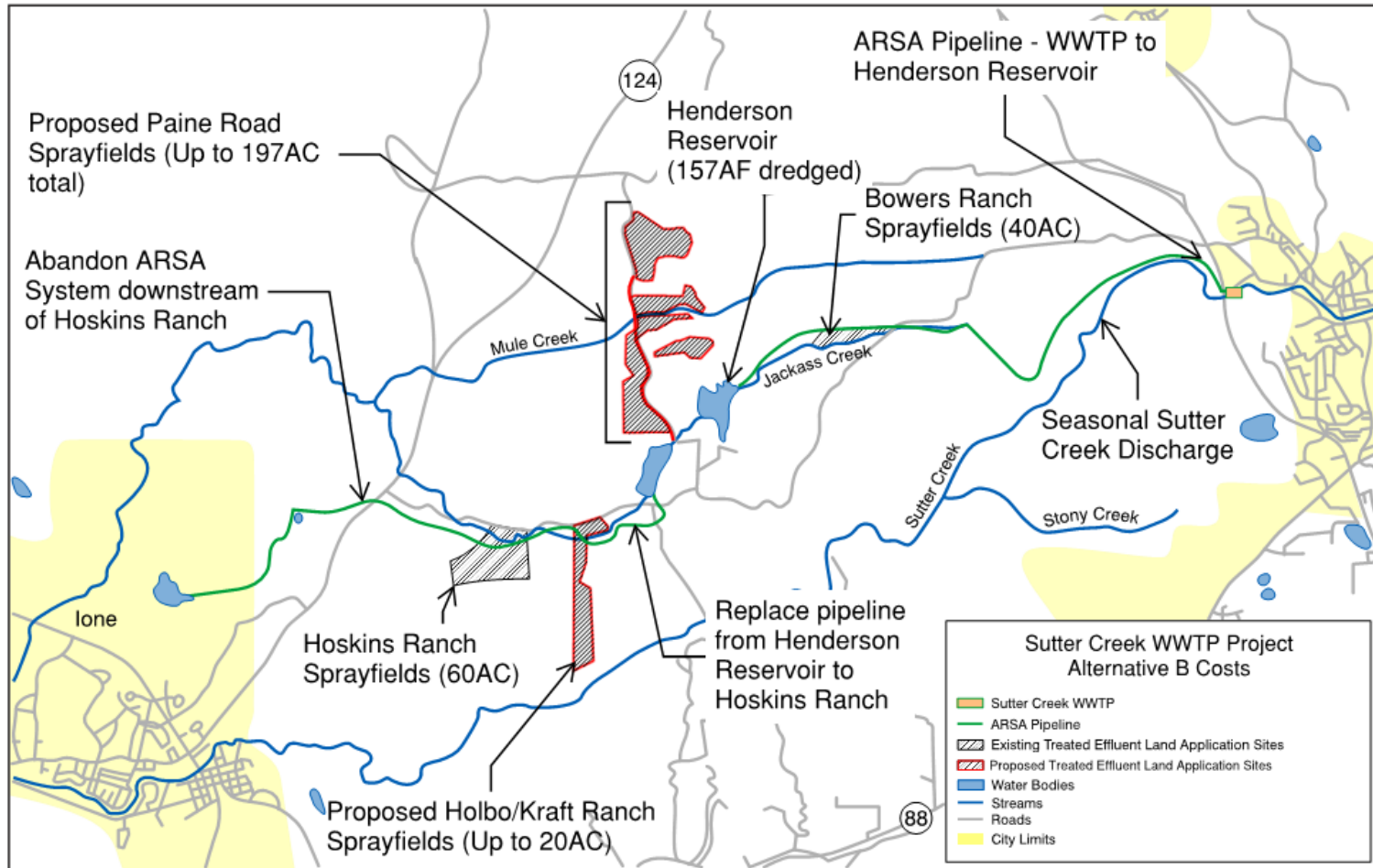


Seasonal Discharge



Sutter Creek

// Plan B



// Plan B - Preliminary Cost Analysis

Costs escalated to the midpoint of construction (2023)

Alternative	Influent Pump Station & EQ Tank	WWTP Upgrades	Pipeline to new lone Reservoir	ARSA Pipeline Upgrades	Henderson Dredging or Repair	New Storage Reservoir (lone)	Land Acquisition	New Sprayfields	Total Cost
Plan B	\$8.9M	\$23.5M	-	\$1.4M	\$2.2M	-	\$1.5M*	\$1.2M*	\$38.7M
Description	3-MG concrete tank on hill, pump station	Outfall pipe, headworks, EQ basin, sludge treatment, chlorine contact basin	-	7,900 LF replaced	157 AF dredged at \$10,000/AF and underdrain repairs	-	100 acres (existing sprayfields) at \$15,000/ac	80 acres at \$15,000/ac includes irrigation improvements	

*Land acquisition costs were not escalated to the midpoint of construction (2023).

// Summary – Land Application Scenarios

Master Plan	Plan B
WWTP Upgrades	WWTP Upgrades + outfall to Sutter Creek
Effluent land discharge	Effluent land discharge and Seasonal Surface Water discharge
New Ione Canal Reservoir and piping (7,200 LF) construction	ARSA pipeline (7,900 LF) replacement
44 AF Dredged from Henderson Reservoir + Potential Outlet Repairs	157 AF Dredged from Henderson Reservoir + Underdrain Repair
Land acquisition – 100 ac + Ione Canal Reservoir	Land acquisition – 100 ac
121 ac new sprayfields needed	80 ac new sprayfields needed
Cost: \$63.6M	Cost: \$38.7M

// Gap Analysis

- Water balance
- Condition assessment
 - WWTP and pipelines
- Unit cost verification
 - Dredging Henderson
 - \$25,400/AF (Master Plan)
 - \$10,000/AF (Plan B)
 - Land acquisition
- Sutter Creek flows to support seasonal discharge of secondary effluent



ARSA pipeline

Project Funding Alternatives

Funding opportunities: Low-interest loans or Grant funding

- Federal/state and local funding opportunities available
 - Planning, design, research, and construction
 - Highly competitive requiring project/project purpose to closely match funding program objective/requirements
 - Funding program must coincide with project term (“readiness to proceed”)
 - Most low interest loans and grants are reimbursements (not cash up front)
 - Application process can be time-consuming and costly
- Grants:
 - Require a minimum cost share by the project sponsor (in-kind donations maybe applicable match)

Contemplating low-interest loans or grant funding?

- Pursue planning, design and/or construction financing
 - Under planning effort develop required documentation for construction financing
- Identify project “hooks” to meet intent of funding programs:
 - Project Purpose
 - Regional Benefit/Consolidation
 - Energy/Water Efficiency
 - Disadvantaged Community (DACs)
 - Risk/Resiliency
 - Flood protection
- Key to securing funding
 - Identify project elements, benefits, and opportunities to enhance project
 - Planning ahead, strong project description/packaging and project “readiness to proceed”

Potential Grant and Low Interest Loan Opportunities

Federal Funding

- EPA - Water Infrastructure Finance Innovation Act (WIFIA)*
- U.S. Bureau of Reclamation*
 - Title XVI Water Reclamation
 - Water Marketing
 - Drought Projects
- U.S. Dept. of Agriculture
- National Rural Water Funding
- Other (FEMA, Dept. of Energy,...)
- *AWIA 2018/2020*

State Funding

- SWRCB
 - Clean Water SRF Fund*
 - Small Community Clean Water/WW Funding*
 - Water Recycling Fund
- USDA
 - Water and Waste Disposal Loan/Grant Program
 - Rural Development Rural Utilities Service Guaranteed and Direct Loan and Grants
- Community Development Block Grant (CDBG) Program
- EDA Public Works and Development Facilities Program
- Infrastructure State Revolving Fund (ISRF)

// Federal Funding Programs

Program	Agency	Type	Requirements
Water Infrastructure Finance and Innovation Act (WIFIA)	EPA	Loan	<ul style="list-style-type: none"> • Small community projects min project cost \$5M • Provides 49% financing • 35 year loan term; 5yr defer
Water & Waste Disposal Loan & Grant Program	USDA	Grant/Loan	<ul style="list-style-type: none"> • <10,000 population • Interest rate vary (1.25%) • 40 year loan term; small grant funding • Can not use DB Delivery
NRWA Revolving Loan Fund	National Rural Water Association	Loan	<ul style="list-style-type: none"> • <10,000 population • Short-term repairs, small projects, pre-development cost • Max \$100,000 or 75% cost) • 10 year loan term • 3% interest

// Federal Funding Programs

Program	Agency	Type	Requirements
Public Works and Economic Adjustment Assistance Programs	Dept. of Commerce	Grant	<ul style="list-style-type: none"> Funding up to \$3,000,000 or 50% of project cost based on job development \$10,000/permanent job Requires economic impact statement, A&E Procurement, federal cross cutters
Community Development Block Grant Programs (CDBG)	Department of Housing and Urban Development	Grant	<ul style="list-style-type: none"> Benefit low to moderate income in cities of fewer than 50,000 people Up to \$1.5 million
Title XVI/WIIN Water Reclamation/Reuse	US Bureau of Reclamation	Grant	<ul style="list-style-type: none"> Up to \$20M (requires match funding) Feasibility Study Recycled Water Projects
WaterSMART Water Marketing Strategy Grants	US Bureau of Reclamation	Grant	<ul style="list-style-type: none"> \$200K (2 year) or \$400K (3 year) Planning activities to develop water marketing strategy to establish or expand water markets

// State Funding Programs

Program	Agency	Type	Requirements
Clean Water State Revolving Fund (CWSRF)	State Water Resources Control Board (SWRCB)	Loan	<ul style="list-style-type: none"> Wastewater treatment, transmission, distribution system, recycled water, etc Low interest (0.9%); 30-year loan term Green Project Reserve (up to \$4m grant) Federal Cross Cutters
Small Community Clean Water/Wastewater (SCWW) Funding	SWRCB	Grant/Loan	<ul style="list-style-type: none"> Small communities <6,000 or expanded small communities (<20,000) DAC (<80% MHI) Grant: \$6M; Up to \$10M if can break up project (phases, ww vs collection, et.) Low interest loans (0.9%); 30 year
Water Recycling Funding (WRF) Program – Planning and Construction Grants	SWRCB	Grant	<ul style="list-style-type: none"> For recycled water projects Prop 1 grant funding is fully or close to allocated; however may have some DAC funding

// State Funding Programs

Program	Agency	Type	Requirements
Infrastructure State Revolving Fund (ISRF)	CA Infrastructure and Economic Development Bank	Loan	<ul style="list-style-type: none">• Variety of infrastructure and economic development projects including WWTP Improvements, flood control, public safety• Loans from \$50,000 up to \$25M• 30 year loan term

Potential Funding Strategies

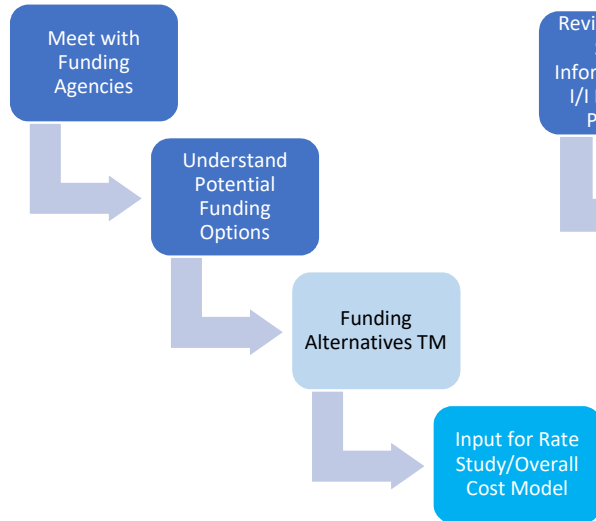
100% Small Community Clean Water/WW (SRF) Funding	<ul style="list-style-type: none"> • Low Interest Loan Financing (FY 2021 0.9% interest/30 years) • \$6M grant but possible to secure up to \$10M grant • Considerations: Federal Cross Cutter Requirements
100% USDA Funding	<ul style="list-style-type: none"> • Low interest loan financing (1.25%; 40 year loan term) • Grant funding would be dependent on MHI • Considerations: <ul style="list-style-type: none"> • Program will not fund DB project delivery • USDA has limited funding capacity (annual cap is \$30-\$40M); would require national approval
Small Community Clean Water/WW (SRF) /USDA Funding	<ul style="list-style-type: none"> • CWSRF grant funding up to \$10M • USDA Low Interest Loan Financing (perhaps small grant) <ul style="list-style-type: none"> • Considerations: <ul style="list-style-type: none"> • Program will not fund DB project delivery • USDA has limited funding capacity (annual cap is \$30-\$40M); would require national approval
WIFIA & Small Community Clean Water/WW (SRF)/USDA	<p>49% WIFIA and 51% SRF/USDA Financing</p> <p>WIFIA is competitive; low demand on program for DAC projects</p>

Next Steps and Action Items

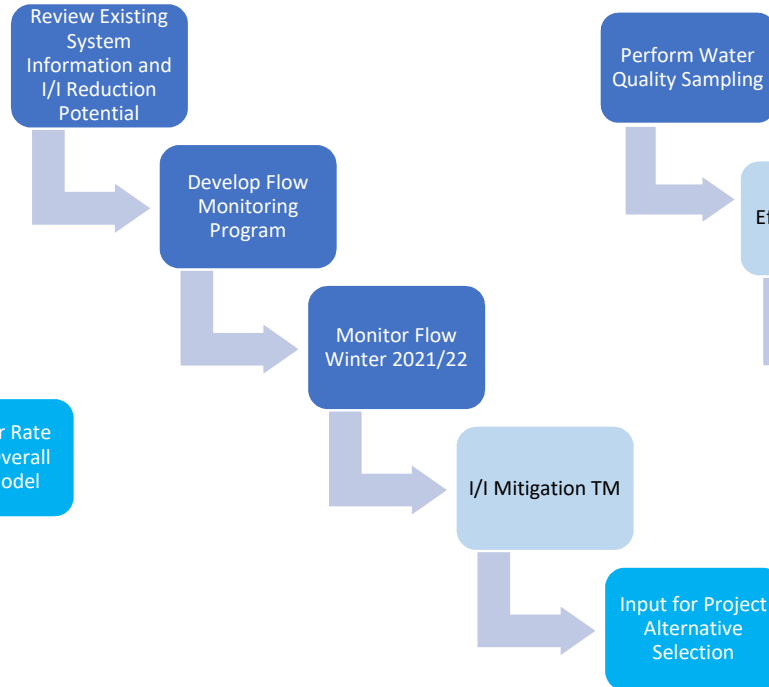
// Next Steps and Action Items

- Next Steps
 - Project Size – \$40M to \$50M
 - Option 1 – Verify Plan B Assumptions and NPV Analysis
 - Option 2 – Move ahead with Project Alternative 1.1.4 – Tertiary Facility with Sutter Creek Discharge
 - Select Funding Options to Pursue
- Review Action Items

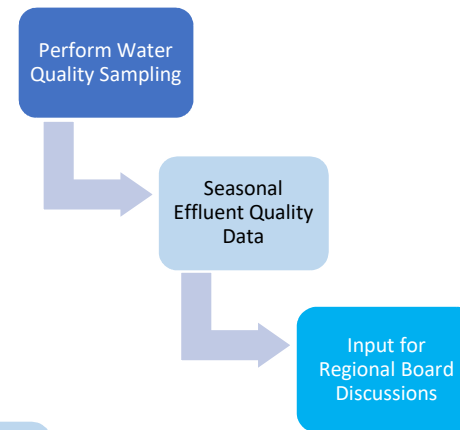
**Task 10
Funding Assistance**



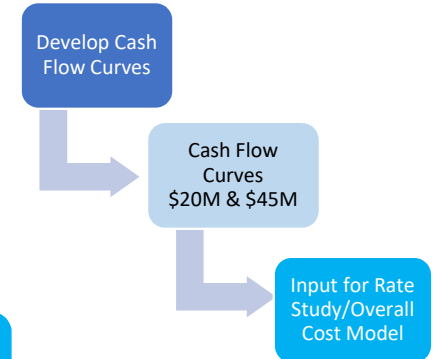
**Task 11
Wastewater Collection
System Evaluation**



**Task 12
Wastewater Treatment and
Disposal System Planning**



**Task 13
Develop Cash
Flow Curves**

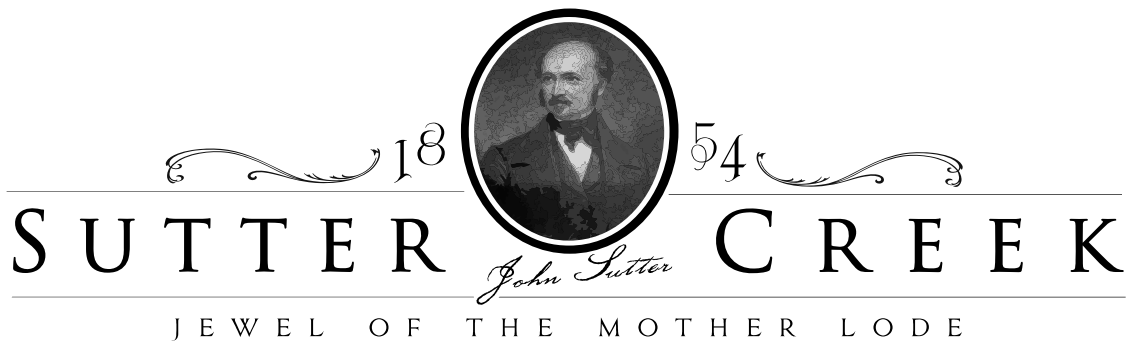


- If I/I can be reduced, then tertiary plant may be an option.
- If it cannot be reduced, then we evaluate Plan 2B in more detail (i.e., release Task 12).

**City of Sutter Creek Wastewater
Treatment Plant Upgrade Project**

OA Services Rescoping Roadmap

May 12, 2021



**SEWER COMMITTEE
AGENDA
JUNE 28, 2022**

4:00 P.M.

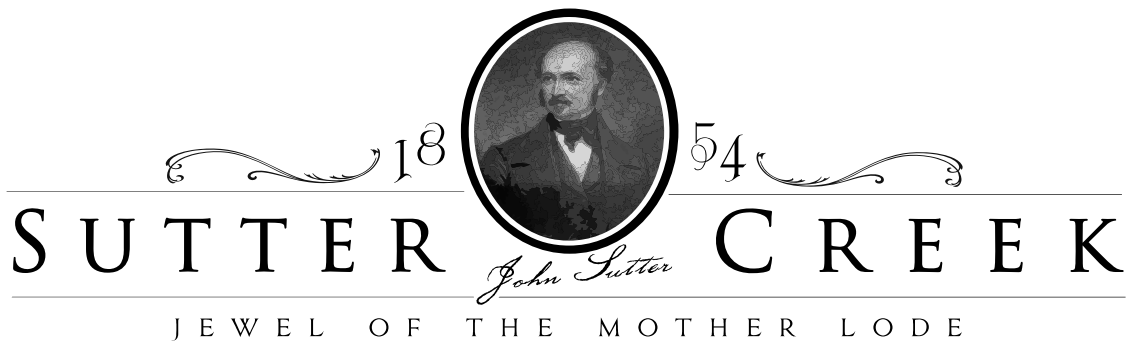
**COMMUNITY CENTER
35 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Update regarding smoke testing**
Recommendation: For information and staff direction.
- 4. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 5. Review Scope of 2022 Wastewater Financial Plan**
Recommendation: For discussion and staff direction.
- 6. Sewer Capacity**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact City Hall staff at (209) 267-5647 or (209) 267-0639 (fax).



**SEWER COMMITTEE
AGENDA
JULY 12, 2022**

4:00 P.M.

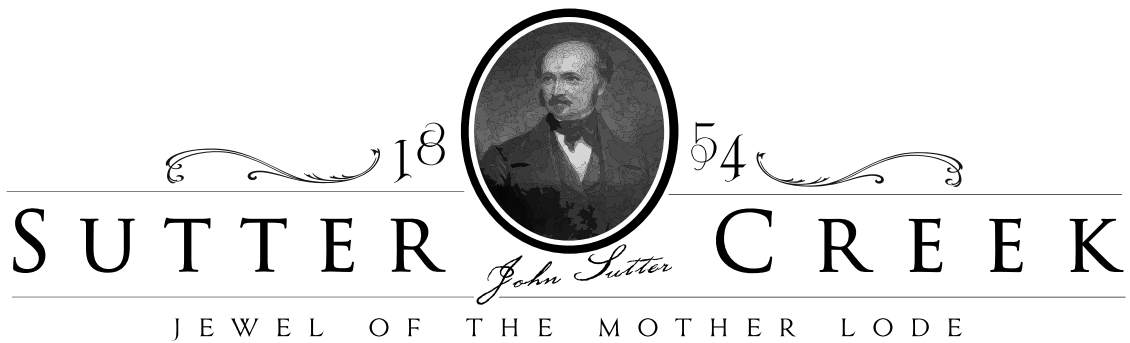
**COMMUNITY CENTER
33 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 4. Review Scope of 2022 Wastewater Financial Plan**
Recommendation: For discussion and staff direction.
- 5. Sewer Capacity**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

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**SEWER COMMITTEE
AGENDA
JULY 26, 2022**

4:00 P.M.

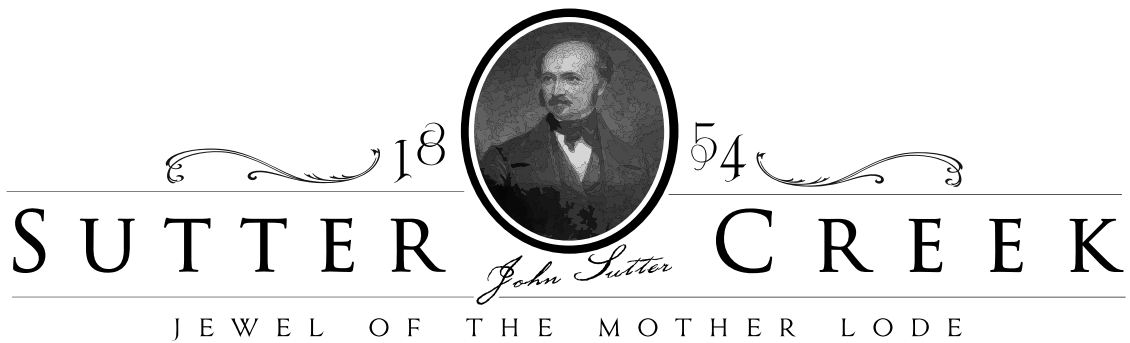
**COMMUNITY CENTER
33 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Sewer Capacity**
Recommendation: For discussion and staff direction.
- 4. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 5. Review Scope of 2022 Wastewater Financial Plan**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact City Hall staff at (209) 267-5647 or (209) 267-0639 (fax).



**SEWER COMMITTEE
AGENDA
AUGUST 9, 2022**

4:00 P.M.

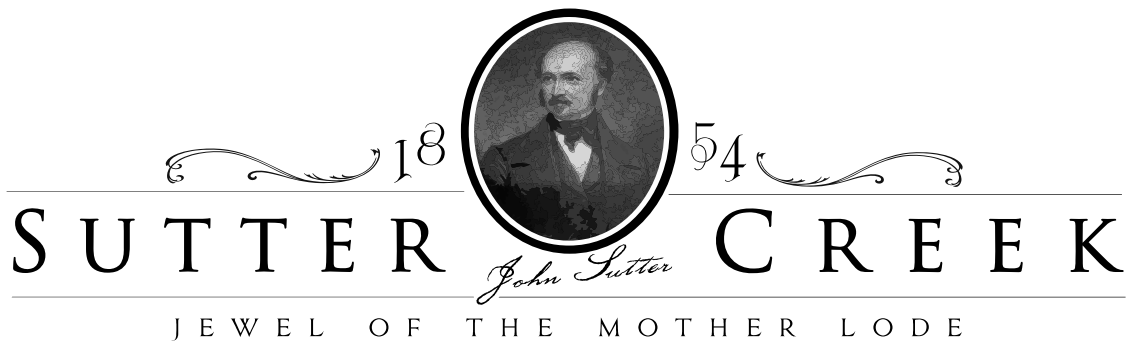
**COMMUNITY CENTER
33 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Sewer Ordinance**
Recommendation: For discussion and staff direction.
- 4. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 5. Sewer Capacity**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

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**SEWER COMMITTEE
AGENDA
AUGUST 30, 2022**

4:00 P.M.

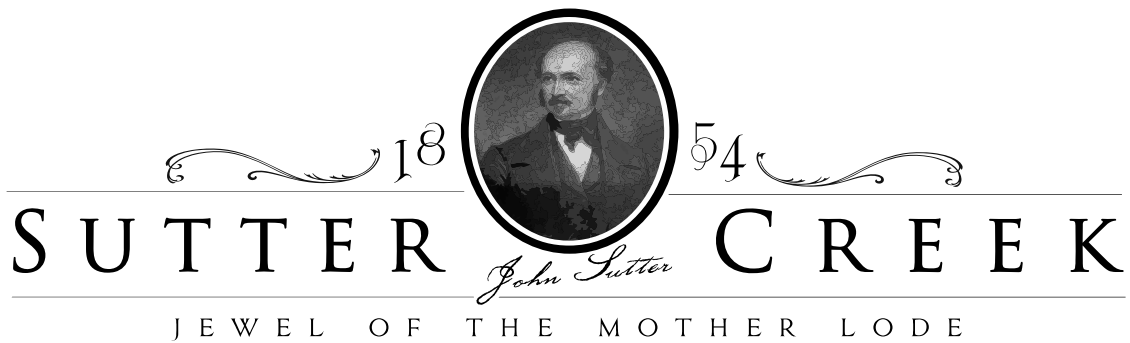
**COMMUNITY CENTER
33 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Sewer Ordinance**
Recommendation: For discussion and staff direction.
- 4. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 5. Sewer Capacity**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

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**SEWER COMMITTEE
AGENDA
SEPTEMBER 6, 2022**

4:00 P.M.

**COMMUNITY CENTER
33 CHURCH ST.
Sutter Creek, California**

- 1. Call to Order - 4:00 P.M.**
- 2. Public Matters not on the Agenda**
This is an opportunity for the public to comment on items that are not on the Committee agenda.
- 3. Sewer Ordinance**
Recommendation: For discussion and staff direction.
- 4. Review Capital Components of Wastewater Plant**
Recommendation: For discussion and staff direction.
- 5. Sewer Capacity**
Recommendation: For discussion and staff direction.

Adjournment

* Attachment

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact City Hall staff at (209) 267-5647 or (209) 267-0639 (fax).

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

STAFF REPORT

TO: ARSA BOARD OF DIRECTORS
MEETING DATE: October 28, 022
FROM: Amy Gedney and Frank Splendorio
SUBJECT: Status Update Regarding Ongoing Litigation Against City of Ione

RECOMMENDATION:

Receive Informational Update and Status Report re Lawsuit Against Ione.

BACKGROUND:

Beginning in March of 2022, Ione has, with little exception, refused to accept wastewater from ARSA. Ione complained that there was a hydrogen sulfide smell. To attempt to alleviate the odor, ARSA started sodium chloride injections, but Ione shut down the water again. Shutting down the system results in the build up of hydrogen sulfide gases.

In May 2022, ARSA requested that Ione receive discharges from Preston Reservoir again. Ione, however, claimed that the water smelled and refused to take the full amount. While ARSA devised a new setup to treat the water in Preston Reservoir, Ione refused to let the water run long enough to allow the new setup to work properly. Ione gave no notice and stopped the discharge again.

In June 2022, as the days became hotter, Ione asked for water from ARSA from Preston. ARSA accordingly expedited payment for a new chemical in order to eliminate any odors from the water. After delivering five-acre feet (or 1,629,255 gallons) of water, Ione again shut off the water. In the previous year, ARSA discharged 20 acre feet (or 6,517,020 gallons) to Ione in April, and Ione made no complaints about the smell after 10 acre feet (or 3,258,510 gallons) was delivered. . Recognizing that continuing to send water to Preston Reservoir could be problematic, in June staff stopped sending water to Preston Reservoir for use at the golf course and began irrigating at the Hoskins Ranch. (Previously we were sending water to Preston so that there would be 300 ac feet available for use at Castle Oaks golf course.)

On multiple occasions from March through August 2022, ARSA requested that Ione receive water from ARSA so that Preston Reservoir is emptied before the end of the irrigation season, and the beginning the rainy season, in order to ensure that Preston Reservoir does not spill over during the coming rainy season.

The table below outlines how many acre feet per month Ione has taken.

Table 1. Amount of water taken by Ione March – September.

Month	Acre Feet Taken	Acre Feet Remaining in Preston Reservoir
March	4.9	148.6
April	0.2	125.6
May	5.2	112.1
June	15.3	111
July	0	115.3
August	1.5	120.5
September	2.8	121.6
TOTAL	30	

ARSA staff continued to request that Ione take water. On August 31, 2022, Ione refused to accept any wastewater from ARSA. On September 8, 2022, ARSA provided written notice to Ione's Interim City Manager, that Ione's refusal to accept wastewater from ARSA constitutes a breach of the Wastewater Agreement. After ignoring the September 8, 2022, correspondence, Ione again began accepting wastewater from Preston Reservoir on September 19, 2022, only taking 400,000 gallons (or 1.22 acre feet) on that day, which was reduced to only 200,000 gallons (or 0.61 acre feet) on September 20, 2022 due to purported water quality issues concerning the wastewater. Due to the uncertainty and risk of Preston having too much water heading into the rainy season, on September 20, 2022, ARSA legal counsel filed a complaint against Ione. On September 21, 2022, Ione staff was served and immediately notified their operator to cease taking water from ARSA.

On September 23, 2022, ARSA sent another letter to Ione imploring Ione to cease refusing to accept wastewater from ARSA from Preston Reservoir before the irrigation season ends in order to reduce the risk of Preston Reservoir spilling over during the upcoming rainy season. Ione ignored that letter and ARSA then filed its Temporary Restraining Order, TRO, against Ione.

In its TRO, ARSA's Engineer showed, based on his modeling, that Preston would spill over in the April timeframe if certain rain conditions occurred and Ione continued to refuse to take water.

It is important to note that, during all times mentioned above, the only complaints ARSA received were due to water and/or alleged permit violations. Both of these issues the Regional Board said did not justify Ione's refusal to accept wastewater as noted below.

DISCUSSION:

Complaint Against Ione

On September 20, 2022, ARSA filed a complaint for injunctive and declaratory relief against the City of Ione and CDCR. (See Attachment 1.)

The lawsuit was premised on the fact that Ione's failure to accept ARSA's wastewater from Preston Reservoir — in violation of its contractual obligation to do so — is unjustified and an abject dereliction of its duty without basic regard of the health and safety of the public. Such failure created an imminent, public health crisis that require an emergency order from the Court to force them to take the wastewater from Preston as their contract requires.

TRO Granted

ARSA's request for an emergency order has already been twice vindicated by the Amador County Superior Court. On September 29, 2022, ARSA filed a Temporary Restraining Order against Ione. (See Attachment 2.) The trial court immediately granted ARSA's TRO on that day (Attachment 3).¹

Preliminary Injunction Granted

On October 10th, after considering Ione's opposition to the TRO, the Court again ruled in ARSA's favor, issuing an order and preliminary injunction requiring Ione to immediately accept 500,000 gallons of wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons. (See Attachment 4 and 5, Ione's Opposition and ARSA's Reply to Opposition, respectively.)

That Order (see attachment 6) which represents the second time in this lawsuit that Ione was ordered to accept ARSA's water, became effective October 11, 2022.

This is a critical fact, because in granting a TRO and then the preliminary injunction mandating that Ione take the water, the Court (twice) was required to find that (a) ARSA has a greater likelihood of prevailing on the merits of its lawsuit against Ione, and that (b) the irreparable harm that would result from Ione not taking the water (flooding of wastewater from Preston Reservoir into neighborhoods) outweighs any claimed or supposed harm Ione has alleged.

Regional Board's September 9, 2022 Letter

It is worth noting that on September 9, 2022, prior to the lawsuit being filed, the Regional Board had already issued correspondence to ARSA, Ione, and the Golf Course addressing the balancing of harms issue and stating the overflowing of Preston is a far worse outcome. (Attachment 7.) The Regional Board's September 9, 2022, letter declared that "the capacity issues at Preston [Reservoir] are presenting an even greater risk to water quality and public health than potential nuisance concerns related to the treatment of wastewater from Preston."

So, all told, by October 10, 2022, the Regional Board and two Judges at Amador County Superior Court had declared Ione not taking the water is an imminent, public health harm, greater than any alleged harm Ione may have contended.

Ione's Request to Modify Court's Order

Notwithstanding this Order, tending before the Court now is Ione's ex parte application to *modify* the preliminary injunction to reduce the total gallons per day to 200,000, or to condition Ione's acceptance of 500,000 gallons per day on ARSA's installation of a surface pump at Preston Reservoir. (See Attachment 8.)

Even if we were to assume the hydrogen sulfide condition is a valid excuse, it would only cover Ione's noncompliance for *three* days – October 18 through 20, 2022. Indeed, Ione has offered no

¹ However, Ione immediately appealed the TRO on procedural grounds and it was granted because the Judge ruled in ARSA's favor without first considering an opposition by Ione.

justification for its failure to comply with the Order between October 11 and 14, 2022, or since October 20, 2022.

ARSA's Opposition to Ione's Request to Modify the Court's Order

In our opposition to the request for modification to the TRO (Attachment 9), we show the hydrogen sulfide condition at Ione's treatment plant is also not a valid excuse for Ione's violation of the Order from October 18 through 20, 2022, or any other period of time. According to an incident report, Ione's fire department took gas readings at two top vent pipes to test the amount of hydrogen sulfide (H₂S). These readings showed H₂S at only 1 part per million (PPM), but detected a combustible/explosive range above the lower explosion limit (LEL) of 10% at 13-14%.

While Ione's fire department's readings showed similar results on October 19, 2022, the combustible/explosive range dropped below the LEL to only 3% on October 20, 2022. The amount of H₂S, however, increased to at least 200 PPM at that time. The oxygen levels from October 18 to 20, 2022, nevertheless remained constant, at 20.8%, 20.2%, and 20.8%.

Hydrogen sulfide is a common condition that exists in sewer and wastewater systems. It is a combustible and toxic gas that forms within sewer collection systems when the organic matter in the raw sewage decomposes and is caused by the lack of oxygen in the water over longer periods of time.

Setting aside the cause of the hydrogen sulfide, hydrogen sulfide does not generally pose a health hazard when it is properly monitored and mitigated. To address the presence of hydrogen sulfide, including at the levels detected by Ione's fire department between October 18 and 20, 2022, ventilation blowers are typically used to force air into the confined space at high enough volumes to exchange the air to dilute the concentration to a nonhazardous level. Indeed, in most cases, simply ventilating the utility access hole can reduce the levels of the gas present to a safe level for entry. Hydrogen sulfide may also be treated through the use of chemicals, including chlorine, sodium hypochlorite, or other products such as hydrogen peroxide-based oxidants.

To date, Ione has provided no evidence whatsoever reflecting any attempts to treat the hydrogen sulfide. Ione has instead simply shut down the system after detecting conditions that are common in wastewater systems and has elected to take no steps to treat the hydrogen sulfide. ARSA has tested the area around the Preston Reservoir for H₂S, and no H₂S has been detected. The hydrogen sulfide issues identified by Ione thus relate solely to tertiary effluent requirements *at their system*. These are part of the costs of providing tertiary treatment and therefore must be resolved by Ione as the operator of the tertiary treatment plant.

Ione's Disobedience of Court's Order to Take Water

Since October 11th (the effective date of the Order), Ione has chosen a perilous, grossly reckless path, without regard of human life and safety, by willfully disobeying the Court's order. Instead of doing the right thing, Ione has instead (a) unsuccessfully sought relief from the Court of Appeal, (b) delayed compliance in order to obtain assurances from the Central Valley Regional Water Quality Control Board ("Regional Board") that were already provided, and (c) created excuse after excuse for why it cannot accept wastewater from Preston Reservoir, the latest of which is high levels of hydrogen sulfide that is the result of Ione's own doing.

Meanwhile, aside from a period of roughly five days from October 14 through October 18, 2022, Ione has willfully disobeyed and violated the Order since October 11, 2022.

ARSA's Contempt Application against Ione

Contempt and sanctions are thus appropriate for Ione's noncompliance during these time periods. To that end, ARSA has also just filed contempt papers against Ione. (Attachment 10.)

Here, it is beyond controversy that Ione has willfully disobeyed and violated the Order. Although required to accept 500,000 gallons of wastewater per day from Preston Reservoir since October 11, 2022, Ione only accepted water from Preston Reservoir from October 14, 2022, through October 18, 2022. Ione has willfully disobeyed and violated the Order. Ione is able to comply with the Order, and there is no good cause or substantial justification for its failure to do so.

ATTACHMENT 1

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AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF AMADOR

22-CV- 12624

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No.
Judge:

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF

CASE ASSIGNED FOR ALL PURPOSES TO
HON. J.S. HERMANSON
CCP 170.6

B. Morris

1 Plaintiff AMADOR REGIONAL SANITATION AUTHORITY (“ARSA”) alleges as
2 follows:

3 **PARTIES**

4 1. ARSA is now, and at all times mentioned in this Complaint was, a California joint
5 powers agency established pursuant to the Joint Exercise of Powers Act, Government Code sections
6 6500, et seq., responsible for providing wastewater conveyance and disposal services to its member
7 agencies: the County of Amador and the Cities of Amador City and Sutter Creek, and located in
8 the County of Amador, California.

9 2. ARSA is informed and believes and thereon alleges that Defendant CITY OF IONE
10 (“IONE”) is now, and at all times mentioned in this Complaint was, a municipal corporation
11 organized and existing under the laws of the State of California and located in the County of
12 Amador, California.

13 3. ARSA is informed and believes and thereon alleges that Defendant CALIFORNIA
14 DEPARTMENT OF CORRECTIONS AND REHABILITATION (“CDCR”) is now, and at all
15 times mentioned in this Complaint was, a state agency organized and existing under the laws of the
16 State of California and the owner of a series pipelines and reservoirs located in the County of
17 Amador, California.

18 4. ARSA is unaware of the true names and capacities of those defendants sued herein
19 as Does 1 through 20. ARSA is informed and believes and on such basis alleges that these
20 fictitiously named defendants are in some way responsible for the harm sustained by ARSA as
21 alleged in the Complaint. ARSA will amend this Complaint to allege the true names and capacities
22 of the fictitiously named defendants when ascertained.

23 5. Defendants IONE, CDCR, and Does 1 through 20 (collectively, “DEFENDANTS”),
24 and each of them, are and were at all times mentioned herein agents, employees, or partners of each
25 other, and, in doing the acts alleged herein, each defendant was acting within the scope of his, her,
26 or its authority as such agent, employee, or partner, with the information and consent of each
27 defendant, and each ratified or approved the conduct of the defendants alleged herein.

28 ///

GENERAL ALLEGATIONS

6. Wastewater from the City of Sutter Creek, Amador City, and the Martell community is treated by the Sutter Creek Wastewater Treatment Plant (“SUTTER CREEK WWTP”), which is owned and operated by the City of Sutter Creek. Secondary effluent from the SUTTER CREEK WWTP is conveyed through a series of pipelines and reservoirs, which make up a wastewater delivery and disposal system known as the “HENDERSON/PRESTON SYSTEM.”

7. The HENDERSON/PRESTON SYSTEM is comprised of an upper element and a lower element. The upper HENDERSON/PRESTON SYSTEM generally consists of the area from the outfall of the SUTTER CREEK WWTP to the Preston Youth Correctional Facility. The lower HENDERSON/PRESTON SYSTEM generally includes the components that lie below Preston Forebay to the outfall of the pipeline that conveys the secondarily treated wastewater from Preston Reservoir to IONE. IONE receives wastewater from the lower HENDERSON/PRESTON SYSTEM for tertiary treatment at its Castle Oaks Water Reclamation Plant (“COWRP”) for irrigation use at the Castle Oaks Golf Course.

8. The HENDERSON/PRESTON SYSTEM is owned by CDCR. Since in or about 1977, CDCR has leased the pipelines and reservoirs that make up the HENDERSON/PRESTON SYSTEM to ARSA. A copy of the current lease between ARSA and CDCR, Ground lease No. L-2070 (“LEASE”), executed on February 23, 2009, is attached hereto as Exhibit “A” and incorporated herein by this reference.

9. Under the LEASE, which does not expire until September 18, 2037, ARSA uses the HENDERSON/PRESTON SYSTEM (referred to in the LEASE as the “Premises”) to transport water and wastewater pursuant to a separate agreement between ARSA, CDCR, and IONE, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September 18, 2007 (“WASTEWATER AGREEMENT”), a copy of which is attached as Exhibit B to the LEASE.

10. The LEASE provides in relevant part the following regarding termination and injunctive relief: “The parties to this Lease hereto recognize that the Premises leased hereunder is part of a wastewater system, regulated under the California Water Code, and that termination of

1 this Lease is not practicable nor feasible as it would render an essential utility service inoperable,
2 with no alternate means readily available to [CDCR] and [ARSA] to dispose of their effluent that
3 is not in violation of their other permit obligations. Therefore, the parties to this Lease have deleted
4 any reference herein to termination of this Lease for breach, and instead expressly agree that
5 injunctive relief to cure any actual or threatened breach is appropriate, and agree that either party
6 shall be entitled to seek equitable injunctive relief from a court of competent jurisdiction to enforce
7 compliance with the obligations hereunder. Neither party shall be entitled to defend such action on
8 the basis that injunctive relief is improper, or that monetary damages are adequate.”

9 11. The LEASE further provides that time is of the essence for each and all of the
10 provisions, covenants, and conditions therein, and that the LEASE may not be modified except by
11 a written instrument duly executed by the parties thereto.

12 12. Under its express terms, the WASTEWATER AGREEMENT governs the
13 wastewater rights and obligations among ARSA, CDCR, and IONE, as well as the relationship and
14 respective rights between ARSA, CDCR, and IONE with regard to the HENDERSON/PRESTON
15 SYSTEM.

16 13. The WASTEWATER AGREEMENT allows ARSA to annually discharge 650 acre
17 feet of treated wastewater to Preston Reservoir for disposal. The WASTEWATER AGREEMENT,
18 however, provides that CDCR may annually discharge up to 350 acre feet of treated wastewater to
19 Preston Reservoir, which amount is counted against ARSA’s 650 acre-foot disposal right. CDCR
20 operates the Mule Creek State Prison (“MCSP”), wastewater from which is treated by CDCR at its
21 MCSP Wastewater Treatment Plant (“MCSP WWTP”).

22 14. Pursuant to the WASTEWATER AGREEMENT, IONE is obligated annually to
23 accept from ARSA/CDCR a combined total of 650 acre feet of secondarily treated wastewater from
24 Preston Reservoir. Specifically, IONE must accept up to 95 acre feet of wastewater per month from
25 April through September, and up to 10 acre feet of wastewater per month from October through
26 March, but such limits may be waived by agreement of the parties in the event of an emergency
27 and where necessary for the prevention of environmental damage or civil liabilities attendant to
28 wastewater violations. The WASTEWATER AGREEMENT further provides that ARSA and

1 CDCR will continue to provide effluent from Preston Reservoir to the COWRP for use on the
2 Castle Oaks Golf Course, if such effluent is available.

3 15. The term of the WASTEWATER AGREEMENT is 30 years and will not expire
4 until September 18, 2037, the same date that the LEASE ends. While the WASTEWATER
5 AGREEMENT allows IONE to terminate flows to the lower HENDERSON/PRESTON SYSTEM
6 upon five-years' written notice, such right cannot be exercised unless IONE and CDCR have
7 resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course, which includes,
8 but is not limited to, obtaining any necessary water quality permits or permit modifications required
9 by state law.

10 16. The WASTEWATER AGREEMENT also provides that it may be amended only by
11 written instrument signed by all the parties thereto.

12 17. The WASTEWATER AGREEMENT further requires CDCR, IONE, and ARSA to
13 work to obtain all necessary permits, approvals, and authorizations to carry out the WASTEWATER
14 AGREEMENT in compliance with all pertinent Federal, State, and local laws and regulations.

15 18. The parties' wastewater discharges are regulated by the Central Valley Regional
16 Water Quality Control Board ("REGIONAL BOARD"). The REGIONAL BOARD's Water
17 Reclamation Requirements ("WRRs") Order No. 93-240 ("WRRs ORDER NO. 93-240") regulates
18 the COWRP and flows thereto from the HENDERSON/PRESTON SYSTEM, while the
19 REGIONAL BOARD's Waste Discharge Requirements ("WDRs") Order No. R5-2015-0129
20 ("WDRs ORDER NO. R5-2015-0129") regulates the MCSP WWTP.

21 19. WRRs ORDER NO. 93-240 only permits wastewater treatment and reuse based on
22 the flows to Preston Reservoir through the HENDERSON/PRESTON SYSTEM; it does not permit
23 an alternative direct connection from CDCR to the COWRP. WRRs ORDER NO. 93-240 also does
24 not recognize CDCR as a named discharger to the COWRP; WRRs ORDER NO. 93-240 names
25 only ARSA, IONE, and Portlock International, Ltd. (Castle Oaks Golf Course) as the dischargers.

26 20. Aside from spray irrigation on land application areas, WDRs ORDER NO. R5-
27 2015-0129 only permits disposal of wastewater to Preston Reservoir up to the maximum 350 acre-
28 feet allowed under the WASTEWATER AGREEMENT. WDRs ORDER NO. R5-2015-0129

1 recognizes that “Preston Reservoir serves as a means of conveyance of effluent flows from the
2 [ARSA] system and the [MCSP] WWTP to the City of Ione wastewater disposal system or to the
3 [COWRP] for further treatment and reuse at the Castle Oaks Golf Course (under [WRRs ORDER
4 NO. 93-240]).”

5 21. On or about July 19, 2017, IONE issued a letter purporting to provide five years’
6 notice to ARSA to eliminate all flows to the lower HENDERSON/PRESTON SYSTEM under the
7 WASTEWATER AGREEMENT. Said letter asserted growth in the community had made it
8 possible for IONE and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf
9 Course. The letter requested ARSA to eliminate all flows to the lower HENDERSON/PRESTON
10 SYSTEM by July 31, 2022. A copy of said letter is attached as Exhibit “B” hereto and incorporated
11 herein by this reference.

12 22. ARSA is informed and believes and thereon alleges that CDCR constructed, and has
13 been utilizing, a direct connection from the MCSP WWTP to the COWRP, bypassing Preston
14 Reservoir.

15 23. Since construction of a direct delivery system, the MCSP WWTP has been under
16 investigation by the REGIONAL BOARD for problematic waste discharges. The REGIONAL
17 BOARD has found that discharges from the MCSP WWTP are not authorized under WDRs ORDER
18 NO. R5-2015-0129. The REGIONAL BOARD also found volatile organic compounds (“VOCs”)
19 and semi-VOCs present in the MCSP WWTP’s effluent and ordered CDCR to submit a Report of
20 Waste Discharge in order for the REGIONAL BOARD to amend existing WDRs or issue new
21 WDRs.

22 24. Following CDCR’s submission of a Report of Waste Discharge, the REGIONAL
23 BOARD issued a Revised Monitoring and Reporting Program to CDCR on October 21, 2021,
24 imposing additional monitoring and reporting requirements for VOCs. The additional requirements
25 are necessary to determine the effects of MCSP’s discharges on water quality, verify the effectiveness
26 of existing WDRs to comply with applicable water quality objectives, evaluate MCSP’s compliance
27 with the terms and conditions of its WDRs, and determine the need for revised requirements.

28 ///

1 25. On the same day, the REGIONAL BOARD also issued a Revised Monitoring and
2 Reporting Program under WRRs ORDER NO. 93-240, imposing requirements to monitor and report
3 the COWRP's influent and effluent for VOCs.

4 26. Due to IONE's ongoing failure to provide adequate reclaimed water for the Castle
5 Oaks Golf Course, namely its failure to obtain the water quality permits or permit modifications
6 required by state law necessary to allow for the provision of adequate reclaimed water to the Castle
7 Oaks Golf Course without use of the HENDERSON/PRESTON SYSTEM, any notice issued to
8 date by IONE purporting to terminate its obligation to accept wastewater from ARSA, including
9 its July 19, 2017, letter, is void and of no force and effect.

10 27. On or about December 3, 2021, ARSA sent separate correspondence to both IONE
11 and CDCR to confirm ARSA's right to dispose secondarily treated wastewater through the lower
12 HENDERSON/PRESTON SYSTEM pursuant to the WASTEWATER AGREEMENT, copies of
13 which are respectively attached as Exhibits "C" and "D" hereto and incorporated herein by this
14 reference.

15 28. On or about January 19, 2022, IONE provided a response to ARSA's December 3,
16 2021, correspondence, a copy of which is attached as Exhibit "E" hereto and incorporated herein
17 by this reference. IONE's January 19, 2022, correspondence reaffirmed its intention to cease
18 services with ARSA as of July 19, 2022, but indicated a willingness to extend the date upon entry
19 into a new agreement with a new fee structure.

20 29. On or about January 28, 2022, ARSA sent further, separate correspondence to both
21 IONE and CDCR setting forth ARSA's right to deliver secondary effluent through the lower
22 HENDERSON/PRESTON SYSTEM pursuant to the WASTEWATER AGREEMENT and the
23 WRRs ORDER NO. 93-240, copies of which are respectively attached as Exhibits "F" and "G"
24 hereto and incorporated herein by this reference.

25 30. On or about February 3, 2022, ARSA responded directly to IONE's January 19,
26 2022, correspondence, informing IONE that any action taken to prevent, reduce, interrupt, interfere
27 with, or circumvent ARSA from delivering its effluent to IONE would be a breach of the
28 WASTEWATER AGREEMENT and a violation of the WRRs ORDER NO. 93-240, but accepted

1 IONE's offer to meet and confer regarding the matter. A copy of ARSA's February 3, 2022, letter
2 is attached as Exhibit "H" hereto and incorporated herein by this reference.

3 31. In or about March 2022, ARSA and IONE began engaging in substantive
4 discussions regarding the outstanding issues concerning ARSA's discharge of wastewater from
5 Preston Reservoir to the COWRP. In furtherance of these discussions, IONE transmitted
6 correspondence to ARSA outlining several deal points for negotiation of a new agreement on or
7 about July 20, 2022, a copy of which is attached as Exhibit "I" hereto and incorporated herein by
8 this reference. IONE's July 20, 2022, correspondence stated that negotiation of a new agreement
9 would extend its willingness to accept wastewater under the WASTEWATER AGREEMENT until
10 either approval of the new agreement by IONE and ARSA, or February 1, 2024, if no new
11 agreement was reached.

12 32. On or about July 29, 2022, ARSA provided its response to IONE's July 20, 2022,
13 correspondence, a copy of which is attached as Exhibit "J" hereto and incorporated herein by this
14 reference. While ARSA expressed its willingness to attempt to negotiate a new agreement, ARSA
15 advised IONE that ARSA was prepared to seek all available remedies under the law should IONE
16 refuse to accept wastewater from ARSA through the lower HENDERSON/PRESTON SYSTEM
17 under the WASTEWATER AGREEMENT.

18 33. On or about August 16, 2022, IONE transmitted its response to ARSA's July 29,
19 2002, letter, a copy of which is attached as Exhibit "K" hereto and incorporated herein by this
20 reference. Among other items, IONE's August 16, 2022, correspondence repeated its purported
21 right to refuse wastewater from ARSA under the WASTEWATER AGREEMENT as of July 31,
22 2022.

23 34. On multiple occasions over the past several months, IONE refused to accept
24 wastewater from ARSA, but later accepted a small amount of discharges. Since August 31, 2022,
25 however, IONE has continued to refuse to accept wastewater from ARSA.

26 35. On or about September 8, 2022, ARSA provided timely written notice to IONE that
27 IONE's refusal to accept wastewater from ARSA constitutes a breach of the WASTEWATER
28 AGREEMENT and stated ARSA's intention to meet and confer with IONE in an attempt to bring

1 IONE into compliance with the WASTEWATER AGREEMENT. ARSA advised IONE that
2 should IONE continue to refuse to accept wastewater from ARSA, ARSA would have no choice
3 but to pursue any and all available remedies under the law against IONE in order to enforce ARSA's
4 rights under the WASTEWATER AGREEMENT. A copy of ARSA's September 8, 2022, letter is
5 attached as Exhibit "L" hereto and incorporated herein by this reference.

6 36. Despite ARSA's ongoing efforts to resolve the outstanding issues with IONE, IONE
7 continues to refuse to accept wastewater from ARSA through the lower HENDERSON/PRESTON
8 SYSTEM in accordance with IONE's obligations under the WASTEWATER AGREEMENT.
9 ARSA is also informed and believes and thereon alleges that CDCR continues to transmit
10 wastewater from the MCSP WWTP to the COWRP and bypass Preston Reservoir in violation of
11 the WASTEWATER AGREEMENT, the LEASE, WDRs ORDER NO. R5-2015-0129, and WRRs
12 ORDER NO. 93-240.

13 37. Preston Reservoir is currently near its maximum capacity. The present inability of
14 ARSA to discharge wastewater from Preston Reservoir to the COWRP will result in Preston
15 Reservoir being unable to withstand the higher flows that may occur during the upcoming rainy
16 season, Preston Reservoir overflowing, and/or ARSA having to discharge effluent on other lands
17 in violation of the WRRs ORDER NO. 93-240, thus creating significant public health and water
18 quality contamination issues. In light of the quickly approaching rainy season, and given the
19 limitations on how much wastewater can be treated at the COWRP on a daily basis, the need to
20 discharge wastewater from Preston Reservoir is immediate.

21 **FIRST CAUSE OF ACTION**
22 (Injunctive Relief Against IONE and Does 1-10)

23 38. ARSA hereby incorporates by reference paragraphs 1 through 37 of the Complaint
24 as though set forth in full herein.

25 39. IONE breached the WASTEWATER AGREEMENT by failing to perform its
26 obligation to annually accept from ARSA secondarily treated wastewater from Preston Reservoir,
27 and by accepting wastewater directly from CDCR from the MCSP WWTP to the COWRP and
28 bypassing the HENDERSON/PRESTON SYSTEM.

1 40. ARSA performed all conditions, covenants, and promises required on its part to be
2 performed in accordance with the terms and conditions of the WASTEWATER AGREEMENT,
3 except for those covenants and conditions ARSA was prevented or excused from performing.

4 41. ARSA has no other adequate remedies at law or in equity to seek redress for IONE's
5 continuing violations of the WASTEWATER AGREEMENT and therefore seeks preliminary and
6 permanent injunctive relief restraining IONE from refusing to accept from ARSA secondarily
7 treated wastewater from Preston Reservoir, and restraining IONE from accepting wastewater
8 directly from CDCR and bypassing the HENDERSON/PRESTON SYSTEM.

9 **SECOND CAUSE OF ACTION**
10 (Injunctive Relief Against CDCR and Does 11-20)

11 42. ARSA hereby incorporates by reference paragraphs 1 through 41 of the Complaint
12 as though set forth in full herein.

13 43. CDCR breached the WASTEWATER AGREEMENT by discharging wastewater
14 directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON
15 SYSTEM.

16 44. CDCR also breached the LEASE by discharging wastewater directly from the
17 MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON SYSTEM.

18 45. ARSA performed all conditions, covenants, and promises required on its part to be
19 performed in accordance with the terms and conditions of the WASTEWATER AGREEMENT
20 and LEASE, except for those covenants and conditions ARSA was prevented or excused from
21 performing.

22 46. ARSA has no other adequate remedies at law or in equity to seek redress for
23 CDCR's continuing violations of the WASTEWATER AGREEMENT and LEASE and therefore
24 seeks preliminary and permanent injunctive relief restraining CDCR from discharging wastewater
25 directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON
26 SYSTEM.

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28 ///

THIRD CAUSE OF ACTION
(Declaratory Relief Against All Defendants)

47. ARSA hereby incorporates by reference paragraphs 1 through 46 of the Complaint as though set forth in full herein.

48. An actual controversy has arisen and now exists between ARSA and DEFENDANTS concerning their respective rights and duties. ARSA contends, and ARSA is informed and believes that DEFENDANTS deny, that IONE is obligated to accept from ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER AGREEMENT, and that CDCR is not permitted to discharge, and IONE is not permitted to accept, wastewater directly from the MCSP WWTP to the COWRP and bypass the HENDERSON/PRESTON SYSTEM.

49. ARSA desires a judicial determination of the respective rights and duties of ARSA and DEFENDANTS, namely declarations that IONE is obligated to accept from ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER AGREEMENT, and that CDCR is not permitted to discharge, and IONE is not permitted to accept, wastewater directly from the MCSP WWTP to the COWRP and bypass the HENDERSON/PRESTON SYSTEM.

50. Such declarations are necessary and appropriate at this time in order that ARSA may ascertain its rights and duties with respect to the WASTEWATER AGREEMENT and/or LEASE.

PRAYER FOR RELIEF

WHEREAS, ARSA demands judgment against DEFENDANTS for the following:

1. For a preliminary and permanent injunction restraining IONE from refusing to accept from ARSA secondarily treated wastewater from Preston Reservoir;

2. For a preliminary and permanent injunction restraining IONE from accepting wastewater directly from CDCR and bypassing the HENDERSON/PRESTON SYSTEM;

3. For a preliminary and permanent injunction restraining CDCR from discharging wastewater directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON SYSTEM;

///

1 4. For a judicial determination and declaration that IONE is obligated to accept from
2 ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER
3 AGREEMENT;

4 5. For a judicial determination and declaration that CDCR is not permitted to discharge
5 wastewater directly from the MCSP WWTP to the COWRP and bypass the
6 HENDERSON/PRESTON SYSTEM;

7 6. For a judicial determination and declaration that IONE is not permitted to accept
8 wastewater directly from the MCSP WWTP to the COWRP and bypass the
9 HENDERSON/PRESTON SYSTEM;

10 7. For attorneys' fees pursuant to paragraph 18 of the LEASE and costs of suit incurred
11 herein; and

12 8. For such other and further relief the Court may deem proper.

13 Dated: September 16, 2022

BEST BEST & KRIEGER LLP

14
15 By: 

SHAWN D. HAGERTY
MATTHEW L. GREEN
Attorneys for Plaintiff
CITY OF SANTEE

EXHIBIT A

GROUND LEASE

Lease No.: L-2070

Lessee: Amador Regional Sanitation Authority

LEASE COVERING PREMISES LOCATED AT**Mule Creek Prison and Preston Youth
Correctional Facility****Amador County****AGENCY****Department of Corrections and Rehabilitation****REAL PROPERTY NOS.: 43 and 1575**

This Lease, dated for reference purposes only, January 1, 2009, by and between the State of California, acting by and through the Director of General Services (DGS), with the consent of the California Department of Corrections and Rehabilitation (CDCR), hereinafter collectively referred to as STATE, and the Amador Regional Sanitation Authority (ARSA), a joint powers authority, hereinafter referred to as LESSEE.

RECITALS

WHEREAS, CDCR has under its jurisdiction certain real properties located in the County of Amador, State of California, commonly known as the Mule Creek State Prison (MCSP) and the Preston Youth Correctional Facility, formerly known as Lone Youth Authority, and hereinafter referred to as "Preston"; and

WHEREAS, pursuant to Government Code (GC) Section 14672.100, the Director of the Department of General Services, with the consent of CDCR, may lease real property appurtenant to or part of Preston, which real property is located in Amador County and further described in this Lease to ARSA (LESSEE) for a term not to exceed thirty (30) years and at a rate of one dollar (\$1.00) per year for its continued use as a wastewater delivery and disposal system; and

WHEREAS, CDCR owns a series of pipelines and reservoirs, each of which interconnect to allow the transport of water and or wastewater, which is known as Henderson/Preston System. The Henderson/Preston System, hereinafter referred to as the "Premises", is depicted in "Supplement #2 to Appendix L of Amador County Wastewater Management Plan", dated November 1977, and hereinafter referred to as the "Water Plan". Per the Water Plan, said Premises is composed of an upper element and a lower element. The upper element consists of the area from the outfall of the Sutter Creek Treatment Plant to Preston, including all pipelines, rights of way, reservoirs, and water rights. The lower element includes the components that lie below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir. Said Water Plan defines and illustrates the elements of the Henderson/Preston System, is marked Exhibit "A", consists of two (2) pages and is attached hereto and by this reference made a part hereof; and

WHEREAS, the City of Lone, LESSEE and CDCR, entered into the "Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System", hereinafter referred to as "Agreement for Wastewater", dated September 18, 2007. Said Agreement governs the wastewater disposal rights and obligations among the parties to the Agreement, is marked Exhibit "B", which consists of nine (9) pages, and is attached hereto and by this reference made a part hereof; and

WHEREAS, LESSEE currently occupies the Premises per the "Agreement for Wastewater Management" dated March 22, 1977, which agreement shall be superseded by this Lease and the Agreement for Wastewater; and

WHEREAS, STATE is willing to lease the Premises to the LESSEE, and LESSEE is willing to lease the Premises from STATE, on the conditions set forth herein.

NOW, THEREFORE, it is hereby mutually agreed as follows:

WITNESSETH

- DESCRIPTION** 1. STATE does hereby lease to LESSEE, and LESSEE hereby hires from STATE, the Premises, as further described and depicted in the Water Plan, Exhibit "A" to this Lease.
- TERM** 2. The term of this Lease shall be for a period of twenty-nine (29) years eight (8) months to commence on January 1, 2009, and shall terminate on September 18, 2037, to coincide with the termination date of the Agreement for Wastewater.
- USE** 3. (a) LESSEE agrees to use the leased Premises to transport water and wastewater through the Premises pursuant to the Agreement for Wastewater, attached hereto as Exhibit "B", and by this reference made a part hereof.
- (b) All activities upon the Premises will be conducted hereunder only in a manner which will not interfere with the orderly operation of the MCSP and Preston.
- LESSEE'S OBLIGATION FOR WATER DIVERSION** 4. (a) LESSEE agrees to annually divert a minimum of 250 acre/feet of water and a maximum of 1,100 acre/feet, from the Sutter Creek point of diversion in order to maintain STATE's water rights, as is more particularly described in the Water Plan, Exhibit "A" to this Lease. STATE reserves all of its water rights including the water rights for diversion from Sutter Creek at a maximum level of 1,100 acre/feet; and
- (b) LESSEE shall maintain and supply upon reasonable request documentation of water diversion rates. Said documentation shall be sent to:
- Department of Corrections and Rehabilitation
Facilities Management Branch
9838 Old Placerville Road, Suite B
Sacramento, California 95827
- (c) STATE reserves its claim to receive not less than 250 acre/feet of water annually for use at Preston.
- RENT** 5. The first annual rent payment shall be paid by the LESSEE in the amount of ONE DOLLAR AND 00/100s (\$1.00), due and payable on January 1, 2009. Rent shall be payable annually in advance for the duration of the Lease, or at the LESSEE's option, shall be paid in one lump sum in advance.
- All rent payments shall be addressed and delivered to:**
- Department of General Services
Accounts Receivable PAL (L-2070)
P.O. Box 989053
West Sacramento, CA. 95798-9053
- FEE** 6. LESSEE will reimburse DGS for its costs related to the lease, including, but not limited to, any survey costs, title transfer fees, administrative costs, and department staff time. DGS will invoice for the fees and payment shall be made to DGS at the address shown above and shall be made by February 1, 2009.

**LESSEE'S ACCESS
RIGHTS**

7. During the term of this Lease, STATE hereby grants to LESSEE and its contractors, agents, employees, representatives or licensees, the non exclusive temporary right to access, at any and all times and at any and all places, upon STATE lands and easements identified as the Premises. LESSEE has acquired or shall acquire all access rights for the lands not owned by STATE, at LESSEE's own expense.

**CONDITION
OF PREMISES**

8. (a) LESSEE has visited and inspected said Premises and it is agreed that the Premises stated herein, and on the attached Exhibit "A", is not described using a legal description and that the description is approximate. It is also acknowledged by all parties to this Lease, that the Premises will be leased "as-is" and the STATE does not warrant or guarantee the condition of the system, its pipelines, ponds, dams, equipment and appurtenances included hereunder.

(b) LESSEE agrees, pursuant to the "Surrender of Premises" clause of this Lease, to surrender up to STATE the Premises with any real property improvements therein, in at least the same condition as when received, reasonable use and wear thereof and damage by act of God, or by the elements excepted.

**TERMINATION
AND INJUNCTIVE
RELIEF**

9. The parties to this Lease hereto recognize that the Premises leased hereunder is part of a wastewater system, regulated under the California Water Code, and that termination of this Lease is not practicable nor feasible as it would render an essential utility service inoperable, with no alternate means readily available to STATE and LESSEE to dispose of their effluent that is not in violation of their other permit obligations. Therefore, the parties to this Lease have deleted any reference herein to termination of this Lease for breach, and instead expressly agree that injunctive relief to cure any actual or threatened breach is appropriate, and agree that either party shall be entitled to seek equitable injunctive relief from a court of competent jurisdiction to enforce compliance with the obligations hereunder. Neither party shall be entitled to defend such action on the basis that injunctive relief is improper, or that monetary damages are adequate. In the event of a violation of an injunctive order issued under this provision, in a subsequent proceeding to enforce the injunction, a court may, should it deem it appropriate, issue an order terminating the lease thereafter, on such terms as may be just and which will not work undue hardship on the parties to this Lease.

HOLD OVER

10. Any holding over after the expiration of said term or any extension thereof, with the written consent of STATE, shall be deemed a tenancy only from month to month. Otherwise, the terms and conditions specified in lease shall remain applicable.

UTILITIES

11. LESSEE agrees to pay at its sole cost and expense any and all water, electric, gas and other utility charges or any other charges payable in connection with LESSEE's use of said Premises during the term of this Lease. No utilities will be provided by STATE and STATE assumes no liability for the existence or nonexistence of utilities.

**REGULATION
BY STATE**

12. LESSEE agrees to cooperate with the MCSP and or Preston to ensure that activities conducted on the Premises, or persons brought onto the Premises to conduct such activities, do not interfere with the orderly operation of the facilities.

**AGREEMENT TO
REGULATE**

13. LESSEE hereby agrees to continue to operate the Premises in accordance with those guidelines found within the Agreement for Wastewater as outlined in the attached Exhibit "B".

IMPROVEMENTS

14. (a) STATE hereby grants to LESSEE the right to, at its sole cost and expense, improve the Premises. Said improvements include but are not limited to, installing, operating, maintaining, repairing and removing and or demolishing components of the wastewater system. Additionally, LESSEE shall keep the Premises fully functional and operational, in accordance with generally accepted and recommended practices and procedures and in compliance with all applicable federal, state and local laws and regulations, any and all improvements including, but not limited to any pipelines, valves and valve boxes, ponds, dams, equipment, pipes and pipelines, valves, wells, pumps, electrical panels, meter socket and wiring or other improvements existing on the Premises or constructed upon the Premises by LESSEE.

(b) LESSEE hereby assumes, at its sole expense; without limitation, the cost of any necessary improvements as defined in paragraph (a) immediately preceding this paragraph of this Lease, as well as environmental impact reports, engineering reports, government permits, or any other applicable regulatory compliance items.

(c) Prior to making any needed improvements to the Premises, LESSEE shall submit plans, specifications, and/or drawings, as applicable, in writing to the STATE. LESSEE shall receive STATE's written consent to proceed with such improvements. Said consent will not be unreasonably withheld.

(d) LESSEE agrees that in no event shall STATE be required to perform any maintenance on or make repairs or alterations to the leased Premises of any nature whatsoever.

(e) When making any necessary excavation on the Premises, LESSEE shall make such excavation in a manner that will cause the least damage to the surface of the ground, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as existed prior to said excavation as practicable.

LIENS

15. (a) During continuance in force of this Lease, LESSEE shall keep the leased Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by LESSEE and shall indemnify, hold harmless and defend STATE from such liens and encumbrances arising out of any work performed or materials furnished by or at the direction of LESSEE or contractors of LESSEE. Notice is hereby given that STATE shall not be liable for any work or materials furnished to LESSEE on credit and no mechanic's or other lien for any such work or materials shall attach to or affect STATE's interest in the leased Premises based on any work or materials supplied to LESSEE or anybody claiming through LESSEE. LESSEE shall within thirty (30) days after being furnished a notice of filing of any such lien, take action, whether by bonding or otherwise, to remove or satisfy any such lien.

(b) STATE shall have the right at all times to post and keep posted on the leased Premises any notices, that STATE deems proper for its protection and the protection of the leased Premises and STATE from liens. If, nevertheless, any

such lien shall be recorded, LESSEE shall, within sixty (60) days after notice from STATE, pay, settle, or otherwise release such lien, or deposit into escrow with a reputable bank or trust company in California a sum sufficient to satisfy such lien, in full. In the event of unsuccessful termination of any litigation in connection with such lien and under the terms of which it shall be obligated to pay such lien upon the unsuccessful termination of such litigation, then, upon the failure of LESSEE to comply with said requirements, STATE may pay or otherwise dispose of said lien, or defend, settle, or compromise any lawsuit brought to foreclose the same, in its sole discretion, and all amounts so paid by it or any loss sustained by STATE on that account, including reasonable amount for its attorney's fees, shall be repaid to STATE and shall be in addition to any other payments by way of rents, or otherwise, required under the terms of this Lease. A failure to pay any such sum within thirty (30) days after mailing of bill therefore to LESSEE shall constitute a breach of this Lease.

NOTICES

16. (a) All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.

(b) All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00a.m. and 5:00p.m. Pacific Time so long as such day is not a state or federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

	To the LESSEE:	ARSA Attn.: Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685 (209) 267-5647 (phone)
STATE:	To the DGS:	Department of General Services Real Estate Services Division-SOLD (L-2070) 707 Third Street, MS 505 Post Office Box 989052 West Sacramento, California 95798-9052 (916) 375-4025 (phone)
	To CDCR:	California Department of Corrections Attn.: Warden Mule Creek State Prison 4001 Highway 104 Sutter Creek, CA 95685 (209) 274-5225 (phone)
		California Department of Corrections Attn.: Superintendent Preston Youth Correctional Facility (PYCS) 201 Waterman Road Ione, CA 95640

**NOTICES
(CONTINUED)**

(209) 274-8102 (phone)

(c) The address to which notices may be mailed as aforesaid to either party, may be changed by written notice given by subject party to the other, as hereinbefore provided; but nothing herein contained shall preclude the giving of any such notice by personal service.

SUBLETTING

17. LESSEE shall not assign this Lease in any event and shall not sublet the leased Premises or any part thereof and will not permit the use of the leased Premises by anyone other than the LESSEE without prior written consent by the STATE.

**RECOVERY OF
LEGAL FEES**

18. If action is brought by any parties to this Lease for any breach hereof, or to restrain the breach of any agreement contained herein, the prevailing party in such action shall be entitled to the amount in attorney's fees in said action as the court shall determine to be reasonable, which shall be fixed by the court as part of the costs of said action.

**PARTNERSHIP
DISCLAIMER**

19. LESSEE, and any and all agents and employees of LESSEE, shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties to this Lease herein as partners.

HOLD HARMLESS

20. (a) This Lease is made upon the express condition that STATE is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of STATE.

(b) LESSEE agrees to defend, indemnify and hold harmless STATE from all liability, loss, cost or obligation on account of or arising out of LESSEE's use and/or occupancy of the Premises during the Lease term or any such injury or loss, however occurring.

(c) LESSEE further agrees to provide necessary Workers' Compensation Insurance for all employees of LESSEE upon said Premises at the LESSEE's own cost and expense.

INSURANCE

21. STATE acknowledges that LESSEE is self-insured in whole or in part as to any of the below described types and levels of coverage. LESSEE shall provide STATE with written acknowledgment of this fact at the time of the execution of this Lease. Said acknowledgement shall contain the STATE Lease Number, L-2070. If, at any time after the execution of this Lease, LESSEE abandons its self-insured status, LESSEE shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this "Insurance" clause pertaining to policies of insurance in regard to those types and levels of insurance as follows:

COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain general liability with limits of not less than \$1,000,000 aggregate for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal & advertising

injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the LESSEE's limit of liability.

The policy must include State of California, Department of General Services, LESSEE, and their officers, agents, employees and servants as additional insureds, but only insofar as the operations under the Lease are concerned.

AUTOMOBILE LIABILITY

LESSEE shall maintain motor vehicle liability with limits of not less than \$1,000,000 per accident for bodily injury and property damage. The State of California and Department of General Services are to be additional insured with respect to liability arising out of all vehicles owned, hired and non-owned.

WORKERS' COMPENSATION

LESSEE shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Lease, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required, and the policy shall include a waiver of subrogation in favor of the State of California.

GENERAL REQUIREMENTS

LESSEE shall ensure that the following general requirements are met:

(a) Insurance Companies must be acceptable to Department of General Services, Office of Risk and Insurance Management.

(b) LESSEE shall provide STATE with a true copy of the policy in place providing coverage for General Liability, within thirty (30) days after each insurance policy renewal.

(c) Coverage needs to be in-force for complete term of this Lease. If insurance expires during the term of the Lease, a new certificate must be received by the STATE at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of the original contract.

(d) Insurance policies shall contain a provision that coverage will not be cancelled without thirty (30) days prior written notice to STATE.

(e) LESSEE is responsible for any deductible or self-insured retention contained within the insurance program.

(f) In the event LESSEE fails to keep in effect at all times the specified insurance coverage, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event, subject to the provisions of this Lease.

(g) Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by STATE.

It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the required insurance coverage.

NON-DISCRIMINATION

22. LESSEE agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, age or physical handicap. LESSEE agrees to take action to ensure that applicants for employment and employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, age or physical handicap. (See California Government Code Sections 12920-12994 for further details.)

Remedies for willful violation:

(a) STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgment having the effect from a court in an action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the Government Code.

(b) STATE shall have the right to seek appropriate legal relief, whether monetary or injunctive, as a result of said breach, and consistent with the provisions of the "Termination and Injunctive Relief" clause of this Lease.

AMERICANS WITH DISABILITIES ACT

23. Where applicable, LESSEE shall comply with all federal requirements established under the 28 Code of Regulations, Part 36, Americans with Disabilities Act, to ensure the Premises is accessible to all participants and to provide equally effective communications.

LOSSES

24. STATE will not be responsible for losses or damage to personal property, equipment or materials of the LESSEE and all losses shall be reported to STATE immediately upon discovery.

DEBT LIABILITY DISCLAIMER

25. STATE will not be liable for any debts or claims that arise from the operation of this Lease.

TAXES / ASSESSMENTS

26. LESSEE agrees to pay all lawful taxes, assessments, or charges which at any time may be levied upon interest in this agreement. It is understood that this lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.

PROTECTION OF PREMISES

27. No removal of soil in excess of five (5) cubic yards, or dumping of refuse by LESSEE, except for transport of wastewater as contemplated by this Lease, is permitted in any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises; and LESSEE agrees not to cut or remove any trees, larger than four (4) inches in diameter and measured at three (3) feet in height, thereon except as approved in writing by STATE and LESSEE further agrees that at all times to exercise due diligence in the protection of the Premises against damage or destruction by fire or other causes.

PROPERTY RESTRICTIONS

28. LESSEE shall comply with the following with respect to activities on the Premises:

(a) LESSEE shall not permit hunting on the Premises but shall not be required to post "No Hunting" signs; and

(b) Compliance to any and all rules and regulations by governing agencies to include EPA, Department of Health or local water quality board must be strictly adhered to; and

(c) Should LESSEE desire to use pesticides on the area (either herbicides, rodenticides or insecticides) all applicable Environmental Protection Agency (EPA) both state and federal, standards must be met and prior approval must be received from STATE as not all EPA approved pesticides will be permitted.

AERIAL APPLICATIONS

29. Any aerial applications of any pesticides on the Premises shall be in compliance with the California Food and Agriculture Code (FAC), Section 12972 and Title 3, California Code of Regulations (3 CCR), Section 6614.

LESSEE shall notify the Warden and Superintendent in writing within three (3) business days in advance, of any aerial application and a completed Material Safety Data Sheet (MSDS) shall accompany the notice. LESSEE shall ensure that there will be minimal to no drift over the prison site adjacent to the subject Premises. LESSEE shall insure that any aircraft used for any aerial application will not encroach into the airspace of the MCSP and Preston.

WEED ABATE- MENT

30. Any weed burning operations on the leased Premises will be carried out pursuant to local ordinances and at LESSEE's own cost and expense. LESSEE will inform MCSP and Preston in advance of any weed burning operations.

ENVIRONMENTAL COMPLIANCE AND HAZARDOUS WASTE

31. (a) Compliance. LESSEE shall be solely responsible for determining the applicability of and for complying with all applicable federal, state and local environmental, natural resources, zoning laws and regulations, including but not limited to CERCLA (42 USC 9601.14), SARA [42 USC 11021(e)], or Resources Conservation and Recovery Act of 1976 (RCRA), Pub. L. 94-580 (1976), 42 USC 6901 et seq. and amendments, including the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616 (1984), with respect to LESSEE's activities on the Premises. LESSEE agrees that it shall comply with all applicable laws, federal, state, and local, existing during the term of this Lease pertaining to the use, storage, generation, treatment, transportation, and disposal of LESSEE's hazardous substances (including petroleum and petroleum derivatives) as that term is defined in such applicable law.

(b) Copies of Materials. LESSEE shall maintain copies of Material Safety Data Sheets (MSDS) and hazardous waste manifests, if any, for all hazardous materials used or transported on or from the Premises. MSDS and manifests shall be provided to the CDCR Facilities Management Division upon its request. If LESSEE is required to prepare a Business Plan, as specified by Health and Safety Code Section 25500 et seq., or a Hazardous Waste Contingency Plan, as specified in 22 CCR 66264.51 et seq., then a copy of the plan shall be submitted first to the Facilities Management Division for review and written approval.

(c) Spill Reporting; Cleanup. Any spill or release of a hazardous substance or material to the air, soil, surface water, or groundwater will be immediately reported to STATE as well as to appropriate government agencies, and shall be promptly and fully cleaned up and the Premises (including soils, surface water, and groundwater) restored to its original condition or such condition as approved by the applicable government agency with jurisdiction.

(d) RCRA Facility Prohibited. LESSEE shall not apply to become a "permitted" RCRA hazardous waste storage or disposal facility on the Premises.

(e) Inspection. STATE or its representatives reserve inspection rights pursuant to the "STATE's Rights to Enter" clause of this Lease.

Termination. Any violation of federal, state, or local environmental law by LESSEE, which continues unaddressed for a period of thirty (30) days from the date LESSEE receives notice of such violation, shall be grounds for STATE to pursue specific performance and injunctive relief in accordance with the "Termination and Injunctive Relief" clause of this Lease. STATE shall not have the right to pursue remedies under said clause if LESSEE commences addressing the violation within such thirty (30) day period and, thereafter, diligently pursues remediation of the violation.

(f) Indemnification by LESSEE. In addition to any other indemnity set forth herein, LESSEE shall fully indemnify, defend, and hold harmless STATE and its agents and representatives for any violation of environmental, hazardous waste, hazardous materials (including petroleum and petroleum derivatives), and/or natural resources law caused by LESSEE or LESSEE's agents or representatives. Furthermore, LESSEE shall reimburse the STATE for any and all costs and liability related to investigation, clean up, settlement amounts, and/or fines, including attorneys' fees, incurred by the STATE for such violation.

(g) Indemnification by STATE. In the event a government order is issued naming LESSEE as a potentially responsible party, or LESSEE incurs any other loss, cost, expense (including attorney's fees) or liability during or after the term of the Lease in connection with contamination which pre-existed LESSEE's obligations and occupancy under this Lease, or which was caused by STATE, STATE will hold harmless and defend LESSEE in connection therewith and shall be solely responsible as between LESSEE and STATE for all efforts, liabilities, losses, costs and expenses therefore, including attorney's fees. LESSEE shall have the burden of proof that the condition pre-existed the LESSEE's use and occupancy of the Premises or was caused by STATE.

SURRENDER OF PREMISES

32. (a) All personal property and equipment that is nonessential to the wastewater operations on the Premises shall be removed by LESSEE, at its sole cost and expense within thirty (30) days after expiration or termination of LESSEE's tenancy.

(b) Should LESSEE fail to remove said nonessential personal property and equipment within thirty (30) days after expiration or termination of the Lease, STATE may do so at the risk of LESSEE. Upon written demand by STATE, LESSEE shall immediately pay all costs and expenses associated with the removal of said property belonging to LESSEE.

(c) LESSEE may, however, with written consent of STATE, abandon in place any and all of LESSEE's nonessential personal property and equipment, whereupon, as abandoned, title to said improvements will vest in STATE.

RELOCATION

33. In the event that Court should terminate this Lease for a refusal to obey an injunctive order as provided in the "Termination and Injunctive Relief" clause of this Lease, LESSEE acknowledges and agrees that it has no claim against STATE for Relocation Payments, Relocation Advisory Assistance, or costs pursuant to the Government Code sections 7260 et seq, or any regulations implementing or interpreting such sections. LESSEE further agrees that it has no claim in either law or equity against STATE for damages or other relief should the Lease be so terminated, and waives any such claims it may have.

STATE'S RIGHT TO ENTER

34. During the term of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises for survey, inspection, or any other lawful STATE purposes.

EASEMENTS AND RIGHTS OF WAY

35. This lease is subject to all existing easements and rights of way. STATE further reserves the right to grant additional public utility easements as may be necessary and LESSEE hereby consents to the granting of any such easement, as long as such easement does not interfere with the operations of LESSEE's established uses. If the right to grant such easement is exercised, the public utility or their contractor will be required to reimburse LESSEE for any damages caused by the construction work on the easement area.

MINERAL RIGHTS

36. LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under said Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.

BINDING

37. The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties to this Lease hereto.

UNDERGROUND UTILITIES

38. LESSEE shall be responsible for maintaining all underground utilities to include all pipelines connecting to the Premises.

ESSENCE OF TIME

39. Time is of the essence for each and all of the provisions, covenants and conditions of this Lease.

CLAUSE HEADINGS

40. All clause headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

WAIVER

41. If STATE waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of that or any subsequent term, covenant or condition. Failure by STATE to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or decrease STATE'S right to insist thereafter upon strict performance by LESSEE. Waiver by STATE of any term, covenant, or condition contained in this Lease may only be made by a written document properly signed by an authorized STATE representative.

SEVERABILITY

42. If any term, covenant, condition, or provision of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.

This Lease contains all currently enforceable agreements between STATE and LESSEE. In addition, this Lease and with Exhibit B are intended to be compatible and work together and collectively supersede all prior agreements between STATE and LESSEE. There have been no representations by STATE or understandings made between STATE and LESSEE other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease hereto.

IN WITNESS WHEREOF, this agreement has been executed by the parties to this Lease hereto as of the date written below.

STATE OF CALIFORNIA**LESSEE:**

DIRECTOR OF DEPARTMENT OF
GENERAL SERVICES

AMADOR REGIONAL SANITATION AUTHORITY,
a Joint Powers Authority

By: 

TONY PSCHOPAIDAS, Manager
State Owned Leasing & Development
707 Third Street, MS-505
West Sacramento, CA 95605
(916) 375-4025

02/23/09
Execution Date

By: 

ROB DUKE, General Manager

1-28-09
Date Signed

Consent:**Approved as to form:**

DEPARTMENT OF CORRECTIONS

MCDONOUGH HOLLAND & ALLEN

By: 

DEBORAH HYSEN, Chief Deputy Secretary
Facility Planning, Construction, and Management

By: 

HARRIET STEINER
Attorneys for ARSA

Approved as to form:**Approval Recommended:**

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION,
OFFICE OF LEGAL AFFAIRS

DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION
State Owned Leasing and Development

By: 

CHRIS SWANBERG, Senior Staff Counsel
Attorney for CDCR

By: 

PAMELA DYER,
Associate Real Estate Officer

EXHIBIT A

SUTTER CREEK - IONE OUTFALL

WASTEWATER

RECLAMATION PROJECT

SUPPLEMENT #2

TO

APPENDIX L

OF

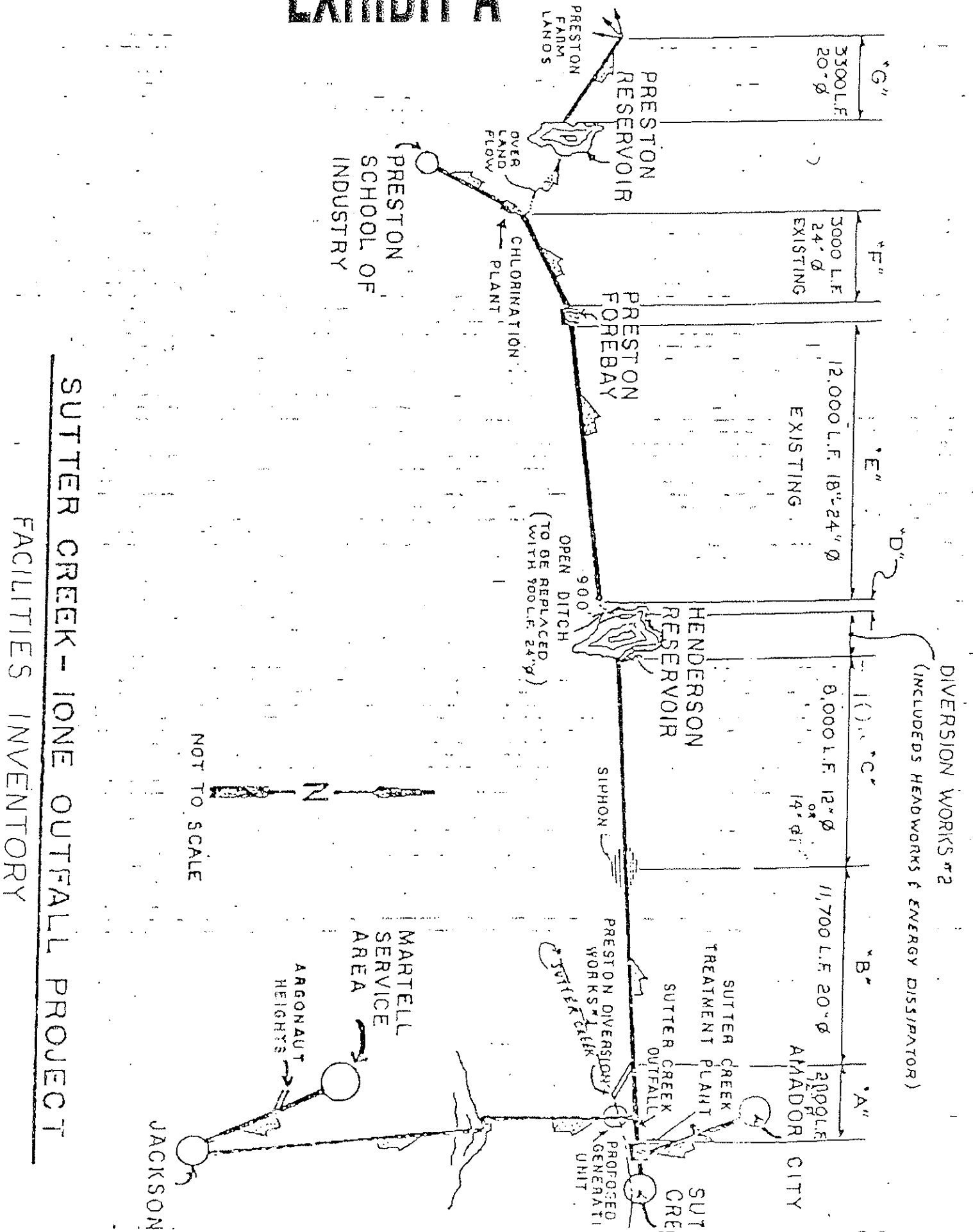
AMADOR COUNTY

WASTEWATER MANAGEMENT PLAN

NOVEMBER, 1977

PROJECT NO. 75-0995

EXHIBIT A



SUTTER CREEK - IONE OUTFALL PROJECT

FACILITIES INVENTORY

EXHIBIT B

AGREEMENT TO REGULATE USE OF HENDERSON/PRESTON WASTEWATER DISPOSAL SYSTEM

This agreement is made this 18th day of September, 2007, by and between the California Department of Corrections and Rehabilitation, a California State Agency ("CDCR"), the City of Ione, a municipality formed pursuant to the laws of the State of California ("Ione"), and the Amador Regional Sanitation Authority, a joint powers agency formed pursuant to the laws of the State of California ("ARSA") (collectively, CDCR, Ione, and ARSA, shall be referred to as the "Parties"). The Parties hereby agree as follows:

WHEREAS, as settlement of past litigation, Ione and ARSA entered into an agreement and grant of easement entitled "Preston Farmlands Wastewater Disposal Contract and Grant of Easement" dated July 30, 1990 ("1990 Settlement Agreement"); and,

WHEREAS, the 1990 Settlement Agreement has been amended or assigned by the parties to the 1990 Settlement Agreement; and,

WHEREAS, this agreement will reallocate and govern the wastewater disposal rights and obligations among the Parties, but will not alter the 1990 Settlement Agreement, any and all amendments thereto, and any agreements implementing the 1990 Settlement Agreement, as those agreements govern the relationship and obligations between Ione or ARSA and any developer of the Preston Farmlands, as referred to in the agreements and amendments, and their successors and assigns and except as those agreements govern the relationship and obligations between Ione or ARSA and the present and future owners, operators, and lessees of the Castle Oaks Golf Course and their successors and assigns; and,

WHEREAS, pursuant to the 1990 Settlement Agreement, as amended, Ione was required to pay ARSA an annual payment (currently \$20,000.00), which payment Ione in turn imposed on Castle Oaks Golf Course. The Parties intend to eliminate such fee for Ione and for Castle Oaks Golf Course by not including it herein as part of this agreement; and,

WHEREAS, this agreement does not extend to, or otherwise affect, Portlock International, Ltd.'s obligation to pay for operation of the Ione Tertiary Plant, which obligation ends December 31, 2013 and is governed by other agreements; and,

WHEREAS, CDCR owns a series of pipelines and reservoirs, including Henderson Reservoir, Preston Forebay and Preston Reservoir, each of which is interconnected so as to allow the transport of water and or wastewater from a point of diversion along Sutter Creek to the Preston Reservoir, in Ione, California ("Henderson/Preston System") (described in Exhibit 1); and,

WHEREAS, CDCR and ARSA have in place a lease agreement whereby ARSA has the right to use the Henderson/Preston System, subject to the terms and conditions contained therein, which lease expires in July 2008 ("ARSA/CDCR Lease"); currently ARSA uses the Henderson/Preston System to transport ARSA's secondary-treated wastewater to Preston Reservoir and then to Ione for treatment, disposal and use; and,

WHEREAS, ARSA and CDCR intend to execute a new lease or extend the existing ARSA/CDCR lease governing the use of the Henderson/Preston System. The new or extended lease will be for thirty (30) years. With regard to the lower system (as hereinafter described), the lease will contain a five (5) year cancellation clause that can be invoked by either party, subject to ARSA's continuing obligations to supply secondary treated wastewater to the CDCR's Preston Youth Correctional Facility and to maintain CDCR's water right from Sutter Creek, which obligations shall remain in effect unaffected by any such cancellation as will their rights to usage to the extent necessary to carry out those obligations; and,

WHEREAS, this agreement will govern the relationship and respective rights between the Parties with regard to the Henderson/Preston System; and,

WHEREAS, the upper Henderson/Preston System as referred to in this agreement includes the parts of the Henderson/Preston System from the outfall of the Sutter Creek Treatment Plant to Preston Youth Correctional Facility, including all pipelines, rights of way, reservoirs, water rights, etc; and,

WHEREAS, the lower Henderson/Preston System as referred to in this agreement includes the components of the Henderson/Preston System from below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir; and,

WHEREAS, ARSA will continue to deliver effluent to the lone tertiary plant subject to the five-year termination clause provided herein in sections 8a and 8b; and,

WHEREAS, CDCR operates Mule Creek State Prison ("MCSP") and the Preston Youth Correctional Facility, both located within lone City limits, and which two facilities along with the California Department of Forestry utilize the wastewater treatment plant at MCSP for their wastewater disposal; and,

WHEREAS, lone operates two wastewater treatment plants, a portion of one treatment plant is located within the boundaries of lone providing secondary level treatment of wastewater, and the other located in Amador County providing tertiary treatment of wastewater; and,

WHEREAS, each of the Parties' wastewater disposal systems are interrelated and interconnected; and,

WHEREAS, all of the Parties wish to work together to achieve a solution that addresses their respective wastewater needs; and,

WHEREAS, a water balance study was conducted by Lee and Ro, Inc. and completed on April 11, 2007 to determine the amount, if any, of surplus disposal capacity that currently exists in the Henderson/Preston System; and

WHEREAS, the water balance study resulted in an estimated surplus capacity that is allocated pursuant to this agreement.

IT IS AGREED by and among the parties hereto as follows:

1. Pursuant to the water balance and on the effective date of this agreement, the surplus capacity described above is allocated and each party's total allowable discharge to Preston Reservoir is as follows:

	Total Allowable Discharge to Henderson/Preston System
ARSA	650 acre-feet (af)
CDCR	350 af (counted against ARSA's 650 af disposal amount)
Ione	150 af (this amount is essentially a negative capacity amount to the extent that it relieves Ione of the obligation to take this amount from the other Parties)

2. Ione shall be obligated annually to accept from ARSA/CDCR a combined total of 650 af of secondarily treated wastewater for disposal. The method and location of disposal shall be the concern and obligation of Ione.

3. CDCR may dispose of up to 350 af (increased from its current allowance of 130 af) of treated wastewater into Preston Reservoir annually. CDCR's 350 af allowance shall be counted against ARSA's 650 af disposal right.

4. The effluent discharged to Preston Reservoir must be in compliance with the Waste Discharge Requirements established by the Regional Water Quality Control Board for the discharging party, and shall not contain constituents that cause the Ione tertiary plant to violate its Waste Discharge Requirements. Each party agrees to share all non-privileged wastewater effluent quality data with the other parties including monthly, quarterly, and annual reports submitted to the Central Valley Regional Water Quality Control Board. This information shall be furnished in a timely fashion to permit the City of Ione tertiary plant staff to evaluate potential impacts to operation of the plant. If requested, data shall be transmitted by facsimile or email. Such requests shall include all public information and shall not be limited to monitoring data that the party is required to provide pursuant to its Waste Discharge Requirements.

5. Unless otherwise agreed upon by the parties, discharges from Preston Reservoir to Ione, on a monthly basis, shall be as follows:

- a. October 1 through March 31st: discharges shall be limited to 10 af per month;
- b. April 1 through September 31st: discharges shall be limited to 95 af per month; and

- c. The above limitations may be waived by agreement of the parties in the event of an emergency and where necessary for the prevention of environmental damage or civil liabilities attendant to wastewater violations, and in such event and prior to any deviation from these limits the parties agree to meet and confer and attempt to reach mutual agreement regarding the exceedance amounts necessary to accomplish the prevention or mitigation of the emergency.

6. Subject to five-year termination clauses in sections 8a and 8b, in any year, ARSA and CDCR will continue to provide effluent from Preston Reservoir to the Ione tertiary plant for use on the Castle Oaks Golf Course, if such effluent is available. As provided for in the 1990 Agreement, as amended, Castle Oaks Golf Course will continue to utilize wastewater treated at the Ione tertiary plant prior to using water from any other source until December 31, 2013.

7. From the effective date of this agreement, ARSA agrees to eliminate all flows to Ione's secondary treatment ponds within four years. ARSA holds existing deeded disposal rights, transmittal rights, and rights of way and easements, to dispose of 1300 acre feet of treated effluent on the former Noble Ranch (County Assessor parcel numbers: 011330001501; 011330002501; and 011330003501) comprising approximately 850 acres of arable ranch land. A golf course resort has been entitled to be constructed on the property to be known as "Gold Rush Golf, LLC." A mitigated negative declaration for this project, including effluent disposal options, was adopted February 18, 2003, under City of Sutter Creek Resolution Number 02-03-27. Portions of the project have been constructed (e.g. conduit construction under the Highway 49 Bypass) and the remainder will be completed prior to the four-year deadline described in this section. The completion of the effluent disposal options are independent of the construction of the golf course resort project.

8. This agreement will be in effect for thirty (30) years from the time of its enactment, subject to the following:

- a. With regard to the lower Henderson/Preston System, ARSA agrees to eliminate all flows to the lower Henderson/Preston System within five years of receiving a written request to this effect from Ione, CDCR, or MCSP. Such written notice may only be given after Ione and CDCR have resolved how to provide adequate reclaimed water for both Castle Oaks Golf Course and Preston Youth Correctional Facility. Such resolution may include completing any necessary environmental review pursuant to CEQA for the new source of water; a contract between the new provider of water, MCSP, Ione, the golf course operator; and any necessary permits of modifications to existing permits pursuant to the Porter-Cologne Water Quality Control Act (Cal. Water Code, §§ 13000 et. seq.).
- b. ARSA shall have a right to cancel all discharges to the lower Henderson/Preston System five (5) years after it gives written notice to Ione and CDCR of its intent. ARSA agrees to work with the Parties to

attempt to coincide its withdrawal with the other parties' ability to find an alternate water source.

9. Beginning January 1, 2015, each party whose wastewater is being treated at the Ione Tertiary Plant agrees to pay a proportionate share of the tertiary plant operation and maintenance costs based on the amount of flows the party contributes to the tertiary plant. If any of the parties has withdrawn flows prior to 2014, that party will have no such operation and maintenance obligation. Each party's "proportionate share" will be defined by the JPA proposed herein, if it is formed. If the JPA is not formed, "proportionate share" will be defined by joint agreement of the Parties. To the extent that additional treatment, beyond what the discharging party is required to perform, is necessary to allow recycled water use of water treated at the Ione Tertiary Plant, that party will not be required to pay for such additional treatment, unless required under this agreement. Where the tertiary treated water from the Ione Tertiary Plant is sold to a recycled water user, the revenue generated from the sale will be distributed to the Parties in proportion to the amount of water the each party contributed to the tertiary plant.

10. MCSP shall endeavor to reduce its wastewater disposal into Preston Reservoir as soon as possible by implementing projects, which may include some or all of the following:

- a. Installing flushometers on toilets located in cells at MCSP; and
- b. Installing shower timers, as able, at MCSP.

In addition, CDCR shall conduct a preliminary feasibility study to determine the cost and feasibility for CDCR to increase the Preston Reservoir Dam height by sixteen (16) inches, increasing the capacity of the reservoir thereby.

11. To implement the provisions of this agreement, the Parties may prepare implementation memoranda, as opposed to amendments to this agreement, unless all Parties agree an amendment is necessary. Such implementation agreements may be executed by authorized representatives of the Parties.

12. The Parties to this agreement agree to explore and work towards creating a Joint Powers Authority to develop a sub-regional wastewater master plan for the Ione Valley. This plan may involve the following elements:

- a. Developing a permanent source of reclaimed water for the Castle Oaks Golf Course, Preston Youth Correctional Facility and other potential reclaimed water users within the Ione area.
- b. Developing a master plan and joint projects to improve the treatment and disposal capabilities of the MCSP and Ione wastewater facilities.
- c. ARSA's participation in the JPA will end when ARSA's discharges to the lower Henderson/Preston System end pursuant to sections 8a and 8b of this agreement.

13. Each of the Parties shall work to obtain all necessary permits, approvals, and authorizations to carry out this agreement in compliance with all pertinent Federal, State, and local laws and regulations.

14. In the event of a breach or default of this agreement, the aggrieved party will give written notice to the other parties within ten (10) days. After receiving such written notice, the Parties will meet and confer in an attempt to bring the violating party into compliance with this agreement. If, after meeting and conferring, the Parties fail to agree upon a plan to bring the violating party into compliance, the Parties may pursue mediation or other means agreed upon by the parties, including other remedies available by law.

15. Such non-performance provisions shall not apply if the nature of the breach or default is the result of a force majeure occurrence or is otherwise of a nature such that it cannot be fully cured within thirty (30) days, the party in default shall have such additional time as is reasonably necessary to cure the default so long as the party in default is proceeding diligently to complete the necessary cure after service of written notice by a non-defaulting party.

16. Each party retains any and all remedies it may have at law or in equity against each and every party hereto for breach of any duty established by this agreement.

17. Invalidity of any of the provisions contained in this agreement, or of the application thereof to any party by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other party and said agreement shall remain in full force and effect except for the invalidated provision.

18. This agreement may be amended only by written instrument signed by all the parties.

19. Any notice to any party shall be in writing and by fax or email and given by delivering the notice to such party in person or by sending the notice by registered or certified mail, return receipt requested with postage prepaid, to the party's mailing address. The respective mailing addresses of the parties are:

City: City Manager
City of Ione
Post Office Box 398
Ione, CA 95640

ARSA: Rob Duke
General Manager
18 Main Street
Sutter Creek, CA 95685

CDCR: Warden
Mule Creek State Prison
4001 Highway 104
Ione, CA 95640

Either party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices shall be deemed given, received, made or communicated on the delivery date or attempted delivery date shown on the return receipt.

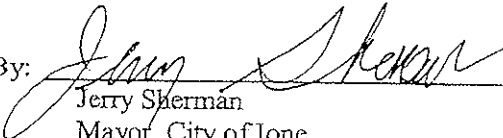
20. Nothing contained in this agreement shall act as a prohibition on the formation of additional contracts and agreements by and between the Parties to further implement the intentions of the Parties.

21. Failure of a party to insist upon the strict performance of any of the provisions of this agreement by any other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by the other party in the future. No waiver by a party of an act constituting breach or default shall be effective or binding upon such party unless the waiver is made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such breach or default under any provision of this agreement.

22. This agreement may be signed in counterparts, and shall have the same force and effect as if all signatures existed on the same document.

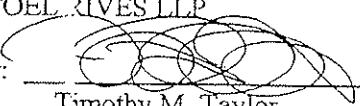
CITY OF IONE

Dated: 9-20-07

By: 
Jerry Sherman
Mayor, City of Ione

Approved as to form:

Dated: 9-26-07

STOEL RIVES LLP
By: 
Timothy M. Taylor
Attorneys for the City of Ione

ARSA

Dated:

9-18-07

By:

Rob Duke
General Manager

Approved as to form:

Dated:

9/24/07

By:

MCDONOUGH, HOLLAND & ALLEN

Harriet Steiner
Attorneys for ARSA

Dated:

CDCR

By:

Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated:

By:

Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

ARSA

Dated: _____

By: _____
Rob Duke
General Manager

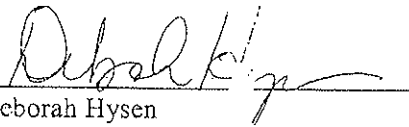
Approved as to form:

MCDONOUGH HOLLAND & ALLEN

Dated: _____

By: _____
Harriet Steiner
Attorneys for ARSA

Dated: _____

CDCR
By: 
Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated: _____

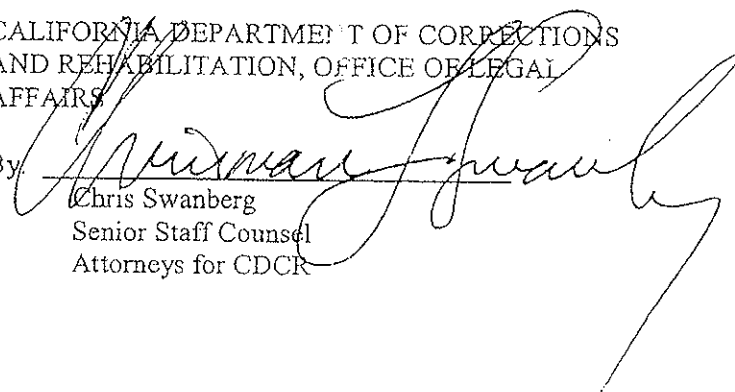
By: 
Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

EXHIBIT B

City of Ione



July 19, 2017

Ms. Amy Gedney
Amador Regional Sanitation Agency
18 Main Street
Sutter Creek, CA 95685

RECEIVED
AUG - 22 2017



Dear Ms. Gedney;

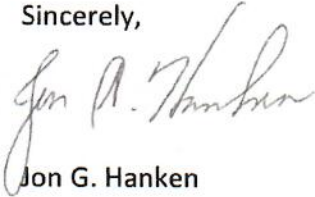
The Ione City Council has reviewed the Regional Water Recycling Feasibility Study and has had the opportunity to discuss its recommendations with citizens during a recent Council meeting. The consensus of the community was that a regional partnership on wastewater recycling was not in the best long-term interest of the City. As such, Council has asked me to provide ARSA with the five year notice to eliminate all flows to the lower Henderson/Preston system as per Section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal.

Ione is a growing community and that growth has made it possible for us and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf Course. Ione anticipates another 800 homes will be constructed in the future and we will need to find additional land to dispose of this effluent once it's treated. We anticipate that the Central Valley Regional Water Quality and Control Board (CVRWQCB) will require the City to line all of our wastewater ponds to eliminate percolation. This will increase our need for irrigable land. As for the requirement to provide treated effluent to the Preston Youth Facility, the State closed that complex in 2011. The State is in the process of disposing of the property so there is no longer a need to provide reclaimed water to it. I have requested a letter from CDCR stating that requirement is no longer necessary.

The City is proposing that ARSA eliminate all flows to the lower Henderson/Preston system by July 31, 2022. This gives your organization adequate time to complete the necessary effluent disposal projects on the former Noble Ranch. Section 7 of the agreement, states that ARSA will complete all the necessary construction to dispose effluent on the property prior to the deadline. The 2007 agreement also states that completion of the effluent disposal projects on the Noble Ranch property are independent of the construction of the golf course resort project.

The relationship between lone and ARSA has been a long one and beneficial but we think it will soon be unnecessary as our needs diverge and will be time to go our separate ways. Your comments and letters of intent to bring on other landowners for irrigation indicate that you are also moving in the same direction as lone. We wish you well on your construction projects. If you have any questions related to this letter, please feel free to contact me at lone City Hall. My telephone number is (209) 274-2412 Ext. 111.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jon G. Hanken".

Jon G. Hanken
City Manager
City of lone

cc: Ms. Deb Hysen, CDCR
Ms. Pamela Creedon, CVRWQCB

EXHIBIT C

Amador Regional Sanitation Authority

*"Servicing Amador City, Martell, & Sutter
Creek"*

December 3, 2021

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Mr. Rock:

This letter addresses the vitally important and ongoing wastewater disposal arrangement among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR") (collectively, "the Parties"). We are sending you this letter now to confirm ARSA's right to dispose of secondarily treated wastewater through the lower Henderson/Preston System. For the reasons explained below, ARSA is legally permitted and will continue discharging secondary effluent to the lower Henderson/Preston System in accordance with its current contractual arrangement with the Parties.

Since 2007, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement") has governed the Parties' rights and obligations regarding wastewater disposal through the Henderson/Preston System. As you are aware, the 2007 Agreement provides that ARSA may discharge, and the City *must* accept, annually up to 650 acre-feet of secondary effluent for disposal. CDCR may, solely through ARSA's existing outfall system and in strict compliance with its existing wastewater permit, discharge up to 350 acre-feet of secondary effluent annually, counted against ARSA's disposal right. Because CDCR's rights are derivative of ARSA's existing rights, the City must prioritize ARSA's discharges over those of CDCR's.

The 2007 Agreement remains in effect until 2037. The 2007 Agreement does contain limited termination provisions, but there are specific terms and conditions that must be strictly followed for such early termination due to the importance of the contractual relationship. Under Section 8a, if the City requests termination of ARSA's flows to the lower Henderson/Preston System, ARSA must be provided a five-year notice that meets specific conditions. Such notice

may only be given *after* the City and CDCR have resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course. On July 19, 2017, ARSA received a letter from the City requesting that ARSA terminate flows to the lower Henderson/Preston System. The letter claimed that the City's growth has made it possible for the City and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf Course.

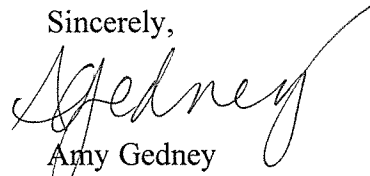
At the time of the City's 2017 letter, however, the provision of adequate reclaimed water for the Castle Oaks Golf Course had not been resolved. In fact, that issue remains unresolved today. The Central Valley Regional Water Quality Control Board ("Regional Board") has identified concerns with the quality of Mule Creek State Prison's wastewater, including the presence of volatile organic compounds ("VOCs") in the prison's discharge. The Regional Board first identified these issues in 2018, and today the legality and safety of the prison's wastewater remain unresolved. On October 21, 2021, the Regional Board ordered additional monitoring and reporting requirements for VOCs under the waste discharge permits for all the parties, including the City and ARSA's shared permit governing ARSA's flows and the City's tertiary plant, and separately, CDCR's permit governing the prison's wastewater treatment plant. Additional assessment by the Regional Board is needed to evaluate the water quality impacts of the prison's wastewater discharges. This assessment could result in a final determination that CDCR cannot discharge to the City. For these reasons, the City and CDCR have still not demonstrated that adequate reclaimed water is available for the golf course.

Moreover, CDCR is not a permitted discharger under the City and ARSA's shared permit, Water Reclamation Requirements Order No. 93-240. This permit only allows wastewater treatment and reuse based on the flows from ARSA's outfall system to Preston Reservoir. California Water Code Section 13264 and Order No. 93-240 require a Report of Waste Discharge to be filed with the Regional Board prior to any new discharge or making any material changes to any discharge. A material change includes the addition of major industrial waste discharges or discharges resulting in a change of the character of the waste. A Report of Waste Discharge must first be filed and evaluated by the Regional Board to ensure that the prison's discharges are in compliance with all water quality laws and regulations. No reports or evaluations were in place as of the City's 2017 letter, and to our knowledge, none are in place now.

The City has therefore not fulfilled the conditions under Section 8a of the 2007 Agreement required for ARSA to eliminate flows to the lower Henderson/Preston System. The City has not resolved the provision of adequate reclaimed water to the golf course, which includes obtaining all water quality permits or permit modifications required by state laws and regulations. The 2007 Agreement thus remains in full effect until 2037, and ARSA is legally permitted and will continue to discharge to the lower Henderson/Preston System.

I am certain we both agree that water quality is vital for the safety and preservation of our respective communities. We value our long-term partnership with the City and look forward to maintaining it through the life of the 2007 Agreement. While we are always willing to discuss solutions that are reasonable and fair to all Parties, we feel it is important for the City to understand that ARSA will continue to dispose of secondary effluent to the lower Henderson/Preston System, in accordance with the 2007 Agreement and state laws and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Gedney", with a long, sweeping flourish extending from the end of the name.

Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT D

Amador Regional Sanitation Authority

*"Servicing Amador City, Martell, & Sutter
Creek"*

December 3, 2021

Via Email and Certified Mail

Patrick Covello
Warden
California Department of Corrections and Rehabilitation
4001 Highway 104
P.O. Box 409099
Ione, CA 95640

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Mr. Covello:

This letter addresses the vitally important and ongoing wastewater disposal arrangement among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR") (collectively, "the Parties"). We are writing to confirm ARSA's right to dispose of secondarily treated wastewater through the lower Henderson/Preston System. For the reasons explained below, ARSA is legally permitted and will continue discharging secondary effluent to the lower Henderson/Preston System in accordance with its current contractual arrangements with the Parties.

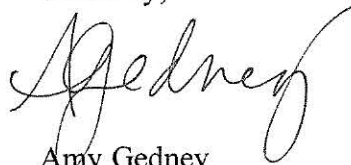
Since 2007, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement") has governed the Parties' rights and obligations to discharge wastewater through the Henderson/Preston System. As you are aware, the 2007 Agreement provides that ARSA may discharge, and the City *must* accept, annually up to 650 acre-feet of secondary effluent for disposal. CDCR may, solely through ARSA's existing outfall system and in strict compliance with its existing wastewater permit, discharge up to 350 acre-feet of secondary effluent annually, counted against ARSA's disposal right. CDCR's ability to discharge to the City under the 2007 Agreement is therefore derivative of and subordinate to ARSA's disposal right, not independent of it.

The 2007 Agreement remains in effect until 2037. Although there are limited rights to terminate the 2007 Agreement before 2037, CDCR has not taken the required steps to terminate, and the City of Ione has not effectively done so, for the reasons set forth in the attached letter from ARSA to the City, which letter is incorporated herein. Because no Party has effectively taken steps to end the 2007 Agreement early, it remains in effect until 2037, and ARSA is legally permitted and will continue to discharge to the lower Henderson/Preston System. Any actions taken by CDCR to prevent, reduce, interrupt, interfere with, or circumvent ARSA's rights to do so would be inconsistent with CDCR's contractual obligations to ARSA.

In addition, CDCR leases the Henderson/Preston System to ARSA in accordance with the 2007 Agreement under Ground Lease No. L-2070. The Lease terminates on September 18, 2037, to coincide with the termination date of the 2007 Agreement. The Lease acknowledges that CDCR leases to ARSA infrastructure that facilitates an essential utility service, and termination of ARSA's flows to the lower Henderson/Preston System would leave no alternative means for disposal. The Lease expressly recognizes that the Henderson/Preston System is part of a wastewater system, regulated under the California Water Code, and termination of the Lease is not practicable nor feasible as it would render an essential utility service inoperable. Any actions taken by CDCR to prevent, reduce, interrupt, interfere with, or circumvent ARSA's rights to discharge to the Henderson/Preston System would be inconsistent with CDCR's contractual obligations to ARSA under the Lease. In the event of any actual or threatened breach of the Lease agreement, ARSA may seek equitable injunctive relief from a court of competent jurisdiction.

We value our long-term partnership with CDCR and look forward to maintaining it through the life of the 2007 Agreement and the Lease. While we are always willing to discuss solutions that are reasonable and fair to all Parties, we feel it important for CDCR to understand that ARSA will continue to discharge secondary effluent to the lower Henderson/Preston System, prior to any discharges from CDCR, in accordance with the contractual arrangements among the Parties and state laws and regulations.

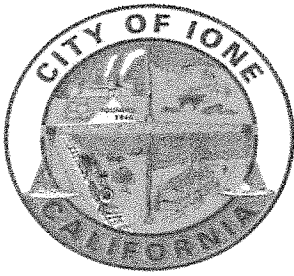
Sincerely,

A handwritten signature in black ink, appearing to read "Amy Gedney", written in a cursive style.

Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT E



RECEIVED

JAN 21 2022

City of Sutter Creek



January 19, 2022

Amador Regional Sanitation Authority
Attn: Amy Gedney, General Manager
18 Main Street
Sutter Creek, CA 95685

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Ms. Gedney,

The City of Ione is in receipt of your letter of December 3, 2021, in which you address wastewater disposal arrangements among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR").

When evaluating whether or not to send the 5 year notice the Ione City Council considered the cost to the Ione taxpayers, as is our fiduciary responsibility. It was determined that the losses Ione had incurred due to this contract could not continue. We reviewed our water resources and determined that we could meet our water obligations with our existing and future resources.

The City has successfully provided adequate reclaimed water for both Castle Oaks Golf Course over the past five years under our current permits and infrastructure. During the past few years, the City did not receive adequate flows from ARSA, was suffering from extreme drought conditions, and still managed to keep Castle Oaks Golf Course open with sufficient water.

Ione recognizes that ARSA may have some difficulty meeting the five-year deadline, and over the last four years Ione has reached out to ARSA for the status of your project. The Wastewater Committee discussed ARSA at its meetings and Ione staff reached out to ARSA with no response prior to your December 3, 2021, communication. The City is open to assisting ARSA with an extension of the five years however, this would require a new agreement with a new fee structure.

After a review of your letter the City disagrees with your analysis and reaffirms that the City intends to continue with our 2017 termination letter and cease services with ARSA as of July 19, 2022.

Sincerely,

Dan Epperson


Mayor, City of Ione

cc: Michael Rock, Interim City Manager
Sophia R. Meyer, City Attorney
Councilmembers Plamondon, Wratten, Rhoades

EXHIBIT F

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

January 28, 2022

Via Email and Certified Mail

Patrick Covello
Warden
California Department of Corrections and Rehabilitation
4001 Highway 104
P.O. Box 409099
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

Dear Mr. Covello:

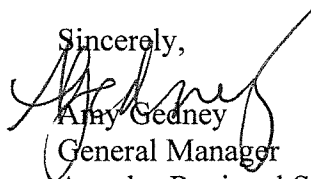
This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement, Waste Discharge Requirements Order No. 93-240, and Ground Lease No. L-2070 through at least 2037.

ARSA requires that its wastewater effluent will be accepted by the City prior to any effluent from CDCR. As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Moreover, any direct discharges from CDCR to the City are not permitted by the Central Valley Regional Water Quality Control Board ("Regional Board"), as required by California Water Code Section 13264. As such, any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement.

In addition, under Ground Lease No. L-2070, CDCR leases to ARSA infrastructure that facilitates an essential utility service, and termination of ARSA's flows through the lower Henderson/Preston System is not practicable nor feasible. In the event of any actual or threatened breach of the Lease agreement, ARSA may seek equitable injunctive relief from a court of competent jurisdiction.

We believe the above course of action is imperative for public health and safety. We look forward to working with CDCR to protect regional water quality.

Sincerely,



Amy Gedney
General Manager

Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT G

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

January 28, 2022

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

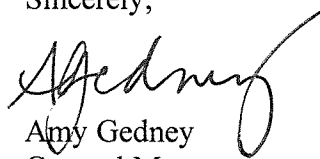
Dear Mr. Rock:

This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement and its Waste Discharge Requirements, Order No. 93-240, until at least 2037.

ARSA requires that the City will prioritize ARSA's wastewater effluent over any effluent from the California Department of Corrections and Rehabilitation ("CDCR"). As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Moreover, any direct discharges from CDCR to the City are not permitted by the Central Valley Regional Water Quality Control Board ("Regional Board"), as required by California Water Code Section 13264. As such, any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement.

We believe the above course of action is imperative for public health and safety. We look forward to working with the City to protect regional water quality.

Sincerely,



Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

82456.00000\34582945.2

EXHIBIT H

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

February 3, 2022

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

Dear Mr. Rock:

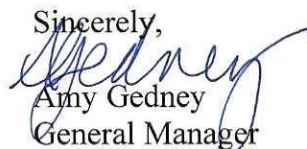
This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement and its Waste Discharge Requirements ("WDRs"), Order No. 93-240, until at least 2037.

ARSA requires that the City will prioritize ARSA's wastewater effluent over any effluent from the California Department of Corrections and Rehabilitation ("CDCR"). As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Direct discharges from CDCR to the City are not permitted by the WDRs. The only legally permissible way for the City to receive wastewater from CDCR is through ARSA, in full compliance with the WDRs and the 2007 Agreement. Any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement and a violation of the WDRs.

With respect to the City's January 19, 2022 letter, ARSA disagrees with the City's claims that it has successfully provided adequate reclaimed water to Castle Oaks Golf Course and that it did not receive adequate flows from ARSA. The City has not identified any valid factual or legal grounds for terminating the 2007 Agreement and the City would be in breach of the Agreement if it refuses to accept ARSA's deliveries as authorized under the Agreement. However, ARSA appreciates the City's offer to meet and discuss these issues. The parties should make a good faith attempt to resolve these issues through discussion and avoid unnecessary litigation.

ARSA's continued delivery of wastewater to the City is imperative for public health and safety. We look forward to working with the City to protect regional water quality.

Sincerely,



Amy Gedney
General Manager

Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT I

RECEIVED

JUL 25 2022

City of Sutter Creek



CITY OF IONE

1 E. MAIN STREET
P.O. BOX 398
IONE, CA 95640
(209) 274-2412

July 20, 2022

Amy Gedney, General Manager
Amador Regional Sanitation Authority
18 Main Street
Sutter Creek, CA 95685

Dear Amy:

Per your request on July 11, 2022, and our ongoing discussions about a long-term agreement between the City of Ione and ARSA I submit this letter with key points that are a basis for beginning formal negotiations on a long-term agreement with ARSA to accept wastewater effluent from Preston Reservoir to the City of Ione Tertiary Plant.

1. The new term will be 5 years with an option for both parties to extend for two additional 5-year terms for a total of 15 years
2. ARSA must have retention ponds to deal with years where water must be stored. Heavy rainfall years should not result in releasing too much water but rather controlling the balance through storage ponds.
3. Strongly recommend ARSA divert water from the creek. This will give ARSA more options and flexibility in balancing the water throughout the year for all parties.
4. Strongly recommended ARSA dredge the bottom of Preston Reservoir as soon as practically possible and no longer than two years from the approval date of this new agreement
5. The City of Ione will take the following range of acre feet per year from ARSA: 100-400
6. If the City rejects water from ARSA because of discharge violations that liability and cost is on ARSA to cure the problem
7. If ARSA cannot send the minimum 100 ac/ft per/year the financial penalty will be _____ for every acre foot not delivered

8. If the City of Lone does not take the minimum 100-acre ft/year the City is fined ____ foot every acre foot not taken if and only if the City can release the water to COGC without causing a violation of the City's WDR permit.
9. A flow meter must be installed at Preston Reservoir so that ARSA knows how much water it is discharging. This is required in ARSAs current WDR Permit
10. City strongly recommends ARSA cure the CDO currently on their WDR Permit

If the City and ARSA immediately embark on negotiating a new agreement then the five-year notice to eliminate all flows to the lower Henderson/Preston system as per Section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal will be suspended until such time the new agreement is approved by the City and ARSA. If no agreement is achieved within eighteen months of August 1, 2022, then the five-year notice to eliminate flows will take full force and effect on February 1, 2024.

This letter is meant to be a strong starting point to negotiate a very detailed and long-term agreement that is intended to be beneficial to all parties affected by the outcome of this hopefully very successful partnership with ARSA. All the items listed above are negotiable and nothing is set in concrete.

I look forward to beginning the process of negotiating a new agreement that will benefit the City of Lone, City of Sutter Creek, ARSA, COGC, CDCR and other affected parties.

Sincerely,



Michael Rock
Interim City Manager
City of Lone, CA

EXHIBIT J

Amador Regional Sanitation Authority



"Servicing Amador City, Martell, & Sutter Creek"

July 29, 2022

Mr. Michael Rock
1 East Main Street
P.O. Box
Ione, CA 95640

SENT VIA EMAIL and CERTIFIED MAIL

Dear Michael:

Amador Regional Sanitation Authority ("ARSA") is in receipt of your July 20, 2022 letter.

As you know, ARSA has repeatedly objected to the City of Ione's ("City") attempted 5-year notice ("2017 Notice") under section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement"). As recently as December 3, 2021, ARSA reiterated its position that, in no uncertain terms, City's supposed termination notice was void and invalid because it did not satisfy the conditions precedent for such a notice. The notice can only be given *after* the City and CDCR have resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course. For reasons further explained in that letter, no such resolution was made prior to the Notice.

Let me be clear, ARSA has always been, and continues to remain, even now, willing to embark on negotiating the terms of a potential new agreement consistent with the parties' existing rights under sections 18 and 20 of the 2007 Agreement. ARSA's position continues to be that the 2017 Notice is null, void, invalid, and of no legal force and effect and therefore, any purported "suspension" or extension of that illegal notice until Feb. 1, 2024 is also void. ARSA's desire and willingness to cooperate and explore a new long-term agreement with the City does not, in any way, mean or imply that ARSA accepts and agrees to unilaterally-invoked termination date of February 1, 2024. ARSA continues to reserve all rights with respect to its objections to City's 2017 Notice and lack of compliance with Section 8a; and furthermore, pursuant to section 21 of the 2007 Agreement, ARSA has made no express, explicit, or waiver of its rights under the existing 2007 Agreement and maintains that any termination notice to date has not complied with Section 8a and that any future notice must comply with Section 8a.

With those points being made, ARSA is, willing to, "immediately embark on negotiating a new agreement" consistent with section 18 and 20 of the existing 2007 Agreement and consistent with our recent discussions over the last four months.

Please be advised that should the City refuse wastewater from ARSA via Preston Reservoir, or otherwise prevents ARSA from conveying flow through the lower system, ARSA is prepared to seek all remedies available to it under law, as provided in Section 14 and 16 of the 2007 Agreement.

Amador Regional Sanitation Authority



"Servicing Amador City, Martell, & Sutter Creek"

We trust that we have made our position very clear. ARSA will continue to meet and confer and explore improvements, but maintains its position that 2017 Notice is invalid and void and does not agree to any "suspended" notice until February 1, 2024.

Sincerely,

Amy Gedney
General Manager

Cc: ARSA Board
George Lee

EXHIBIT K



CITY OF IONE

1 E. MAIN STREET
P.O. BOX 398
IONE, CA 95640
(209) 274-2412

August 16, 2022

Amy Gedney, General Manager
Amador Regional Sanitation Authority
18 Main Street
Sutter Creek, CA 95685

SUBJ: Response to ARSA Letter dated July 29, 2022

Dear Amy:

The City of Ione is in receipt of your letter dated July 29, 2022.

Your letter purportedly responds to the letter from the City of Ione dated July 20, 2022.

However, your letter did not respond to any of the ten talking points the City of Ione offered as a starting point to negotiating a long-term Agreement with ARSA. Instead, your letter focused on ARSA's objection to the 5-Year Notice the City of Ione sent to ARSA in 2017.

It is ARSA's assertion that the 5-Year Notice is "void and invalid because it did not satisfy the conditions precedent for such a notice". However, if ARSA's assertion is correct (which the City of Ione does not believe) then ARSA could have enacted Section 14 of the September 18, 2007, Agreement which allows for one party to give written notice to the other party that a breach of the Agreement has occurred. However, this did not occur, and ARSA did not send a written notice to the City asserting a breach within ten days of the five-year notice which states that ARSA will eliminate flows to the lower Henderson/Preston System.

Thus, it is the City of Ione's position that the five-year notice is legal and valid and as of July 31, 2022, the City of Ione is not obligated to receive any wastewater from ARSA's system. However, the City wishes to cooperate with ARSA and CDCR in balancing the regional wastewater and will participate in crafting a long-term agreement that can satisfy all parties.

ARSA's desire to have a meeting to discuss water balances (emails from August 9-15, 2022) is puzzling. The City and ARSA have worked together for decades and suddenly there is an urgency to discuss water balances? The City sent its five-year notice five years ago last month and ARSA only started meeting with the City of Lone and COGC a few months ago. Negotiating in good faith also includes negotiating in a timely and professional manner. This simply has not occurred with ARSA. ARSA continues to threaten litigation against the City of Lone but now demands an urgent meeting to discuss the water balances.

The City of Lone's position has been consistent. The City is willing to cooperate with ARSA in order to assist ARSA with its need to balance wastewater throughout the region. However, ARSA is not in a position to demand anything. The City of Lone is not obligated (as of August 1, 2022) to accept any wastewater from ARSA. Thus, the City's cooperation is voluntary, and ARSA should act accordingly.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MR', with a long horizontal flourish extending to the right.

Michael Rock
Interim City Manager
City of Lone, CA

EXHIBIT L

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

September 8, 2022

Michael Rock
Interim City Manager
City of Ione
1 E. Main Street
P.O. Box 398
Ione, CA 95640

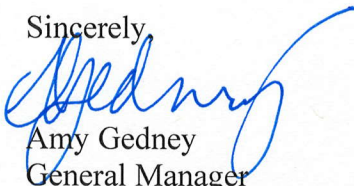
RE: Notice of Breach of Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System

Dear Michael:

Pursuant to the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September 18, 2007 ("Agreement"), the City of Ione ("City") is obligated annually to accept a specified amount of wastewater from the Amador Regional Sanitation Authority ("ARSA") to the lower Henderson/Preston System until 2037. Although the City may terminate this obligation upon five years' notice, such right is expressly conditioned on the City (and the California Department of Corrections and Rehabilitation) having resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course, which includes, but is not limited to, obtaining any necessary water quality permits or permit modifications required by state law. As detailed in my December 3, 2021, correspondence, a copy of which is enclosed for your reference, due to the City's ongoing failure to provide adequate reclaimed water for the golf course, any notice issued to date purporting to terminate the City's obligation to accept wastewater from ARSA is void and of no force and effect.

Over the past several months, the City has on more than one occasion refused to accept wastewater from ARSA, but later accepted those discharges. Since August 31, 2022, however, the City has refused to accept any wastewater from ARSA. Pursuant to paragraph 14 of the Agreement, ARSA provides this written notice that the City's refusal to accept wastewater from ARSA constitutes a breach of the Agreement, and ARSA is hereby meeting and conferring with the City in an attempt to bring the City into compliance with the Agreement. If the City continues to refuse to accept wastewater from ARSA in accordance with the Agreement, ARSA will have no choice but to pursue any and all available remedies under the law against the City in order to enforce ARSA's rights under the Agreement.

Sincerely,



Amy Gedney
General Manager
Amador Regional Sanitation Authority

ATTACHMENT 2

SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
MATTHEW L. GREEN, Bar No. 227904
matthew.green@bbklaw.com
BEST BEST & KRIEGER LLP
655 West Broadway, 15th Floor
San Diego, California 92101
Telephone: (619) 525-1300
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frank.splendorio@bbklaw.com
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Sacramento, California 95814
Telephone: (916) 325-4000
Facsimile: (916) 325-4010

FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By [Signature]

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

EX PARTE APPLICATION FOR ORDER
TO SHOW CAUSE AND TEMPORARY
RESTRAINING ORDER

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 Plaintiff Amador Regional Sanitation Authority ("ARSA") applies for a temporary
2 restraining order and for an order requiring Defendant City of Lone ("Lone") to show cause why a
3 preliminary injunction should not issue pending trial in this action, immediately compelling Lone
4 and its employees, agents, and persons acting with it or on its behalf, to accept from ARSA 500,000
5 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days, for a total of
6 15 million gallons of secondarily treated wastewater over the 30-day period.

7 This application is made pursuant to the provisions of Code of Civil Procedure section 527
8 on the grounds that there is a strong likelihood ARSA will prevail on the merits of its case at trial,
9 and that the interim harm that ARSA is likely to sustain if an injunction is denied outweighs the
10 harm Lone is likely to suffer if the court grants a preliminary injunction. Specifically, this
11 application is made on the grounds that ARSA operates a wastewater delivery and disposal system
12 that transports secondarily treated wastewater from the City of Sutter Creek's treatment plant to
13 Preston Reservoir for discharge to Lone for tertiary treatment at its Castle Oaks Water Reclamation
14 Plant; that ARSA's Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System
15 with Lone obligates Lone to accept 650 acre feet of secondarily treated wastewater from Preston
16 Reservoir annually, namely up to 95 acre feet of wastewater per month from April through
17 September and up to 10 acre feet of wastewater per month from October through March; that Lone
18 is refusing to accept any discharges from Preston Reservoir; and that Lone's immediate acceptance
19 of at least 500,000 gallons per day for the next 30 days is imperative in order to prevent Preston
20 Reservoir from spilling over during the upcoming rainy season in the event of a 100-year storm,
21 and avoid the public health and water quality contamination crises that would ensue from the
22 surrounding areas (including residential properties) being flooded with wastewater containing
23 harmful pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites.

24 This application is based upon the Memorandum in Support of Ex Parte Application for
25 Order to Show Cause and Temporary Restraining Order, and the Declarations of Amy Gedney,
26 Gary Ghio, Steven Corey Stone, Donald Brown, and Matthew Green.

27 Pursuant to the California Rules of Court, rule 3.1202, subdivision (a), the California
28 Secretary of State's most recent edition of the California Roster identifies David Prentice of

1 Prentice|Long, PC as the City Attorney for Ione. According to the State Bar of California's website,
2 his contact information is 114 W. Shaw Avenue, Suite 102, Fresno, California 93704,
3 david@prenticelongpc.com, (559) 500-1600. In the event of the California Roster is no longer
4 accurate, Michael Rock is the Interim City Manager of Ione, and his contact information is P.O.
5 Box 398, 1 East Main Street, Ione, California 95640, mrock@ione-ca.com, (209) 274-2412, ext.
6 116. Pursuant to the California Rules of Court, rule 3.1202, subdivision (b), there have been no
7 previous applications for similar relief.

8 Dated: September 28, 2022

BEST BEST & KRIEGER LLP

9
10 By: 

11 SHAWN D. HAGERTY
12 MATTHEW L. GREEN
13 FRANK A. SPLENDORIO
14 Attorneys for Plaintiff
15 AMADOR REGIONAL SANITATION
16 AUTHORITY
17
18
19
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27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Matthew L Green, SBN 227904; Frank A. Splendorio, SBN 272601 Best Best & Krieger LLP 655 W. Broadway, 15 th Floor, San Diego, CA 92101 TELEPHONE (619) 525-1370 FAX NO. (Optional): ATTORNEY FOR (Name): Plaintiff Amador Regional Sanitation Authority	FOR COURT USE ONLY <div style="text-align: center;"> FILED AMADOR SUPERIOR COURT SEP 29 2022 CLERK OF THE SUPERIOR COURT BY <u>M Sherman</u> </div>
AMADOR SUPERIOR COURT 500 ARGONAUT LANE JACKSON, CA 95642	
PETITIONER/PLAINTIFF: AMADOR REGIONAL SANITATION AUTHORITY RESPONDENT/DEFENDANT: CITY OF IONE, et al. OTHER:	
<input checked="" type="checkbox"/> DECLARATION RE: NOTICE OF EX PARTE APPLICATION FOR ORDERS <input type="checkbox"/> ORDER SHORTENING TIME	CASE NUMBER: 22-CV-12824

I, Matthew L. Green, do declare:

1. That I am ☒ Counsel for ☒ Plaintiff/Petitioner ☐ Defendant/Respondent in the within action.

2. I have given notice of the present application for an ex parte order and/or order shortening time

to: ☒ Counsel for ☐ Plaintiff/Petitioner ☒ Defendant/Respondent in the following manner:

a. ☒ By telephone call: at 3:18 p. m., on September 28, 2022.

The person to whom I spoke was Margaret E. Long, City Attorney for Defendant City of Ione.

The message left was:

Ms. Long called me after receiving notice of the ex parte application via electronic mail to discuss the application and the relief sought by Plaintiff Amador Regional Sanitation Authority.

b. ☐ By letter: ☐ mailed ☐ personally delivered at _____ m., on _____, 20__

3. I received the following response to said notice:

Ms. Long indicated the City of Ione would appear at the ex parte hearing to oppose the application.

4. I did not give notice of the present application for the following reason(s) indicated:

a. ☐ Notice of this ex parte application would frustrate the purpose of the orders sought herein.

b. ☐ The applicant would suffer immediate and irreparable harm before the adverse party could be heard in opposition.

By Fax

c. ☐ No significant direct burden or inconvenience to the adverse party will be likely to result from the order sought herein.

d. ☐ Prior attempts to give notice have failed and would probably be futile or unduly burdensome.

NOTE: CALIFORNIA RULE OF COURT 3.1200-3.1207 GOVERNS NOTICE REQUIREMENT

I Declare under Penalty of Perjury under the Laws of the State of California That the Foregoing Is True and Correct.

Place: San Diego, CA

Date: September 29, 2022

Matthew L. Green
(Type or Print Name)


(Signature of Party or Party's Attorney)

ORDER SHORTENING TIME

Time for: ☐ service is shortened. Service shall be on / or before _____, 20____
(Date)

☐ hearing is shortened. Hearing is set _____, 20____
(Date)

Date: _____, 20____

(Judge/Commissioner of the Superior Court)

SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
MATTHEW L. GREEN, Bar No. 227904
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Sacramento, California 95814
Telephone: (916) 325-4000
Facsimile: (916) 325-4010

FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By [Signature]

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

MEMORANDUM IN SUPPORT OF EX
PARTE APPLICATION FOR ORDER TO
SHOW CAUSE AND TEMPORARY
RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

1 Plaintiff Amador Regional Sanitation Authority ("ARSA") respectfully submits the
2 following memorandum in support of its ex parte application for an order to show cause and
3 temporary restraining order ("TRO") against Defendant City of Ione ("Ione").

4 I.

5 INTRODUCTION

6 ARSA comes before the Court ex parte in order to prevent the public health and water
7 quality contamination crises that will ensue in the event Preston Reservoir spills over and exposes
8 the surrounding areas, including residential properties, to wastewater containing harmful pathogens
9 (protozoa, bacteria, and viruses), inorganic compounds, and parasites. Ione is contractually required
10 to accept 650 acre feet of wastewater from Preston Reservoir annually at its Castle Oaks Water
11 Reclamation Plant ("Castle Oaks WRP") for tertiary treatment for irrigation use at the Castle Oaks
12 Golf Course ("Golf Course").¹ Under its contract with ARSA, Ione is specifically required to accept
13 505 acre feet of wastewater by the end of September in each calendar year. In 2022, however, Ione
14 has accepted a mere 28.7 acre feet of wastewater from Preston Reservoir to date.

15 As the irrigation season is nearing its end, and the rainy season is quickly approaching (a
16 La Niña season no less), it is imperative that wastewater be discharged from Preston Reservoir
17 immediately. Given the water treated at the Castle Oaks WRP is only provided to the Golf Course
18 for irrigation, Ione's ability to discharge the water from the Preston Reservoir will become very
19 limited once the rainy season commences. It is therefore crucial that ARSA be permitted to resume
20 discharging wastewater from Preston Reservoir before the rainy season begins and Ione has
21 nowhere to send the water. Otherwise, in the event of a 100-year storm during the upcoming rainy
22 season, which ARSA is required to account for, Preston Reservoir is projected to reach its permitted
23 level by early March 2023, and spill over by April 2023. In order to avoid this untenable situation,
24 and the public health and water quality contamination crises that will follow, it is urgent that Ione
25 immediately begin accepting at least 500,000 gallons of wastewater from Preston Reservoir per day
26 for at least the next 30 days.

27 _____
28 ¹ "Acre feet" is a term commonly used in water supply planning to describe water volume. An acre foot is approximately 325,851 gallons, which is enough water to cover an acre of land roughly 1-foot deep.

II.

BACKGROUND FACTS

A. THE HENDERSON/PRESTON SYSTEM

ARSA is a joint powers agency formed by the Cities of Amador City and Sutter Creek and the County of Amador to provide wastewater conveyance and disposal services in those areas. (Ghio Decl., ¶ 2; Gedney Decl., ¶ 2; Stone Decl., ¶ 2.) Wastewater from those areas is treated at the Sutter Creek Wastewater Treatment Plant ("Sutter Creek WTP") and then conveyed through a series of pipelines and reservoirs, and ultimately to Preston Reservoir, through what is known as the "Henderson/Preston System." (Ghio Decl., ¶ 3; Gedney Decl., ¶ 3; Stone Decl., ¶ 3.) ARSA discharges the wastewater from Preston Reservoir to Ione for tertiary treatment at its Castle Oaks WRP, which is then used for irrigation at the Golf Course. (Ghio Decl., ¶ 3; Gedney Decl., ¶ 3; Stone Decl., ¶ 3.)

B. IONE'S CONTRACTUAL OBLIGATION TO ACCEPT WASTEWATER FROM THE HENDERSON/PRESTON SYSTEM

The rights and obligations regarding wastewater discharges from Preston Reservoir are set forth in a 2007 contract between ARSA and Ione, as well as the California Department of Corrections and Rehabilitation ("CDCR"), identified as the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("Wastewater Agreement"). (Ghio Decl., ¶ 6, Ex. B to Ex. A [Wastewater Agreement]; Gedney Decl., ¶ 4.) Under the Wastewater Agreement, Ione is obligated to accept 650 acre feet (or 211,803,427 gallons) of wastewater from Preston Reservoir annually. (Wastewater Agreement, ¶¶ 1, 2.) The Wastewater Agreement specifically requires Ione to accept up to 95 acre feet (or 30,955,886 gallons) of wastewater per month from April through September and up to 10 acre feet (or 3,258,514 gallons) of wastewater per month from October through March. (Wastewater Agreement, ¶¶ 5.a.) By the end of September in each calendar year, Ione is therefore obligated to accept 505 acre feet (or 164,554,755 gallons) of wastewater from Preston Reservoir.

///

///

**C. THE REGIONAL BOARD'S REGULATION OF THE
HENDERSON/PRESTON SYSTEM**

The parties' wastewater discharges are regulated by the Central Valley Regional Water Quality Control Board ("Regional Board"). The Regional Board's Water Reclamation Requirements ("WRRs") Order No. 93-240 regulates the Castle Oaks WRP and flows thereto from the Henderson/Preston System. (Ghio Decl., ¶ 8, Ex. B.) WRRs Order No. 93-240 only permits wastewater treatment and reuse based on the flows to Preston Reservoir through the Henderson/Preston System. (Ghio Decl., ¶ 8, Ex. B.) WRRs Order No. 93-240 also names only ARSA, Ione, and Portlock International, Ltd. (the Golf Course) as the dischargers. (Ghio Decl., ¶ 8, Ex. B.) Ione has received no other water quality permits or permit modifications from the Regional Board that allow Ione to provide reclaimed water to the Golf Course in any manner other than through the Henderson/Preston System from Preston Reservoir. (Ghio Decl., ¶ 8, Ex. B.)

**D. IONE'S CONTINUING REFUSAL TO ACCEPT WASTEWATER FROM
THE HENDERSON/PRESTON SYSTEM**

Since March 2022, Ione has only intermittently accepted wastewater from ARSA from Preston Reservoir and has refused to accept the contractual amounts it is required to accept under the Wastewater Agreement. (Gedney Decl., ¶¶ 6-13.) On August 31, 2022, Ione entirely ceased accepting any wastewater from Preston Reservoir. (Gedney Decl., ¶ 11.) ARSA accordingly provided Ione written notice on September 8, 2022, that its refusal to accept wastewater from ARSA constitutes a breach of the Wastewater Agreement. (Gedney Decl., ¶ 11, Ex. A.) Although Ione ignored ARSA's default notice, Ione began accepting limited amounts of wastewater from Preston Reservoir on September 19, 2022. (Gedney Decl., ¶ 12.) Ione, however, again ceased accepting wastewater from ARSA from Preston Reservoir on September 21, 2022.² (Gedney Decl., ¶ 12.)

On September 23, 2022, ARSA sent another letter imploring Ione to accept wastewater from Preston Reservoir before the irrigation season ends in order to reduce the risk of Preston

² Given Ione was served with the summons and complaint in this matter on September 21, 2022, its latest failure to accept wastewater from Preston Reservoir was an apparent act of spite. (See Gedney Decl., ¶ 12.)

1 Reservoir spilling over during the upcoming rainy season. (Gedney Decl., ¶ 13, Ex. B.) Given the
2 grave consequences that would ensue in the event Preston Reservoir spills over, ARSA warned
3 Ione that the failure to accept wastewater would leave ARSA no choice but to seek relief from this
4 Court. (Gedney Decl., Ex. B.) Unfortunately, Ione ignored ARSA's plea, forcing ARSA to appear
5 ex parte to request a TRO. (Gedney Decl., ¶ 13.)

6 **III.**

7 **LEGAL STANDARD**

8 In determining whether to issue a temporary restraining order, courts consider two factors:
9 "(1) the likelihood that the plaintiff will prevail on the merits at trial[,] and (2) the interim harm that
10 the plaintiff would be likely to sustain if the injunction were denied as compared to the harm the
11 defendant would be likely to suffer if the preliminary injunction were issued." (*Smith v. Adventist*
12 *Health System/West* (2010) 182 Cal.App4th 729, 749.) While weighing these factors lies within the
13 broad discretion of the court, it is an abuse of discretion to deny a preliminary injunction where the
14 denial would result in great harm to the plaintiff, and the defendant would suffer little harm if it
15 were granted. (*Robbins v. Superior Court* (1985) 38 Cal.3d 199, 205.) Additionally, where a
16 plaintiff makes a strong showing on one of the factors, less of a showing is necessary on the other
17 factor. (*Butt v. State of Cal.* (1992) 4 Cal.4th 668, 678; *King v. Meese* (1987) 43 Cal.3d 1217, 1227-
18 1228.) Regarding the likelihood of success on the merits prong, the plaintiff need only demonstrate
19 "some possibility" that it will ultimately prevail on the merits of the claim. (*Jamison v. Dept. of*
20 *Transp.* (2016) 4 Cal.App.5th 356, 362.)

21 **IV.**

22 **ARGUMENT**

23 **A. ARSA IS LIKELY TO PREVAIL ON THE MERITS OF THE CASE AT**
24 **TRIAL**

25 ARSA's complaint seeks injunctive relief arising from Ione's breach of the Wastewater
26 Agreement, as well as declaratory relief regarding ARSA's and Ione's respective rights and
27
28

obligations thereunder.³ (Gedney Decl., Ex. D [Compl.], ¶¶ 39-41, 47-50.) “[T]he elements of a cause of action for breach of contract are (1) the existence of the contract, (2) plaintiff’s performance or excuse for nonperformance, (3) defendant’s breach, and (4) the resulting damages to the plaintiff.” (*Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811, 821.) Regarding a cause of action for declaratory relief on a contract, the two essential elements are (1) a legally binding contract that is a proper subject for declaratory relief; and (2) an actual controversy involving justiciable questions relating to the contacting parties’ rights and obligations. (*Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1582.) ARSA is likely to prevail on both causes of action against Ione.

ARSA’s first cause of action alleges “[Ione] breached the [Wastewater Agreement] by failing to perform its obligation to annually accept from ARSA secondarily treated wastewater from Preston Reservoir[.]” (Compl., ¶ 39.) As noted above, the Wastewater Agreement requires Ione to accept 650 acre feet of wastewater from Preston Reservoir, and specifically a total of 505 acre feet through September of each calendar year. (Wastewater Agreement, ¶¶ 1, 2, 5.a.) In 2022, however, Ione has accepted only 28.7 acre feet of wastewater from Preston Reservoir, a shortfall of more than 476 acre feet to date. (Stone Decl., ¶ 5.)

In addition to the existence of a contract, i.e., the Wastewater Agreement, ARSA’s second cause of action avers there is an actual controversy as to whether “[Ione] is obligated to accept from ARSA secondarily treated wastewater from Preston Reservoir pursuant to the [Wastewater Agreement][.]” (Compl., ¶ 48.) The evidence presented to the Court clearly establishes an actual controversy regarding ARSA’s right to discharge, and Ione’s obligation to accept, wastewater from Preston Reservoir. ARSA has accordingly demonstrated more than “some possibility” that it will ultimately prevail on the merits of its claims against Ione. (*Jamison, supra*, 4 Cal.App.5th at p. 362.)

///

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³ ARSA’s complaint also seeks injunctive and declaratory relief against CDCR, but those claims are not at issue in this ex parte application.

1 **B. THE BALANCING OF HARDSHIPS TIPS SHARPLY IN ARSA'S FAVOR**

2 The interim harm that ARSA would be likely to sustain if an injunction is denied far
3 outweighs any alleged harm that Ione would be likely to suffer if an injunction is issued. Regarding
4 the former, in the event of a 100-year storm during the upcoming rainy season, which ARSA is
5 required to account for to ensure sufficient capacity in the Henderson/Preston System, Preston
6 Reservoir will reach its permitted capacity in early March 2023, and will spill over in April 2023.
7 (Ghio Decl., ¶ 11.) If Preston Reservoir spills over, the wastewater will flood a nearby Cal Fire
8 Academy property and then run through a nearby creek, Mule Creek, and into the residential
9 subdivision surrounding the Golf Course. (Ghio Decl., ¶ 10, Ex. C.) The flooding and discharge of
10 disinfected secondary effluent into Mule Creek and onto residential property poses significant
11 public health and water quality contamination issues, as disinfected secondary effluent contains
12 harmful pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites. (Ghio
13 Decl., ¶ 10.)

14 The only purported harm to Ione resulting from the discharge of wastewater from Preston
15 Reservoir is that the water is allegedly high in hydrogen sulfide, which could cause odor issues at
16 the Castle Oaks WRP and the Golf Course, and that the water purportedly has high turbidity (i.e.,
17 cloudiness), which may cause treatment difficulties. On September 9, 2022, however, the Regional
18 Board issued correspondence to ARSA, Ione, and the Golf Course addressing the balancing of
19 harms. (Ghio Decl., ¶ 14, Ex. D.) The Regional Board's September 9, 2022, letter confirmed that
20 "the capacity issues at Preston [Reservoir] are presenting an even greater risk to water quality and
21 public health than potential nuisance concerns related to the treatment of wastewater from Preston
22 [Reservoir] at Ione's [Castle Oaks WRP]." (Ghio Decl., ¶ 14, Ex. D.)

23 ARSA's engineer has opined that Ione's acceptance of at least 500,000 gallons (or 0.15 acre
24 feet) of wastewater from ARSA from Preston Reservoir for at least the next 30 days should be
25 sufficient to avoid Preston Reservoir spilling over before the end of the upcoming rainy season.
26 (Ghio Decl., ¶ 12.) It is therefore imperative that Ione be ordered to immediately begin accepting
27 at least 500,000 gallons of wastewater from ARSA from Preston Reservoir for a period of at least
28 30 days. (Ghio Decl., ¶ 12.)

1 **C. ARSA IS NOT REQUIRED TO POST SECURITY FOR A TRO TO ISSUE**

2 Code of Civil Procedure section 995.220 provides in relevant part:

3 ... [I]f a statute provides for a bond in an action or proceeding,
4 including but not limited to a bond for issuance of a restraining order
5 or injunction, ... the following public entities ... are not required to
6 give the bond and shall have the same rights, remedies, and benefits
7 as if the bond were given: ... (b) A county, city, or district, or public
8 authority, public agency, or other political subdivision in the state

9 Code of Civil Procedure section 995.220 therefore exempts ARSA from posting security in order
10 for a restraining order to issue.

11 **V.**

12 **CONCLUSION**

13 For the reasons set forth above, the Court should issue a TRO and an order requiring lone
14 to show cause why a preliminary injunction should not issue pending trial in this action,
15 immediately compelling lone to accept from ARSA 500,000 gallons of secondarily treated
16 wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons of
17 secondarily treated wastewater over the 30-day period.

18 Dated: September 28, 2022

19 BEST BEST & KRIEGER LLP

20 By: 

21 SHAWN D. HAGERTY
22 MATTHEW L. GREEN
23 FRANK A. SPLENDORIO
24 Attorneys for Plaintiff
25 AMADOR REGIONAL SANITATION
26 AUTHORITY

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AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive;

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson


DECLARATION OF AMY GEDNEY IN
SUPPORT OF EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By 



1 I, Amy Gedney, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. Since June 2017, I have been the General Manager of the Amador Regional
5 Sanitation Authority ("ARSA"), a joint powers agency responsible for providing wastewater
6 conveyance and disposal services to the Cities of Amador City and Sutter Creek and the County of
7 Amador.

8 3. Wastewater from the City of Sutter Creek, Amador City, and the Martell community
9 is treated by the Sutter Creek Wastewater Treatment Plant ("Sutter Creek WTP"), which is owned
10 and operated by the City of Sutter Creek. Disinfected secondary effluent from the Sutter Creek
11 WTP is conveyed through a series of pipelines and reservoirs, known as the "Henderson/Preston
12 System," and ultimately to Preston Reservoir for discharge to the City of Ione ("Ione") for tertiary
13 treatment at its Castle Oaks Water Reclamation Plant ("Castle Oaks WRP") for irrigation use at the
14 Castle Oaks Golf Course ("Gold Course").

15 4. ARSA operates the Henderson/Preston System pursuant to a ground lease with the
16 California Department of Corrections and Rehabilitation, the owner of the System, and the
17 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September
18 18, 2007 ("Wastewater Agreement"). The Wastewater Agreement obligates Ione to accept 650 acre
19 feet (or 211,803,427 gallons) of secondarily treated wastewater from Preston Reservoir annually,
20 specifically up to 95 acre feet (or 30,955,886 gallons) of wastewater per month from April through
21 September and up to 10 acre feet (or 3,258,514 gallons) of wastewater per month from October
22 through March.

23 5. In March 2022, I began discussions with Ione's Interim City Manager, Michael
24 Rock, and the Golf Course Manager, George Lee, regarding how water discharges from Preston
25 Reservoir would proceed for the year and the need to negotiate a new agreement. During those
26 discussions, I assured Ione and the Golf Course that ARSA would have water available for use at
27 the golf course.

28 ///

1 6. Beginning in March 2022, Ione also refused to accept wastewater from ARSA from
2 Preston Reservoir on multiple occasions. While Ione later accepted wastewater from ARSA from
3 Preston Reservoir, Ione refused to accept the full amount of wastewater that ARSA sought to
4 discharge to the Caste Oaks WRP for tertiary treatment.

5 7. Ione claimed that the water from Preston Reservoir smelled. ARSA accordingly
6 worked with its engineer to add a solvent that would eliminate the odor. The pipe that takes water
7 out of Preston Reservoir is located at the bottom of the Reservoir, where sediment that causes the
8 odor is located. Once enough water is pulled from Preston Reservoir, however, the odor disappears.

9 8. In May 2022, ARSA requested that Ione receive discharges from Preston Reservoir
10 again. Ione, however, claimed that that the water smelled and refused to take the full amount. While
11 ARSA devised a new setup to treat the water in Preston Reservoir, Ione refused to let the water run
12 long enough to allow the new setup to work properly. Ione gave no notice and stopped the discharge
13 again.

14 9. In June 2022, as the days became hotter, Ione asked for water from ARSA from
15 Preston Reservoir. ARSA accordingly expedited payment for a new chemical in order to eliminate
16 any odors from the water. After delivering five acre feet (or 1,629,255 gallons) of water, Ione again
17 shut off the water. In the previous year, ARSA discharged 20 acre feet (or 6,517,020 gallons) to
18 Ione in April, and Ione made no complaints about the smell after 10 acre feet (or 3,258,510 gallons)
19 was delivered.

20 10. On multiple occasions from March through August 2022, I requested that Ione
21 receive water from ARSA so that Preston Reservoir is emptied before the end of the irrigation
22 season, and the beginning the rainy season, in order to ensure that Preston Reservoir does not spill
23 over during the coming rainy season.

24 11. On August 31, 2022, Ione refused to accept any wastewater from ARSA. On
25 September 8, 2022, on behalf of ARSA, I accordingly provided written notice to Michael Rock,
26 Ione's Interim City Manager, that Ione's refusal to accept wastewater from ARSA constitutes a
27 breach of the Wastewater Agreement. A true and correct copy of my September 8, 2022, letter to
28 Mr. Rock is attached as Exhibit "A" hereto.

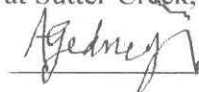
12. After ignoring my September 8, 2022, correspondence, Ione again began accepting wastewater from ARSA from Preston Reservoir on September 19, 2022, but only accepted 400,000 gallons (or 1.22 acre feet) on that day, which was reduced to only 200,000 gallons (or 0.61 acre feet) on September 20, 2022 due to purported water quality issues concerning the wastewater. Ione once again ceased accepting wastewater from ARSA from Preston Reservoir on September 21, 2022, the same day Ione was served with the summons and complaint in this lawsuit.

13. On September 23, 2022, I sent another letter to Mr. Rock imploring Ione to cease refusing to accept wastewater from ARSA from Preston Reservoir before the irrigation season ends in order to reduce the risk of Preston Reservoir spilling over during the upcoming rainy season. A true and correct copy of my September 23, 2022, correspondence is attached as Exhibit "B" hereto. Ione ignored my letter and continues to refuse to accept any wastewater from ARSA from Preston Reservoir.

14. A true and correct copy of ARSA's Complaint for Injunctive and Declaratory Relief is attached as Exhibit "C" hereto. True and correct copies of communications between ARSA and Ione are attached to the Complaint as Exhibits C, E, G through L.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of September 2022, at Sutter Creek, California.



AMY GEDNEY

EXHIBIT A

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

September 8, 2022

Michael Rock
Interim City Manager
City of Ione
1 E. Main Street
P.O. Box 398
Ione, CA 95640

RE: Notice of Breach of Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System

Dear Michael:

Pursuant to the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September 18, 2007 ("Agreement"), the City of Ione ("City") is obligated annually to accept a specified amount of wastewater from the Amador Regional Sanitation Authority ("ARSA") to the lower Henderson/Preston System until 2037. Although the City may terminate this obligation upon five years' notice, such right is expressly conditioned on the City (and the California Department of Corrections and Rehabilitation) having resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course, which includes, but is not limited to, obtaining any necessary water quality permits or permit modifications required by state law. As detailed in my December 3, 2021, correspondence, a copy of which is enclosed for your reference, due to the City's ongoing failure to provide adequate reclaimed water for the golf course, any notice issued to date purporting to terminate the City's obligation to accept wastewater from ARSA is void and of no force and effect.

Over the past several months, the City has on more than one occasion refused to accept wastewater from ARSA, but later accepted those discharges. Since August 31, 2022, however, the City has refused to accept any wastewater from ARSA. Pursuant to paragraph 14 of the Agreement, ARSA provides this written notice that the City's refusal to accept wastewater from ARSA constitutes a breach of the Agreement, and ARSA is hereby meeting and conferring with the City in an attempt to bring the City into compliance with the Agreement. If the City continues to refuse to accept wastewater from ARSA in accordance with the Agreement, ARSA will have no choice but to pursue any and all available remedies under the law against the City in order to enforce ARSA's rights under the Agreement.

Sincerely,

Amy Gedney
General Manager
Amador Regional Sanitation Authority

EXHIBIT B

Amador Regional Sanitation Authority



"Servicing Amador City, Martell, & Sutter Creek"

September 23, 2022

VIA EMAIL

Michael,

We have received your consultant's letter regarding the treatability of ARSA's secondary effluent. We are preparing a response that will show ARSA's effluent is treatable and within the limits of secondarily-treated effluent standards.

In the meantime, I am writing to you now to implore and appeal to you to request that you no longer refuse ARSA's water during this very critical time (before the irrigation period limits Ione's ability to do so.

Even if you take 500,000 gallons per day between October 3rd and October 31st, for example, if there is a 100-year storm event again like we had in 2016/2017, we can avoid overflowing Preston Reservoir with secondary effluent in April, and hopefully make it through the rainy season altogether well into late spring/early summer. If you continue to refuse to accept ARSA's effluent, I fear a grave and irreparable overflow will occur in the March/April timeframe.

For the betterment of the region, I ask you to take this water immediately or we will be forced to seek further emergency relief from the Court. Please let me know by close of business on Tuesday, 9/27/22 if you can agree to taking 500,000 gallons/day starting immediately, through October 31, 2022.

Thank you,


Amy Gedney
General Manager

EXHIBIT C

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AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

22-CV- 12824

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No.
Judge:

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF

CASE ASSIGNED FOR ALL PURPOSES TO
HON. J.S. HERMANSON
CCP 170.6

By Fax

FILED
AMADOR SUPERIOR COURT

SEP 20 2022

CLERK OF THE SUPERIOR COURT
By B. MORRIS

1 Plaintiff AMADOR REGIONAL SANITATION AUTHORITY ("ARSA") alleges as
2 follows:

3 **PARTIES**

4 1. ARSA is now, and at all times mentioned in this Complaint was, a California joint
5 powers agency established pursuant to the Joint Exercise of Powers Act, Government Code sections
6 6500, et seq., responsible for providing wastewater conveyance and disposal services to its member
7 agencies: the County of Amador and the Cities of Amador City and Sutter Creek, and located in
8 the County of Amador, California.

9 2. ARSA is informed and believes and thereon alleges that Defendant CITY OF IONE
10 ("IONE") is now, and at all times mentioned in this Complaint was, a municipal corporation
11 organized and existing under the laws of the State of California and located in the County of
12 Amador, California.

13 3. ARSA is informed and believes and thereon alleges that Defendant CALIFORNIA
14 DEPARTMENT OF CORRECTIONS AND REHABILITATION ("CDCR") is now, and at all
15 times mentioned in this Complaint was, a state agency organized and existing under the laws of the
16 State of California and the owner of a series pipelines and reservoirs located in the County of
17 Amador, California.

18 4. ARSA is unaware of the true names and capacities of those defendants sued herein
19 as Does 1 through 20. ARSA is informed and believes and on such basis alleges that these
20 fictitiously named defendants are in some way responsible for the harm sustained by ARSA as
21 alleged in the Complaint. ARSA will amend this Complaint to allege the true names and capacities
22 of the fictitiously named defendants when ascertained.

23 5. Defendants IONE, CDCR, and Does 1 through 20 (collectively, "DEFENDANTS"),
24 and each of them, are and were at all times mentioned herein agents, employees, or partners of each
25 other, and, in doing the acts alleged herein, each defendant was acting within the scope of his, her,
26 or its authority as such agent, employee, or partner, with the information and consent of each
27 defendant, and each ratified or approved the conduct of the defendants alleged herein.

28 ///

GENERAL ALLEGATIONS

6. Wastewater from the City of Sutter Creek, Amador City, and the Martell community is treated by the Sutter Creek Wastewater Treatment Plant ("SUTTER CREEK WWTP"), which is owned and operated by the City of Sutter Creek. Secondary effluent from the SUTTER CREEK WWTP is conveyed through a series of pipelines and reservoirs, which make up a wastewater delivery and disposal system known as the "HENDERSON/PRESTON SYSTEM."

7. The HENDERSON/PRESTON SYSTEM is comprised of an upper element and a lower element. The upper HENDERSON/PRESTON SYSTEM generally consists of the area from the outfall of the SUTTER CREEK WWTP to the Preston Youth Correctional Facility. The lower HENDERSON/PRESTON SYSTEM generally includes the components that lie below Preston Forebay to the outfall of the pipeline that conveys the secondarily treated wastewater from Preston Reservoir to IONE. IONE receives wastewater from the lower HENDERSON/PRESTON SYSTEM for tertiary treatment at its Castle Oaks Water Reclamation Plant ("COWRP") for irrigation use at the Castle Oaks Golf Course.

8. The HENDERSON/PRESTON SYSTEM is owned by CDCR. Since in or about 1977, CDCR has leased the pipelines and reservoirs that make up the HENDERSON/PRESTON SYSTEM to ARSA. A copy of the current lease between ARSA and CDCR, Ground lease No. L-2070 ("LEASE"), executed on February 23, 2009, is attached hereto as Exhibit "A" and incorporated herein by this reference.

9. Under the LEASE, which does not expire until September 18, 2037, ARSA uses the HENDERSON/PRESTON SYSTEM (referred to in the LEASE as the "Premises") to transport water and wastewater pursuant to a separate agreement between ARSA, CDCR, and IONE, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September 18, 2007 ("WASTEWATER AGREEMENT"), a copy of which is attached as Exhibit B to the LEASE.

10. The LEASE provides in relevant part the following regarding termination and injunctive relief: "The parties to this Lease hereto recognize that the Premises leased hereunder is part of a wastewater system, regulated under the California Water Code, and that termination of

1 this Lease is not practicable nor feasible as it would render an essential utility service inoperable,
2 with no alternate means readily available to [CDCR] and [ARSA] to dispose of their effluent that
3 is not in violation of their other permit obligations. Therefore, the parties to this Lease have deleted
4 any reference herein to termination of this Lease for breach, and instead expressly agree that
5 injunctive relief to cure any actual or threatened breach is appropriate, and agree that either party
6 shall be entitled to seek equitable injunctive relief from a court of competent jurisdiction to enforce
7 compliance with the obligations hereunder. Neither party shall be entitled to defend such action on
8 the basis that injunctive relief is improper, or that monetary damages are adequate.”

9 11. The LEASE further provides that time is of the essence for each and all of the
10 provisions, covenants, and conditions therein, and that the LEASE may not be modified except by
11 a written instrument duly executed by the parties thereto.

12 12. Under its express terms, the WASTEWATER AGREEMENT governs the
13 wastewater rights and obligations among ARSA, CDCR, and IONE, as well as the relationship and
14 respective rights between ARSA, CDCR, and IONE with regard to the HENDERSON/PRESTON
15 SYSTEM.

16 13. The WASTEWATER AGREEMENT allows ARSA to annually discharge 650 acre
17 feet of treated wastewater to Preston Reservoir for disposal. The WASTEWATER AGREEMENT,
18 however, provides that CDCR may annually discharge up to 350 acre feet of treated wastewater to
19 Preston Reservoir, which amount is counted against ARSA’s 650 acre-foot disposal right. CDCR
20 operates the Mule Creek State Prison (“MCSP”), wastewater from which is treated by CDCR at its
21 MCSP Wastewater Treatment Plant (“MCSP WWTP”).

22 14. Pursuant to the WASTEWATER AGREEMENT, IONE is obligated annually to
23 accept from ARSA/CDCR a combined total of 650 acre feet of secondarily treated wastewater from
24 Preston Reservoir. Specifically, IONE must accept up to 95 acre feet of wastewater per month from
25 April through September, and up to 10 acre feet of wastewater per month from October through
26 March, but such limits may be waived by agreement of the parties in the event of an emergency
27 and where necessary for the prevention of environmental damage or civil liabilities attendant to
28 wastewater violations. The WASTEWATER AGREEMENT further provides that ARSA and

1 CDCR will continue to provide effluent from Preston Reservoir to the COWRP for use on the
2 Castle Oaks Golf Course, if such effluent is available.

3 15. The term of the WASTEWATER AGREEMENT is 30 years and will not expire
4 until September 18, 2037, the same date that the LEASE ends. While the WASTEWATER
5 AGREEMENT allows IONE to terminate flows to the lower HENDERSON/PRESTON SYSTEM
6 upon five-years' written notice, such right cannot be exercised unless IONE and CDCR have
7 resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course, which includes,
8 but is not limited to, obtaining any necessary water quality permits or permit modifications required
9 by state law.

10 16. The WASTEWATER AGREEMENT also provides that it may be amended only by
11 written instrument signed by all the parties thereto.

12 17. The WASTEWATER AGREEMENT further requires CDCR, IONE, and ARSA to
13 work to obtain all necessary permits, approvals, and authorizations to carry out the WASTEWATER
14 AGREEMENT in compliance with all pertinent Federal, State, and local laws and regulations.

15 18. The parties' wastewater discharges are regulated by the Central Valley Regional
16 Water Quality Control Board ("REGIONAL BOARD"). The REGIONAL BOARD's Water
17 Reclamation Requirements ("WRRs") Order No. 93-240 ("WRRs ORDER NO. 93-240") regulates
18 the COWRP and flows thereto from the HENDERSON/PRESTON SYSTEM, while the
19 REGIONAL BOARD's Waste Discharge Requirements ("WDRs") Order No. R5-2015-0129
20 ("WDRs ORDER NO. R5-2015-0129") regulates the MCSP WWTP.

21 19. WRRs ORDER NO. 93-240 only permits wastewater treatment and reuse based on
22 the flows to Preston Reservoir through the HENDERSON/PRESTON SYSTEM; it does not permit
23 an alternative direct connection from CDCR to the COWRP. WRRs ORDER NO. 93-240 also does
24 not recognize CDCR as a named discharger to the COWRP; WRRs ORDER NO. 93-240 names
25 only ARSA, IONE, and Portlock International, Ltd. (Castle Oaks Golf Course) as the dischargers.

26 20. Aside from spray irrigation on land application areas, WDRs ORDER NO. R5-
27 2015-0129 only permits disposal of wastewater to Preston Reservoir up to the maximum 350 acre-
28 feet allowed under the WASTEWATER AGREEMENT. WDRs ORDER NO. R5-2015-0129

1 recognizes that "Preston Reservoir serves as a means of conveyance of effluent flows from the
2 [ARSA] system and the [MCSP] WWTP to the City of Ione wastewater disposal system or to the
3 [COWRP] for further treatment and reuse at the Castle Oaks Golf Course (under [WRRs ORDER
4 NO. 93-240])."

5 21. On or about July 19, 2017, IONE issued a letter purporting to provide five years'
6 notice to ARSA to eliminate all flows to the lower HENDERSON/PRESTON SYSTEM under the
7 WASTEWATER AGREEMENT. Said letter asserted growth in the community had made it
8 possible for IONE and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf
9 Course. The letter requested ARSA to eliminate all flows to the lower HENDERSON/PRESTON
10 SYSTEM by July 31, 2022. A copy of said letter is attached as Exhibit "B" hereto and incorporated
11 herein by this reference.

12 22. ARSA is informed and believes and thereon alleges that CDCR constructed, and has
13 been utilizing, a direct connection from the MCSP WWTP to the COWRP, bypassing Preston
14 Reservoir.

15 23. Since construction of a direct delivery system, the MCSP WWTP has been under
16 investigation by the REGIONAL BOARD for problematic waste discharges. The REGIONAL
17 BOARD has found that discharges from the MCSP WWTP are not authorized under WDRs ORDER
18 NO. R5-2015-0129. The REGIONAL BOARD also found volatile organic compounds ("VOCs")
19 and semi-VOCs present in the MCSP WWTP's effluent and ordered CDCR to submit a Report of
20 Waste Discharge in order for the REGIONAL BOARD to amend existing WDRs or issue new
21 WDRs.

22 24. Following CDCR's submission of a Report of Waste Discharge, the REGIONAL
23 BOARD issued a Revised Monitoring and Reporting Program to CDCR on October 21, 2021,
24 imposing additional monitoring and reporting requirements for VOCs. The additional requirements
25 are necessary to determine the effects of MCSP's discharges on water quality, verify the effectiveness
26 of existing WDRs to comply with applicable water quality objectives, evaluate MCSP's compliance
27 with the terms and conditions of its WDRs, and determine the need for revised requirements.

28 ///

1 25. On the same day, the REGIONAL BOARD also issued a Revised Monitoring and
2 Reporting Program under WRRs ORDER NO. 93-240, imposing requirements to monitor and report
3 the COWRP's influent and effluent for VOCs.

4 26. Due to IONE's ongoing failure to provide adequate reclaimed water for the Castle
5 Oaks Golf Course, namely its failure to obtain the water quality permits or permit modifications
6 required by state law necessary to allow for the provision of adequate reclaimed water to the Castle
7 Oaks Golf Course without use of the HENDERSON/PRESTON SYSTEM, any notice issued to
8 date by IONE purporting to terminate its obligation to accept wastewater from ARSA, including
9 its July 19, 2017, letter, is void and of no force and effect.

10 27. On or about December 3, 2021, ARSA sent separate correspondence to both IONE
11 and CDCR to confirm ARSA's right to dispose secondarily treated wastewater through the lower
12 HENDERSON/PRESTON SYSTEM pursuant to the WASTEWATER AGREEMENT, copies of
13 which are respectively attached as Exhibits "C" and "D" hereto and incorporated herein by this
14 reference.

15 28. On or about January 19, 2022, IONE provided a response to ARSA's December 3,
16 2021, correspondence, a copy of which is attached as Exhibit "E" hereto and incorporated herein
17 by this reference. IONE's January 19, 2022, correspondence reaffirmed its intention to cease
18 services with ARSA as of July 19, 2022, but indicated a willingness to extend the date upon entry
19 into a new agreement with a new fee structure.

20 29. On or about January 28, 2022, ARSA sent further, separate correspondence to both
21 IONE and CDCR setting forth ARSA's right to deliver secondary effluent through the lower
22 HENDERSON/PRESTON SYSTEM pursuant to the WASTEWATER AGREEMENT and the
23 WRRs ORDER NO. 93-240, copies of which are respectively attached as Exhibits "F" and "G"
24 hereto and incorporated herein by this reference.

25 30. On or about February 3, 2022, ARSA responded directly to IONE's January 19,
26 2022, correspondence, informing IONE that any action taken to prevent, reduce, interrupt, interfere
27 with, or circumvent ARSA from delivering its effluent to IONE would be a breach of the
28 WASTEWATER AGREEMENT and a violation of the WRRs ORDER NO. 93-240, but accepted

1 IONE's offer to meet and confer regarding the matter. A copy of ARSA's February 3, 2022, letter
2 is attached as Exhibit "H" hereto and incorporated herein by this reference.

3 31. In or about March 2022, ARSA and IONE began engaging in substantive
4 discussions regarding the outstanding issues concerning ARSA's discharge of wastewater from
5 Preston Reservoir to the COWRP. In furtherance of these discussions, IONE transmitted
6 correspondence to ARSA outlining several deal points for negotiation of a new agreement on or
7 about July 20, 2022, a copy of which is attached as Exhibit "I" hereto and incorporated herein by
8 this reference. IONE's July 20, 2022, correspondence stated that negotiation of a new agreement
9 would extend its willingness to accept wastewater under the WASTEWATER AGREEMENT until
10 either approval of the new agreement by IONE and ARSA, or February 1, 2024, if no new
11 agreement was reached.

12 32. On or about July 29, 2022, ARSA provided its response to IONE's July 20, 2022,
13 correspondence, a copy of which is attached as Exhibit "J" hereto and incorporated herein by this
14 reference. While ARSA expressed its willingness to attempt to negotiate a new agreement, ARSA
15 advised IONE that ARSA was prepared to seek all available remedies under the law should IONE
16 refuse to accept wastewater from ARSA through the lower HENDERSON/PRESTON SYSTEM
17 under the WASTEWATER AGREEMENT.

18 33. On or about August 16, 2022, IONE transmitted its response to ARSA's July 29,
19 2002, letter, a copy of which is attached as Exhibit "K" hereto and incorporated herein by this
20 reference. Among other items, IONE's August 16, 2022, correspondence repeated its purported
21 right to refuse wastewater from ARSA under the WASTEWATER AGREEMENT as of July 31,
22 2022.

23 34. On multiple occasions over the past several months, IONE refused to accept
24 wastewater from ARSA, but later accepted a small amount of discharges. Since August 31, 2022,
25 however, IONE has continued to refuse to accept wastewater from ARSA.

26 35. On or about September 8, 2022, ARSA provided timely written notice to IONE that
27 IONE's refusal to accept wastewater from ARSA constitutes a breach of the WASTEWATER
28 AGREEMENT and stated ARSA's intention to meet and confer with IONE in an attempt to bring

1 IONE into compliance with the WASTEWATER AGREEMENT. ARSA advised IONE that
2 should IONE continue to refuse to accept wastewater from ARSA, ARSA would have no choice
3 but to pursue any and all available remedies under the law against IONE in order to enforce ARSA's
4 rights under the WASTEWATER AGREEMENT. A copy of ARSA's September 8, 2022, letter is
5 attached as Exhibit "L" hereto and incorporated herein by this reference.

6 36. Despite ARSA's ongoing efforts to resolve the outstanding issues with IONE, IONE
7 continues to refuse to accept wastewater from ARSA through the lower HENDERSON/PRESTON
8 SYSTEM in accordance with IONE's obligations under the WASTEWATER AGREEMENT.
9 ARSA is also informed and believes and thereon alleges that CDCR continues to transmit
10 wastewater from the MCSP WWTP to the COWRP and bypass Preston Reservoir in violation of
11 the WASTEWATER AGREEMENT, the LEASE, WDRs ORDER NO. R5-2015-0129, and WRRs
12 ORDER NO. 93-240.

13 37. Preston Reservoir is currently near its maximum capacity. The present inability of
14 ARSA to discharge wastewater from Preston Reservoir to the COWRP will result in Preston
15 Reservoir being unable to withstand the higher flows that may occur during the upcoming rainy
16 season, Preston Reservoir overflowing, and/or ARSA having to discharge effluent on other lands
17 in violation of the WRRs ORDER NO. 93-240, thus creating significant public health and water
18 quality contamination issues. In light of the quickly approaching rainy season, and given the
19 limitations on how much wastewater can be treated at the COWRP on a daily basis, the need to
20 discharge wastewater from Preston Reservoir is immediate.

21 **FIRST CAUSE OF ACTION**
22 (Injunctive Relief Against IONE and Does 1-10)

23 38. ARSA hereby incorporates by reference paragraphs 1 through 37 of the Complaint
24 as though set forth in full herein.

25 39. IONE breached the WASTEWATER AGREEMENT by failing to perform its
26 obligation to annually accept from ARSA secondarily treated wastewater from Preston Reservoir,
27 and by accepting wastewater directly from CDCR from the MCSP WWTP to the COWRP and
28 bypassing the HENDERSON/PRESTON SYSTEM.

1 40. ARSA performed all conditions, covenants, and promises required on its part to be
2 performed in accordance with the terms and conditions of the WASTEWATER AGREEMENT,
3 except for those covenants and conditions ARSA was prevented or excused from performing.

4 41. ARSA has no other adequate remedies at law or in equity to seek redress for IONE's
5 continuing violations of the WASTEWATER AGREEMENT and therefore seeks preliminary and
6 permanent injunctive relief restraining IONE from refusing to accept from ARSA secondarily
7 treated wastewater from Preston Reservoir, and restraining IONE from accepting wastewater
8 directly from CDCR and bypassing the HENDERSON/PRESTON SYSTEM.

9 **SECOND CAUSE OF ACTION**
10 (Injunctive Relief Against CDCR and Does 11-20)

11 42. ARSA hereby incorporates by reference paragraphs 1 through 41 of the Complaint
12 as though set forth in full herein.

13 43. CDCR breached the WASTEWATER AGREEMENT by discharging wastewater
14 directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON
15 SYSTEM.

16 44. CDCR also breached the LEASE by discharging wastewater directly from the
17 MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON SYSTEM.

18 45. ARSA performed all conditions, covenants, and promises required on its part to be
19 performed in accordance with the terms and conditions of the WASTEWATER AGREEMENT
20 and LEASE, except for those covenants and conditions ARSA was prevented or excused from
21 performing.

22 46. ARSA has no other adequate remedies at law or in equity to seek redress for
23 CDCR's continuing violations of the WASTEWATER AGREEMENT and LEASE and therefore
24 seeks preliminary and permanent injunctive relief restraining CDCR from discharging wastewater
25 directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON
26 SYSTEM.

27 ///

28 ///

THIRD CAUSE OF ACTION
(Declaratory Relief Against All Defendants)

47. ARSA hereby incorporates by reference paragraphs 1 through 46 of the Complaint as though set forth in full herein.

48. An actual controversy has arisen and now exists between ARSA and DEFENDANTS concerning their respective rights and duties. ARSA contends, and ARSA is informed and believes that DEFENDANTS deny, that IONE is obligated to accept from ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER AGREEMENT, and that CDCR is not permitted to discharge, and IONE is not permitted to accept, wastewater directly from the MCSP WWTP to the COWRP and bypass the HENDERSON/PRESTON SYSTEM.

49. ARSA desires a judicial determination of the respective rights and duties of ARSA and DEFENDANTS, namely declarations that IONE is obligated to accept from ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER AGREEMENT, and that CDCR is not permitted to discharge, and IONE is not permitted to accept, wastewater directly from the MCSP WWTP to the COWRP and bypass the HENDERSON/PRESTON SYSTEM.

50. Such declarations are necessary and appropriate at this time in order that ARSA may ascertain its rights and duties with respect to the WASTEWATER AGREEMENT and/or LEASE.

PRAYER FOR RELIEF

WHEREAS, ARSA demands judgment against DEFENDANTS for the following:

1. For a preliminary and permanent injunction restraining IONE from refusing to accept from ARSA secondarily treated wastewater from Preston Reservoir;

2. For a preliminary and permanent injunction restraining IONE from accepting wastewater directly from CDCR and bypassing the HENDERSON/PRESTON SYSTEM;

3. For a preliminary and permanent injunction restraining CDCR from discharging wastewater directly from the MCSP WWTP to the COWRP and bypassing the HENDERSON/PRESTON SYSTEM;

///

1 4. For a judicial determination and declaration that IONE is obligated to accept from
2 ARSA secondarily treated wastewater from Preston Reservoir pursuant to the WASTEWATER
3 AGREEMENT;

4 5. For a judicial determination and declaration that CDCR is not permitted to discharge
5 wastewater directly from the MCSP WWTP to the COWRP and bypass the
6 HENDERSON/PRESTON SYSTEM;

7 6. For a judicial determination and declaration that IONE is not permitted to accept
8 wastewater directly from the MCSP WWTP to the COWRP and bypass the
9 HENDERSON/PRESTON SYSTEM;

10 7. For attorneys' fees pursuant to paragraph 18 of the LEASE and costs of suit incurred
11 herein; and

12 8. For such other and further relief the Court may deem proper.

13 Dated: September 16, 2022

BEST BEST & KRIEGER LLP

14
15 By: 

16 SHAWN D. HAGERTY
17 MATTHEW L. GREEN
18 Attorneys for Plaintiff
19 CITY OF SANTEE
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28

EXHIBIT A

GROUND LEASE

Lease No.: L-2070

Lessee: Amador Regional Sanitation Authority

LEASE COVERING PREMISES LOCATED AT**Mule Creek Prison and Preston Youth
Correctional Facility****Amador County****AGENCY****Department of Corrections and Rehabilitation****REAL PROPERTY NOS.: 43 and 1575**

This Lease, dated for reference purposes only, January 1, 2009, by and between the State of California, acting by and through the Director of General Services (DGS), with the consent of the California Department of Corrections and Rehabilitation (CDCR), hereinafter collectively referred to as STATE, and the Amador Regional Sanitation Authority (ARSA), a joint powers authority, hereinafter referred to as LESSEE.

RECITALS

WHEREAS, CDCR has under its jurisdiction certain real properties located in the County of Amador, State of California, commonly known as the Mule Creek State Prison (MCSP) and the Preston Youth Correctional Facility, formerly known as Lone Youth Authority, and hereinafter referred to as "Preston"; and

WHEREAS, pursuant to Government Code (GC) Section 14672.100, the Director of the Department of General Services, with the consent of CDCR, may lease real property appurtenant to or part of Preston, which real property is located in Amador County and further described in this Lease to ARSA (LESSEE) for a term not to exceed thirty (30) years and at a rate of one dollar (\$1.00) per year for its continued use as a wastewater delivery and disposal system; and

WHEREAS, CDCR owns a series of pipelines and reservoirs, each of which interconnect to allow the transport of water and or wastewater, which is known as Henderson/Preston System. The Henderson/Preston System, hereinafter referred to as the "Premises", is depicted in "Supplement #2 to Appendix L of Amador County Wastewater Management Plan", dated November 1977, and hereinafter referred to as the "Water Plan". Per the Water Plan, said Premises is composed of an upper element and a lower element. The upper element consists of the area from the outfall of the Sutter Creek Treatment Plant to Preston, including all pipelines, rights of way, reservoirs, and water rights. The lower element includes the components that lie below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir. Said Water Plan defines and illustrates the elements of the Henderson/Preston System, is marked Exhibit "A", consists of two (2) pages and is attached hereto and by this reference made a part hereof; and

WHEREAS, the City of Lone, LESSEE and CDCR, entered into the "Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System", hereinafter referred to as "Agreement for Wastewater", dated September 18, 2007. Said Agreement governs the wastewater disposal rights and obligations among the parties to the Agreement, is marked Exhibit "B", which consists of nine (9) pages, and is attached hereto and by this reference made a part hereof; and

WHEREAS, LESSEE currently occupies the Premises per the "Agreement for Wastewater Management" dated March 22, 1977, which agreement shall be superseded by this Lease and the Agreement for Wastewater; and

WHEREAS, STATE is willing to lease the Premises to the LESSEE, and LESSEE is willing to lease the Premises from STATE, on the conditions set forth herein.

NOW, THEREFORE, it is hereby mutually agreed as follows:

WITNESSETH**DESCRIPTION**

1. STATE does hereby lease to LESSEE, and LESSEE hereby hires from STATE, the Premises, as further described and depicted in the Water Plan, Exhibit "A" to this Lease.

TERM

2. The term of this Lease shall be for a period of twenty-nine (29) years eight (8) months to commence on January 1, 2009, and shall terminate on September 18, 2037, to coincide with the termination date of the Agreement for Wastewater.

USE

3. (a) LESSEE agrees to use the leased Premises to transport water and wastewater through the Premises pursuant to the Agreement for Wastewater, attached hereto as Exhibit "B", and by this reference made a part hereof.

(b) All activities upon the Premises will be conducted hereunder only in a manner which will not interfere with the orderly operation of the MCSP and Preston.

**LESSEE'S
OBLIGATION FOR
WATER
DIVERSION**

4. (a) LESSEE agrees to annually divert a minimum of 250 acre/feet of water and a maximum of 1,100 acre/feet, from the Sutter Creek point of diversion in order to maintain STATE's water rights, as is more particularly described in the Water Plan, Exhibit "A" to this Lease. STATE reserves all of its water rights including the water rights for diversion from Sutter Creek at a maximum level of 1,100 acre/feet; and

(b) LESSEE shall maintain and supply upon reasonable request documentation of water diversion rates. Said documentation shall be sent to:

Department of Corrections and Rehabilitation
Facilities Management Branch
9838 Old Placerville Road, Suite B
Sacramento, California 95827

(c) STATE reserves its claim to receive not less than 250 acre/feet of water annually for use at Preston.

RENT

5. The first annual rent payment shall be paid by the LESSEE in the amount of ONE DOLLAR AND 00/100s (\$1.00), due and payable on January 1, 2009. Rent shall be payable annually in advance for the duration of the Lease, or at the LESSEE's option, shall be paid in one lump sum in advance.

All rent payments shall be addressed and delivered to:

Department of General Services
Accounts Receivable PAL (L-2070)
P.O. Box 989053
West Sacramento, CA. 95798-9053

FEE

6. LESSEE will reimburse DGS for its costs related to the lease, including, but not limited to, any survey costs, title transfer fees, administrative costs, and department staff time. DGS will invoice for the fees and payment shall be made to DGS at the address shown above and shall be made by February 1, 2009.

**LESSEE'S ACCESS
RIGHTS**

7. During the term of this Lease, STATE hereby grants to LESSEE and its contractors, agents, employees, representatives or licensees, the non exclusive temporary right to access, at any and all times and at any and all places, upon STATE lands and easements identified as the Premises. LESSEE has acquired or shall acquire all access rights for the lands not owned by STATE, at LESSEE's own expense.

**CONDITION
OF PREMISES**

8. (a) LESSEE has visited and inspected said Premises and it is agreed that the Premises stated herein, and on the attached Exhibit "A", is not described using a legal description and that the description is approximate. It is also acknowledged by all parties to this Lease, that the Premises will be leased "as-is" and the STATE does not warrant or guarantee the condition of the system, its pipelines, ponds, dams, equipment and appurtenances included hereunder.

(b) LESSEE agrees, pursuant to the "Surrender of Premises" clause of this Lease, to surrender up to STATE the Premises with any real property improvements therein, in at least the same condition as when received, reasonable use and wear thereof and damage by act of God, or by the elements excepted.

**TERMINATION
AND INJUNCTIVE
RELIEF**

9. The parties to this Lease hereto recognize that the Premises leased hereunder is part of a wastewater system, regulated under the California Water Code, and that termination of this Lease is not practicable nor feasible as it would render an essential utility service inoperable, with no alternate means readily available to STATE and LESSEE to dispose of their effluent that is not in violation of their other permit obligations. Therefore, the parties to this Lease have deleted any reference herein to termination of this Lease for breach, and instead expressly agree that injunctive relief to cure any actual or threatened breach is appropriate, and agree that either party shall be entitled to seek equitable injunctive relief from a court of competent jurisdiction to enforce compliance with the obligations hereunder. Neither party shall be entitled to defend such action on the basis that injunctive relief is improper, or that monetary damages are adequate. In the event of a violation of an injunctive order issued under this provision, in a subsequent proceeding to enforce the injunction, a court may, should it deem it appropriate, issue an order terminating the lease thereafter, on such terms as may be just and which will not work undue hardship on the parties to this Lease.

HOLD OVER

10. Any holding over after the expiration of said term or any extension thereof, with the written consent of STATE, shall be deemed a tenancy only from month to month. Otherwise, the terms and conditions specified in lease shall remain applicable.

UTILITIES

11. LESSEE agrees to pay at its sole cost and expense any and all water, electric, gas and other utility charges or any other charges payable in connection with LESSEE's use of said Premises during the term of this Lease. No utilities will be provided by STATE and STATE assumes no liability for the existence or nonexistence of utilities.

**REGULATION
BY STATE**

12. LESSEE agrees to cooperate with the MCSP and or Preston to ensure that activities conducted on the Premises, or persons brought onto the Premises to conduct such activities, do not interfere with the orderly operation of the facilities.

**AGREEMENT TO
REGULATE**

13. LESSEE hereby agrees to continue to operate the Premises in accordance with those guidelines found within the Agreement for Wastewater as outlined in the attached Exhibit "B".

IMPROVEMENTS

14. (a) STATE hereby grants to LESSEE the right to, at its sole cost and expense, improve the Premises. Said improvements include but are not limited to, installing, operating, maintaining, repairing and removing and or demolishing components of the wastewater system. Additionally, LESSEE shall keep the Premises fully functional and operational, in accordance with generally accepted and recommended practices and procedures and in compliance with all applicable federal, state and local laws and regulations, any and all improvements including, but not limited to any pipelines, valves and valve boxes, ponds, dams, equipment, pipes and pipelines, valves, wells, pumps, electrical panels, meter socket and wiring or other improvements existing on the Premises or constructed upon the Premises by LESSEE.

(b) LESSEE hereby assumes, at its sole expense; without limitation, the cost of any necessary improvements as defined in paragraph (a) immediately preceding this paragraph of this Lease, as well as environmental impact reports, engineering reports, government permits, or any other applicable regulatory compliance items.

(c) Prior to making any needed improvements to the Premises, LESSEE shall submit plans, specifications, and/or drawings, as applicable, in writing to the STATE. LESSEE shall receive STATE's written consent to proceed with such improvements. Said consent will not be unreasonably withheld.

(d) LESSEE agrees that in no event shall STATE be required to perform any maintenance on or make repairs or alterations to the leased Premises of any nature whatsoever.

(e) When making any necessary excavation on the Premises, LESSEE shall make such excavation in a manner that will cause the least damage to the surface of the ground, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as existed prior to said excavation as practicable.

LIENS

15. (a) During continuance in force of this Lease, LESSEE shall keep the leased Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by LESSEE and shall indemnify, hold harmless and defend STATE from such liens and encumbrances arising out of any work performed or materials furnished by or at the direction of LESSEE or contractors of LESSEE. Notice is hereby given that STATE shall not be liable for any work or materials furnished to LESSEE on credit and no mechanic's or other lien for any such work or materials shall attach to or affect STATE's interest in the leased Premises based on any work or materials supplied to LESSEE or anybody claiming through LESSEE. LESSEE shall within thirty (30) days after being furnished a notice of filing of any such lien, take action, whether by bonding or otherwise, to remove or satisfy any such lien.

(b) STATE shall have the right at all times to post and keep posted on the leased Premises any notices, that STATE deems proper for its protection and the protection of the leased Premises and STATE from liens. If, nevertheless, any

such lien shall be recorded, LESSEE shall, within sixty (60) days after notice from STATE, pay, settle, or otherwise release such lien, or deposit into escrow with a reputable bank or trust company in California a sum sufficient to satisfy such lien, in full. In the event of unsuccessful termination of any litigation in connection with such lien and under the terms of which it shall be obligated to pay such lien upon the unsuccessful termination of such litigation, then, upon the failure of LESSEE to comply with said requirements, STATE may pay or otherwise dispose of said lien, or defend, settle, or compromise any lawsuit brought to foreclose the same, in its sole discretion, and all amounts so paid by it or any loss sustained by STATE on that account, including reasonable amount for its attorney's fees, shall be repaid to STATE and shall be in addition to any other payments by way of rents, or otherwise, required under the terms of this Lease. A failure to pay any such sum within thirty (30) days after mailing of bill therefore to LESSEE shall constitute a breach of this Lease.

NOTICES

16. (a) All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.

(b) All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00a.m. and 5:00p.m. Pacific Time so long as such day is not a state or federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

	To the LESSEE:	ARSA Attn.: Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685 (209) 267-5647 (phone)
STATE:	To the DGS:	Department of General Services Real Estate Services Division-SOLD (L-2070) 707 Third Street, MS 505 Post Office Box 989052 West Sacramento, California 95798-9052 (916) 375-4025 (phone)
	To CDCR:	California Department of Corrections Attn.: Warden Mule Creek State Prison 4001 Highway 104 Sutter Creek, CA 95685 (209) 274-5225 (phone)
		California Department of Corrections Attn.: Superintendent Preston Youth Correctional Facility (PYCS) 201 Waterman Road Ione, CA 95640

**NOTICES
(CONTINUED)**

(209) 274-8102 (phone)

(c) The address to which notices may be mailed as aforesaid to either party, may be changed by written notice given by subject party to the other, as hereinbefore provided; but nothing herein contained shall preclude the giving of any such notice by personal service.

SUBLETTING

17. LESSEE shall not assign this Lease in any event and shall not sublet the leased Premises or any part thereof and will not permit the use of the leased Premises by anyone other than the LESSEE without prior written consent by the STATE.

**RECOVERY OF
LEGAL FEES**

18. If action is brought by any parties to this Lease for any breach hereof, or to restrain the breach of any agreement contained herein, the prevailing party in such action shall be entitled to the amount in attorney's fees in said action as the court shall determine to be reasonable, which shall be fixed by the court as part of the costs of said action.

**PARTNERSHIP
DISCLAIMER**

19. LESSEE, and any and all agents and employees of LESSEE, shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties to this Lease herein as partners.

HOLD HARMLESS

20. (a) This Lease is made upon the express condition that STATE is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of STATE.

(b) LESSEE agrees to defend, indemnify and hold harmless STATE from all liability, loss, cost or obligation on account of or arising out of LESSEE's use and/or occupancy of the Premises during the Lease term or any such injury or loss, however occurring.

(c) LESSEE further agrees to provide necessary Workers' Compensation Insurance for all employees of LESSEE upon said Premises at the LESSEE's own cost and expense.

INSURANCE

21. STATE acknowledges that LESSEE is self-insured in whole or in part as to any of the below described types and levels of coverage. LESSEE shall provide STATE with written acknowledgment of this fact at the time of the execution of this Lease. Said acknowledgment shall contain the STATE Lease Number, L-2070. If, at any time after the execution of this Lease, LESSEE abandons its self-insured status, LESSEE shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this "Insurance" clause pertaining to policies of insurance in regard to those types and levels of insurance as follows:

COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain general liability with limits of not less than \$1,000,000 aggregate for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal & advertising

injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the LESSEE's limit of liability.

The policy must include State of California, Department of General Services, LESSEE, and their officers, agents, employees and servants as additional insureds, but only insofar as the operations under the Lease are concerned.

AUTOMOBILE LIABILITY

LESSEE shall maintain motor vehicle liability with limits of not less than \$1,000,000 per accident for bodily injury and property damage. The State of California and Department of General Services are to be additional insured with respect to liability arising out of all vehicles owned, hired and non-owned.

WORKERS' COMPENSATION

LESSEE shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Lease, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required, and the policy shall include a waiver of subrogation in favor of the State of California.

GENERAL REQUIREMENTS

LESSEE shall ensure that the following general requirements are met:

- (a) Insurance Companies must be acceptable to Department of General Services, Office of Risk and Insurance Management.
- (b) LESSEE shall provide STATE with a true copy of the policy in place providing coverage for General Liability, within thirty (30) days after each insurance policy renewal.
- (c) Coverage needs to be in-force for complete term of this Lease. If insurance expires during the term of the Lease, a new certificate must be received by the STATE at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of the original contract.
- (d) Insurance policies shall contain a provision that coverage will not be cancelled without thirty (30) days prior written notice to STATE.
- (e) LESSEE is responsible for any deductible or self-insured retention contained within the insurance program.
- (f) In the event LESSEE fails to keep in effect at all times the specified insurance coverage, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event, subject to the provisions of this Lease.
- (g) Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by STATE.

It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the required insurance coverage.

NON-DISCRIMINATION

22. LESSEE agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, age or physical handicap. LESSEE agrees to take action to ensure that applicants for employment and employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, age or physical handicap. (See California Government Code Sections 12920-12994 for further details.)

Remedies for willful violation:

(a) STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgment having the effect from a court in an action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the Government Code.

(b) STATE shall have the right to seek appropriate legal relief, whether monetary or injunctive, as a result of said breach, and consistent with the provisions of the "Termination and Injunctive Relief" clause of this Lease.

AMERICANS WITH DISABILITIES ACT

23. Where applicable, LESSEE shall comply with all federal requirements established under the 28 Code of Regulations, Part 36, Americans with Disabilities Act, to ensure the Premises is accessible to all participants and to provide equally effective communications.

LOSSES

24. STATE will not be responsible for losses or damage to personal property, equipment or materials of the LESSEE and all losses shall be reported to STATE immediately upon discovery.

DEBT LIABILITY DISCLAIMER

25. STATE will not be liable for any debts or claims that arise from the operation of this Lease.

TAXES / ASSESSMENTS

26. LESSEE agrees to pay all lawful taxes, assessments, or charges which at any time may be levied upon interest in this agreement. It is understood that this lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.

PROTECTION OF PREMISES

27. No removal of soil in excess of five (5) cubic yards, or dumping of refuse by LESSEE, except for transport of wastewater as contemplated by this Lease, is permitted in any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises; and LESSEE agrees not to cut or remove any trees, larger than four (4) inches in diameter and measured at three (3) feet in height, thereon except as approved in writing by STATE and LESSEE further agrees that at all times to exercise due diligence in the protection of the Premises against damage or destruction by fire or other causes.

PROPERTY RESTRICTIONS

28. LESSEE shall comply with the following with respect to activities on the Premises:

(a) LESSEE shall not permit hunting on the Premises but shall not be required to post "No Hunting" signs; and

(b) Compliance to any and all rules and regulations by governing agencies to include EPA, Department of Health or local water quality board must be strictly adhered to; and

(c) Should LESSEE desire to use pesticides on the area (either herbicides, rodenticides or insecticides) all applicable Environmental Protection Agency (EPA) both state and federal, standards must be met and prior approval must be received from STATE as not all EPA approved pesticides will be permitted.

AERIAL APPLICATIONS

29. Any aerial applications of any pesticides on the Premises shall be in compliance with the California Food and Agriculture Code (FAC), Section 12972 and Title 3, California Code of Regulations (3 CCR), Section 6614.

LESSEE shall notify the Warden and Superintendent in writing within three (3) business days in advance, of any aerial application and a completed Material Safety Data Sheet (MSDS) shall accompany the notice. LESSEE shall ensure that there will be minimal to no drift over the prison site adjacent to the subject Premises. LESSEE shall insure that any aircraft used for any aerial application will not encroach into the airspace of the MCSP and Preston.

WEED ABATE- MENT

30. Any weed burning operations on the leased Premises will be carried out pursuant to local ordinances and at LESSEE's own cost and expense. LESSEE will inform MCSP and Preston in advance of any weed burning operations.

ENVIRONMENTAL COMPLIANCE AND HAZARDOUS WASTE

31. (a) Compliance. LESSEE shall be solely responsible for determining the applicability of and for complying with all applicable federal, state and local environmental, natural resources, zoning laws and regulations, including but not limited to CERCLA (42 USC 9601.14), SARA [42 USC 11021(e)], or Resources Conservation and Recovery Act of 1976 (RCRA), Pub. L. 94-580 (1976), 42 USC 6901 et seq. and amendments, including the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616 (1984), with respect to LESSEE's activities on the Premises. LESSEE agrees that it shall comply with all applicable laws, federal, state, and local, existing during the term of this Lease pertaining to the use, storage, generation, treatment, transportation, and disposal of LESSEE's hazardous substances (including petroleum and petroleum derivatives) as that term is defined in such applicable law.

(b) Copies of Materials. LESSEE shall maintain copies of Material Safety Data Sheets (MSDS) and hazardous waste manifests, if any, for all hazardous materials used or transported on or from the Premises. MSDS and manifests shall be provided to the CDCR Facilities Management Division upon its request. If LESSEE is required to prepare a Business Plan, as specified by Health and Safety Code Section 25500 et seq., or a Hazardous Waste Contingency Plan, as specified in 22 CCR 66264.51 et seq., then a copy of the plan shall be submitted first to the Facilities Management Division for review and written approval.

(c) Spill Reporting; Cleanup. Any spill or release of a hazardous substance or material to the air, soil, surface water, or groundwater will be immediately reported to STATE as well as to appropriate government agencies, and shall be promptly and fully cleaned up and the Premises (including soils, surface water, and groundwater) restored to its original condition or such condition as approved by the applicable government agency with jurisdiction.

(d) RCRA Facility Prohibited. LESSEE shall not apply to become a "permitted" RCRA hazardous waste storage or disposal facility on the Premises.

(e) Inspection. STATE or its representatives reserve inspection rights pursuant to the "STATE's Rights to Enter" clause of this Lease.

Termination. Any violation of federal, state, or local environmental law by LESSEE, which continues unaddressed for a period of thirty (30) days from the date LESSEE receives notice of such violation, shall be grounds for STATE to pursue specific performance and injunctive relief in accordance with the "Termination and Injunctive Relief" clause of this Lease. STATE shall not have the right to pursue remedies under said clause if LESSEE commences addressing the violation within such thirty (30) day period and, thereafter, diligently pursues remediation of the violation.

(f) Indemnification by LESSEE. In addition to any other indemnity set forth herein, LESSEE shall fully indemnify, defend, and hold harmless STATE and its agents and representatives for any violation of environmental, hazardous waste, hazardous materials (including petroleum and petroleum derivatives), and/or natural resources law caused by LESSEE or LESSEE's agents or representatives. Furthermore, LESSEE shall reimburse the STATE for any and all costs and liability related to investigation, clean up, settlement amounts, and/or fines, including attorneys' fees, incurred by the STATE for such violation.

(g) Indemnification by STATE. In the event a government order is issued naming LESSEE as a potentially responsible party, or LESSEE incurs any other loss, cost, expense (including attorney's fees) or liability during or after the term of the Lease in connection with contamination which pre-existed LESSEE's obligations and occupancy under this Lease, or which was caused by STATE, STATE will hold harmless and defend LESSEE in connection therewith and shall be solely responsible as between LESSEE and STATE for all efforts, liabilities, losses, costs and expenses therefore, including attorney's fees. LESSEE shall have the burden of proof that the condition pre-existed the LESSEE's use and occupancy of the Premises or was caused by STATE.

SURRENDER OF PREMISES

32. (a) All personal property and equipment that is nonessential to the wastewater operations on the Premises shall be removed by LESSEE, at its sole cost and expense within thirty (30) days after expiration or termination of LESSEE's tenancy.

(b) Should LESSEE fail to remove said nonessential personal property and equipment within thirty (30) days after expiration or termination of the Lease, STATE may do so at the risk of LESSEE. Upon written demand by STATE, LESSEE shall immediately pay all costs and expenses associated with the removal of said property belonging to LESSEE.

(c) LESSEE may, however, with written consent of STATE, abandon in place any and all of LESSEE's nonessential personal property and equipment, whereupon, as abandoned, title to said improvements will vest in STATE.

RELOCATION

33. In the event that Court should terminate this Lease for a refusal to obey an injunctive order as provided in the "Termination and Injunctive Relief" clause of this Lease, LESSEE acknowledges and agrees that it has no claim against STATE for Relocation Payments, Relocation Advisory Assistance, or costs pursuant to the Government Code sections 7260 et seq, or any regulations implementing or interpreting such sections. LESSEE further agrees that it has no claim in either law or equity against STATE for damages or other relief should the Lease be so terminated, and waives any such claims it may have.

STATE'S RIGHT TO ENTER

34. During the term of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises for survey, inspection, or any other lawful STATE purposes.

EASEMENTS AND RIGHTS OF WAY

35. This lease is subject to all existing easements and rights of way. STATE further reserves the right to grant additional public utility easements as may be necessary and LESSEE hereby consents to the granting of any such easement, as long as such easement does not interfere with the operations of LESSEE's established uses. If the right to grant such easement is exercised, the public utility or their contractor will be required to reimburse LESSEE for any damages caused by the construction work on the easement area.

MINERAL RIGHTS

36. LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under said Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.

BINDING

37. The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties to this Lease hereto.

UNDERGROUND UTILITIES

38. LESSEE shall be responsible for maintaining all underground utilities to include all pipelines connecting to the Premises.

ESSENCE OF TIME

39. Time is of the essence for each and all of the provisions, covenants and conditions of this Lease.

CLAUSE HEADINGS

40. All clause headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

WAIVER

41. If STATE waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of that or any subsequent term, covenant or condition. Failure by STATE to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or decrease STATE'S right to insist thereafter upon strict performance by LESSEE. Waiver by STATE of any term, covenant, or condition contained in this Lease may only be made by a written document properly signed by an authorized STATE representative.

SEVERABILITY

42. If any term, covenant, condition, or provision of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.

This Lease contains all currently enforceable agreements between STATE and LESSEE. In addition, this Lease and with Exhibit B are intended to be compatible and work together and collectively supersede all prior agreements between STATE and LESSEE. There have been no representations by STATE or understandings made between STATE and LESSEE other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease hereto.

IN WITNESS WHEREOF, this agreement has been executed by the parties to this Lease hereto as of the date written below.

STATE OF CALIFORNIA**DIRECTOR OF DEPARTMENT OF
GENERAL SERVICES**By: 

TONY PSCHOPAIDAS, Manager
State Owned Leasing & Development
707 Third Street, MS-505
West Sacramento, CA 95605
(916) 375-4025

02/23/09
Execution Date

LESSEE:**AMADOR REGIONAL SANITATION AUTHORITY,
a Joint Powers Authority**By: 

ROB DUKE, General Manager

1-28-09
Date Signed

Consent:**DEPARTMENT OF CORRECTIONS**By: 

DEBORAH HYSEN, Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:**MCDONOUGH HOLLAND & ALLEN**By: 

HARRIET STEINER
Attorneys for ARSA

Approved as to form:**CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION,
OFFICE OF LEGAL AFFAIRS**By: 

CHRIS SWANBERG, Senior Staff Counsel
Attorney for CDCR

Approval Recommended:**DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION
State Owned Leasing and Development**By: 

PAMELA DYER,
Associate Real Estate Officer

EXHIBIT A

SUTTER CREEK - IONE OUTFALL

WASTEWATER

RECLAMATION PROJECT

SUPPLEMENT #2

TO

APPENDIX L

OF

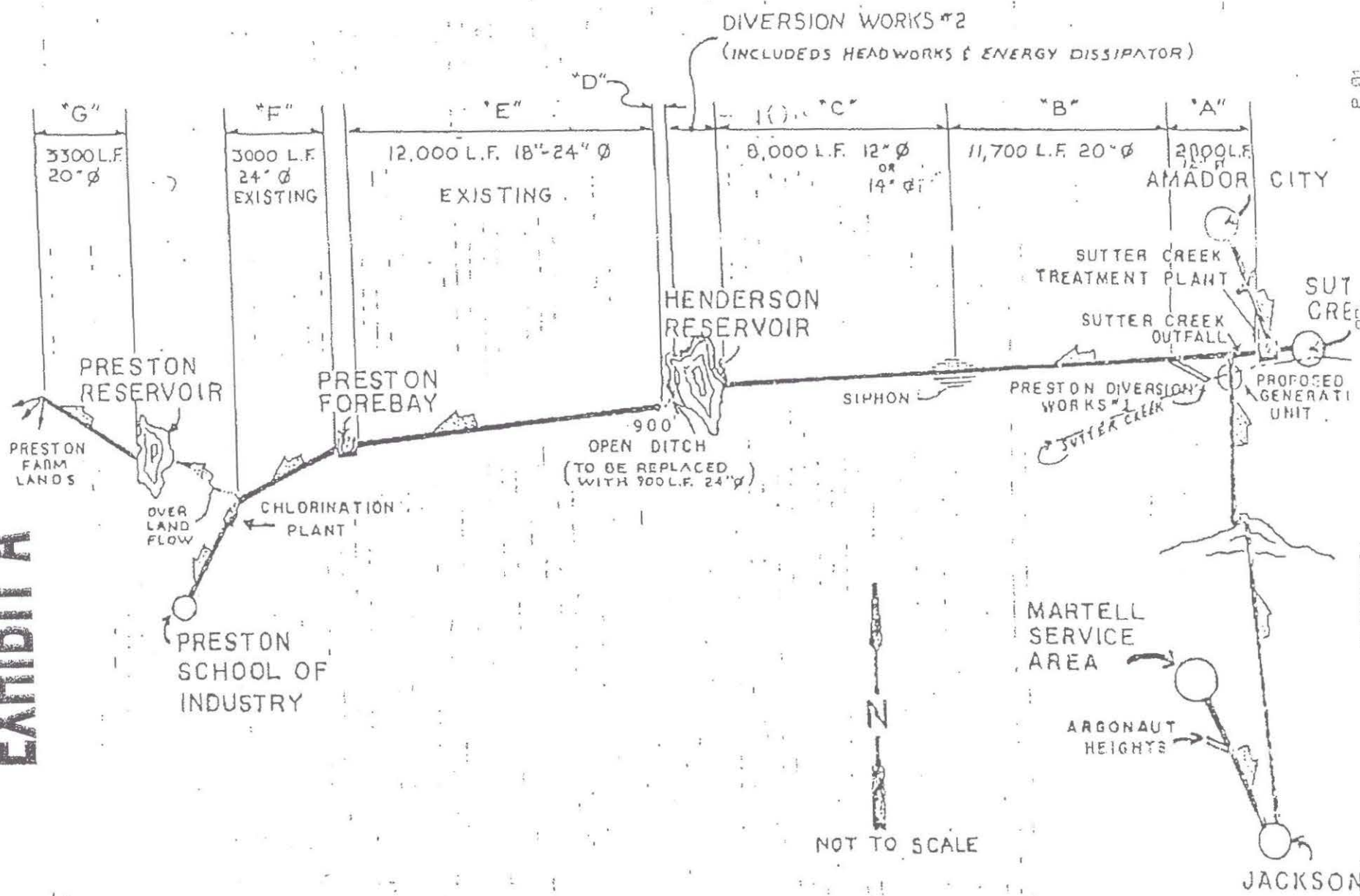
AMADOR COUNTY

WASTEWATER MANAGEMENT PLAN

NOVEMBER, 1977

PROJECT NO. 75-0995

EXHIBIT A



SUTTER CREEK- IONE OUTFALL PROJECT
FACILITIES INVENTORY

EXHIBIT B

AGREEMENT TO REGULATE USE OF HENDERSON/PRESTON WASTEWATER DISPOSAL SYSTEM

This agreement is made this 18th day of September, 2007, by and between the California Department of Corrections and Rehabilitation, a California State Agency ("CDCR"), the City of Ione, a municipality formed pursuant to the laws of the State of California ("Ione"), and the Amador Regional Sanitation Authority, a joint powers agency formed pursuant to the laws of the State of California ("ARSA") (collectively, CDCR, Ione, and ARSA, shall be referred to as the "Parties"). The Parties hereby agree as follows:

WHEREAS, as settlement of past litigation, Ione and ARSA entered into an agreement and grant of easement entitled "Preston Farmlands Wastewater Disposal Contract and Grant of Easement" dated July 30, 1990 ("1990 Settlement Agreement"); and,

WHEREAS, the 1990 Settlement Agreement has been amended or assigned by the parties to the 1990 Settlement Agreement; and,

WHEREAS, this agreement will reallocate and govern the wastewater disposal rights and obligations among the Parties, but will not alter the 1990 Settlement Agreement, any and all amendments thereto, and any agreements implementing the 1990 Settlement Agreement, as those agreements govern the relationship and obligations between Ione or ARSA and any developer of the Preston Farmlands, as referred to in the agreements and amendments, and their successors and assigns and except as those agreements govern the relationship and obligations between Ione or ARSA and the present and future owners, operators, and lessees of the Castle Oaks Golf Course and their successors and assigns; and,

WHEREAS, pursuant to the 1990 Settlement Agreement, as amended, Ione was required to pay ARSA an annual payment (currently \$20,000.00), which payment Ione in turn imposed on Castle Oaks Golf Course. The Parties intend to eliminate such fee for Ione and for Castle Oaks Golf Course by not including it herein as part of this agreement; and,

WHEREAS, this agreement does not extend to, or otherwise affect, Portlock International, Ltd.'s obligation to pay for operation of the Ione Tertiary Plant, which obligation ends December 31, 2013 and is governed by other agreements; and,

WHEREAS, CDCR owns a series of pipelines and reservoirs, including Henderson Reservoir, Preston Forebay and Preston Reservoir, each of which is interconnected so as to allow the transport of water and or wastewater from a point of diversion along Sutter Creek to the Preston Reservoir, in Ione, California ("Henderson/Preston System") (described in Exhibit 1); and,

WHEREAS, CDCR and ARSA have in place a lease agreement whereby ARSA has the right to use the Henderson/Preston System, subject to the terms and conditions contained therein, which lease expires in July 2008 ("ARSA/CDCR Lease"); currently ARSA uses the Henderson/Preston System to transport ARSA's secondary-treated wastewater to Preston Reservoir and then to Ione for treatment, disposal and use; and,

WHEREAS, ARSA and CDCR intend to execute a new lease or extend the existing ARSA/CDCR lease governing the use of the Henderson/Preston System. The new or extended lease will be for thirty (30) years. With regard to the lower system (as hereinafter described), the lease will contain a five (5) year cancellation clause that can be invoked by either party, subject to ARSA's continuing obligations to supply secondary treated wastewater to the CDCR's Preston Youth Correctional Facility and to maintain CDCR's water right from Sutter Creek, which obligations shall remain in effect unaffected by any such cancellation as will their rights to usage to the extent necessary to carry out those obligations; and,

WHEREAS, this agreement will govern the relationship and respective rights between the Parties with regard to the Henderson/Preston System; and,

WHEREAS, the upper Henderson/Preston System as referred to in this agreement includes the parts of the Henderson/Preston System from the outfall of the Sutter Creek Treatment Plant to Preston Youth Correctional Facility, including all pipelines, rights of way, reservoirs, water rights, etc; and,

WHEREAS, the lower Henderson/Preston System as referred to in this agreement includes the components of the Henderson/Preston System from below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir; and,

WHEREAS, ARSA will continue to deliver effluent to the lone tertiary plant subject to the five-year termination clause provided herein in sections 8a and 8b; and,

WHEREAS, CDCR operates Mule Creek State Prison ("MCSP") and the Preston Youth Correctional Facility, both located within Ione City limits, and which two facilities along with the California Department of Forestry utilize the wastewater treatment plant at MCSP for their wastewater disposal; and,

WHEREAS, Ione operates two wastewater treatment plants, a portion of one treatment plant is located within the boundaries of Ione providing secondary level treatment of wastewater, and the other located in Amador County providing tertiary treatment of wastewater; and,

WHEREAS, each of the Parties' wastewater disposal systems are interrelated and interconnected; and,

WHEREAS, all of the Parties wish to work together to achieve a solution that addresses their respective wastewater needs; and,

WHEREAS, a water balance study was conducted by Lee and Ro, Inc. and completed on April 11, 2007 to determine the amount, if any, of surplus disposal capacity that currently exists in the Henderson/Preston System; and

WHEREAS, the water balance study resulted in an estimated surplus capacity that is allocated pursuant to this agreement.

IT IS AGREED by and among the parties hereto as follows:

1. Pursuant to the water balance and on the effective date of this agreement, the surplus capacity described above is allocated and each party's total allowable discharge to Preston Reservoir is as follows:

	Total Allowable Discharge to Henderson/Preston System
ARSA	650 acre-feet (af)
CDCR	350 af (counted against ARSA's 650 af disposal amount)
Ione	150 af (this amount is essentially a negative capacity amount to the extent that it relieves Ione of the obligation to take this amount from the other Parties)

2. Ione shall be obligated annually to accept from ARSA/CDCR a combined total of 650 af of secondarily treated wastewater for disposal. The method and location of disposal shall be the concern and obligation of Ione.

3. CDCR may dispose of up to 350 af (increased from its current allowance of 130 af) of treated wastewater into Preston Reservoir annually. CDCR's 350 af allowance shall be counted against ARSA's 650 af disposal right.

4. The effluent discharged to Preston Reservoir must be in compliance with the Waste Discharge Requirements established by the Regional Water Quality Control Board for the discharging party, and shall not contain constituents that cause the Ione tertiary plant to violate its Waste Discharge Requirements. Each party agrees to share all non-privileged wastewater effluent quality data with the other parties including monthly, quarterly, and annual reports submitted to the Central Valley Regional Water Quality Control Board. This information shall be furnished in a timely fashion to permit the City of Ione tertiary plant staff to evaluate potential impacts to operation of the plant. If requested, data shall be transmitted by facsimile or email. Such requests shall include all public information and shall not be limited to monitoring data that the party is required to provide pursuant to its Waste Discharge Requirements.

5. Unless otherwise agreed upon by the parties, discharges from Preston Reservoir to Ione, on a monthly basis, shall be as follows:

- a. October 1 through March 31st: discharges shall be limited to 10 af per month;
- b. April 1 through September 31st: discharges shall be limited to 95 af per month; and

- c. The above limitations may be waived by agreement of the parties in the event of an emergency and where necessary for the prevention of environmental damage or civil liabilities attendant to wastewater violations, and in such event and prior to any deviation from these limits the parties agree to meet and confer and attempt to reach mutual agreement regarding the exceedance amounts necessary to accomplish the prevention or mitigation of the emergency.

6. Subject to five-year termination clauses in sections 8a and 8b, in any year, ARSA and CDCR will continue to provide effluent from Preston Reservoir to the Ione tertiary plant for use on the Castle Oaks Golf Course, if such effluent is available. As provided for in the 1990 Agreement, as amended, Castle Oaks Golf Course will continue to utilize wastewater treated at the Ione tertiary plant prior to using water from any other source until December 31, 2013.

7. From the effective date of this agreement, ARSA agrees to eliminate all flows to Ione's secondary treatment ponds within four years. ARSA holds existing deeded disposal rights, transmittal rights, and rights of way and easements, to dispose of 1300 acre feet of treated effluent on the former Noble Ranch (County Assessor parcel numbers: 011330001501; 011330002501; and 011330003501) comprising approximately 850 acres of arable ranch land. A golf course resort has been entitled to be constructed on the property to be known as "Gold Rush Golf, LLC." A mitigated negative declaration for this project, including effluent disposal options, was adopted February 18, 2003, under City of Sutter Creek Resolution Number 02-03-27. Portions of the project have been constructed (e.g. conduit construction under the Highway 49 Bypass) and the remainder will be completed prior to the four-year deadline described in this section. The completion of the effluent disposal options are independent of the construction of the golf course resort project.

8. This agreement will be in effect for thirty (30) years from the time of its enactment, subject to the following:

- a. With regard to the lower Henderson/Preston System, ARSA agrees to eliminate all flows to the lower Henderson/Preston System within five years of receiving a written request to this effect from Ione, CDCR, or MCSP. Such written notice may only be given after Ione and CDCR have resolved how to provide adequate reclaimed water for both Castle Oaks Golf Course and Preston Youth Correctional Facility. Such resolution may include completing any necessary environmental review pursuant to CEQA for the new source of water; a contract between the new provider of water, MCSP, Ione, the golf course operator; and any necessary permits of modifications to existing permits pursuant to the Porter-Cologne Water Quality Control Act (Cal. Water Code, §§ 13000 et. seq.).
- b. ARSA shall have a right to cancel all discharges to the lower Henderson/Preston System five (5) years after it gives written notice to Ione and CDCR of its intent. ARSA agrees to work with the Parties to

attempt to coincide its withdrawal with the other parties' ability to find an alternate water source.

9. Beginning January 1, 2015, each party whose wastewater is being treated at the Ione Tertiary Plant agrees to pay a proportionate share of the tertiary plant operation and maintenance costs based on the amount of flows the party contributes to the tertiary plant. If any of the parties has withdrawn flows prior to 2014, that party will have no such operation and maintenance obligation. Each party's "proportionate share" will be defined by the JPA proposed herein, if it is formed. If the JPA is not formed, "proportionate share" will be defined by joint agreement of the Parties. To the extent that additional treatment, beyond what the discharging party is required to perform, is necessary to allow recycled water use of water treated at the Ione Tertiary Plant, that party will not be required to pay for such additional treatment, unless required under this agreement. Where the tertiary treated water from the Ione Tertiary Plant is sold to a recycled water user, the revenue generated from the sale will be distributed to the Parties in proportion to the amount of water the each party contributed to the tertiary plant.

10. MCSP shall endeavor to reduce its wastewater disposal into Preston Reservoir as soon as possible by implementing projects, which may include some or all of the following:

- a. Installing flushometers on toilets located in cells at MCSP; and
- b. Installing shower timers, as able, at MCSP.

In addition, CDCR shall conduct a preliminary feasibility study to determine the cost and feasibility for CDCR to increase the Preston Reservoir Dam height by sixteen (16) inches, increasing the capacity of the reservoir thereby.

11. To implement the provisions of this agreement, the Parties may prepare implementation memoranda, as opposed to amendments to this agreement, unless all Parties agree an amendment is necessary. Such implementation agreements may be executed by authorized representatives of the Parties.

12. The Parties to this agreement agree to explore and work towards creating a Joint Powers Authority to develop a sub-regional wastewater master plan for the Ione Valley. This plan may involve the following elements:

- a. Developing a permanent source of reclaimed water for the Castle Oaks Golf Course, Preston Youth Correctional Facility and other potential reclaimed water users within the Ione area.
- b. Developing a master plan and joint projects to improve the treatment and disposal capabilities of the MCSP and Ione wastewater facilities.
- c. ARSA's participation in the JPA will end when ARSA's discharges to the lower Henderson/Preston System end pursuant to sections 8a and 8b of this agreement.

13. Each of the Parties shall work to obtain all necessary permits, approvals, and authorizations to carry out this agreement in compliance with all pertinent Federal, State, and local laws and regulations.

14. In the event of a breach or default of this agreement, the aggrieved party will give written notice to the other parties within ten (10) days. After receiving such written notice, the Parties will meet and confer in an attempt to bring the violating party into compliance with this agreement. If, after meeting and conferring, the Parties fail to agree upon a plan to bring the violating party into compliance, the Parties may pursue mediation or other means agreed upon by the parties, including other remedies available by law.

15. Such non-performance provisions shall not apply if the nature of the breach or default is the result of a force majeure occurrence or is otherwise of a nature such that it cannot be fully cured within thirty (30) days, the party in default shall have such additional time as is reasonably necessary to cure the default so long as the party in default is proceeding diligently to complete the necessary cure after service of written notice by a non-defaulting party.

16. Each party retains any and all remedies it may have at law or in equity against each and every party hereto for breach of any duty established by this agreement.

17. Invalidation of any of the provisions contained in this agreement, or of the application thereof to any party by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other party and said agreement shall remain in full force and effect except for the invalidated provision.

18. This agreement may be amended only by written instrument signed by all the parties.

19. Any notice to any party shall be in writing and by fax or email and given by delivering the notice to such party in person or by sending the notice by registered or certified mail, return receipt requested with postage prepaid, to the party's mailing address. The respective mailing addresses of the parties are:

City:	City Manager City of Ione Post Office Box 398 Ione, CA 95640
ARSA:	Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685

CDCR:

Warden
Mule Creek State Prison
4001 Highway 104
Ione, CA 95640

Either party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices shall be deemed given, received, made or communicated on the delivery date or attempted delivery date shown on the return receipt.

20. Nothing contained in this agreement shall act as a prohibition on the formation of additional contracts and agreements by and between the Parties to further implement the intentions of the Parties.

21. Failure of a party to insist upon the strict performance of any of the provisions of this agreement by any other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by the other party in the future. No waiver by a party of an act constituting breach or default shall be effective or binding upon such party unless the waiver is made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such breach or default under any provision of this agreement.

22. This agreement may be signed in counterparts, and shall have the same force and effect as if all signatures existed on the same document.

CITY OF IONE

Dated:

9-20-07

By:


Jerry Sherman
Mayor, City of Ione

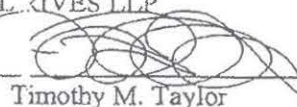
Approved as to form:

STOEL RIVES LLP

Dated:

9-26-07

By:

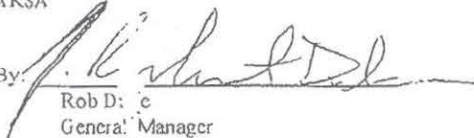

Timothy M. Taylor
Attorneys for the City of Ione

ARSA

Dated:

9-18-07

By:


Rob Duke
General Manager


Approved as to form:

MCDONOUGH, HOLLAND & ALLEN

Dated:

9/24/07


By:


Harriet Steiner
Attorneys for ARSA

Dated:

CDCR

By:



Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated:

By:


Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

ARSA

Dated: _____

By: _____
Rob Duke
General Manager

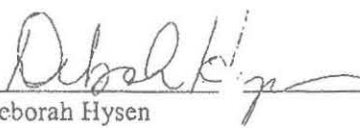
Approved as to form:

MCDONOUGH HOLLAND & ALLEN

Dated: _____

By: _____
Harriet Steiner
Attorneys for ARSA

Dated: _____

CDCR
By: 
Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated: _____

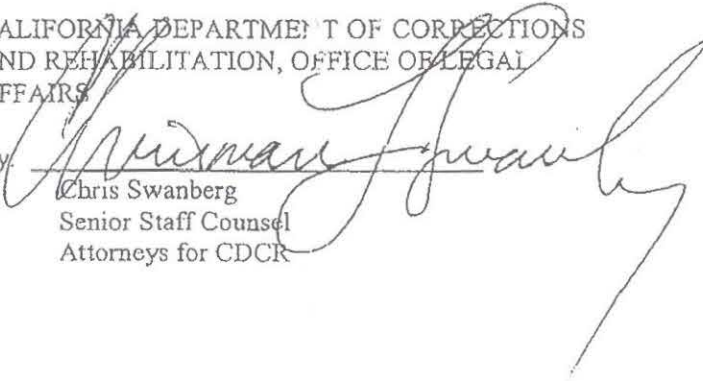
By: 
Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

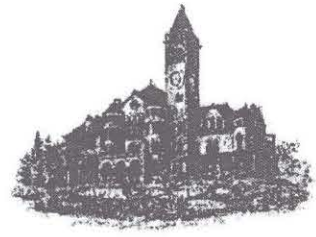
EXHIBIT B

City of Ione



July 19, 2017

ATTN: 2017



Ms. Amy Gedney
Amador Regional Sanitation Agency
18 Main Street
Sutter Creek, CA 95685

Dear Ms. Gedney;

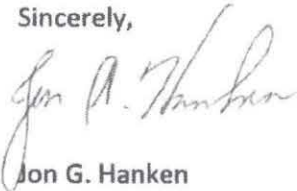
The Ione City Council has reviewed the Regional Water Recycling Feasibility Study and has had the opportunity to discuss its recommendations with citizens during a recent Council meeting. The consensus of the community was that a regional partnership on wastewater recycling was not in the best long-term interest of the City. As such, Council has asked me to provide ARSA with the five year notice to eliminate all flows to the lower Henderson/Preston system as per Section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal.

Ione is a growing community and that growth has made it possible for us and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf Course. Ione anticipates another 800 homes will be constructed in the future and we will need to find additional land to dispose of this effluent once it's treated. We anticipate that the Central Valley Regional Water Quality and Control Board (CVRWQCB) will require the City to line all of our wastewater ponds to eliminate percolation. This will increase our need for irrigable land. As for the requirement to provide treated effluent to the Preston Youth Facility, the State closed that complex in 2011. The State is in the process of disposing of the property so there is no longer a need to provide reclaimed water to it. I have requested a letter from CDCR stating that requirement is no longer necessary.

The City is proposing that ARSA eliminate all flows to the lower Henderson/Preston system by July 31, 2022. This gives your organization adequate time to complete the necessary effluent disposal projects on the former Noble Ranch. Section 7 of the agreement, states that ARSA will complete all the necessary construction to dispose effluent on the property prior to the deadline. The 2007 agreement also states that completion of the effluent disposal projects on the Noble Ranch property are independent of the construction of the golf course resort project.

The relationship between lone and ARSA has been a long one and beneficial but we think it will soon be unnecessary as our needs diverge and will be time to go our separate ways. Your comments and letters of intent to bring on other landowners for irrigation indicate that you are also moving in the same direction as lone. We wish you well on your construction projects. If you have any questions related to this letter, please feel free to contact me at lone City Hall. My telephone number is (209) 274-2412 Ext. 111.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jon G. Hanken".

Jon G. Hanken
City Manager
City of lone

cc: Ms. Deb Hysen, CDCR
Ms. Pamela Creedon, CVRWQCB

EXHIBIT C

Amador Regional Sanitation Authority

*"Servicing Amador City, Martell, & Sutter
Creek"*

December 3, 2021

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Mr. Rock:

This letter addresses the vitally important and ongoing wastewater disposal arrangement among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR") (collectively, "the Parties"). We are sending you this letter now to confirm ARSA's right to dispose of secondarily treated wastewater through the lower Henderson/Preston System. For the reasons explained below, ARSA is legally permitted and will continue discharging secondary effluent to the lower Henderson/Preston System in accordance with its current contractual arrangement with the Parties.

Since 2007, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement") has governed the Parties' rights and obligations regarding wastewater disposal through the Henderson/Preston System. As you are aware, the 2007 Agreement provides that ARSA may discharge, and the City *must* accept, annually up to 650 acre-feet of secondary effluent for disposal. CDCR may, solely through ARSA's existing outfall system and in strict compliance with its existing wastewater permit, discharge up to 350 acre-feet of secondary effluent annually, counted against ARSA's disposal right. Because CDCR's rights are derivative of ARSA's existing rights, the City must prioritize ARSA's discharges over those of CDCR's.

The 2007 Agreement remains in effect until 2037. The 2007 Agreement does contain limited termination provisions, but there are specific terms and conditions that must be strictly followed for such early termination due to the importance of the contractual relationship. Under Section 8a, if the City requests termination of ARSA's flows to the lower Henderson/Preston System, ARSA must be provided a five-year notice that meets specific conditions. Such notice

may only be given *after* the City and CDCR have resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course. On July 19, 2017, ARSA received a letter from the City requesting that ARSA terminate flows to the lower Henderson/Preston System. The letter claimed that the City's growth has made it possible for the City and CDCR to supply all the reclaimed water needed by the Castle Oaks Golf Course.

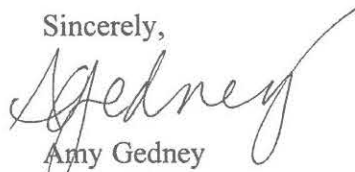
At the time of the City's 2017 letter, however, the provision of adequate reclaimed water for the Castle Oaks Golf Course had not been resolved. In fact, that issue remains unresolved today. The Central Valley Regional Water Quality Control Board ("Regional Board") has identified concerns with the quality of Mule Creek State Prison's wastewater, including the presence of volatile organic compounds ("VOCs") in the prison's discharge. The Regional Board first identified these issues in 2018, and today the legality and safety of the prison's wastewater remain unresolved. On October 21, 2021, the Regional Board ordered additional monitoring and reporting requirements for VOCs under the waste discharge permits for all the parties, including the City and ARSA's shared permit governing ARSA's flows and the City's tertiary plant, and separately, CDCR's permit governing the prison's wastewater treatment plant. Additional assessment by the Regional Board is needed to evaluate the water quality impacts of the prison's wastewater discharges. This assessment could result in a final determination that CDCR cannot discharge to the City. For these reasons, the City and CDCR have still not demonstrated that adequate reclaimed water is available for the golf course.

Moreover, CDCR is not a permitted discharger under the City and ARSA's shared permit, Water Reclamation Requirements Order No. 93-240. This permit only allows wastewater treatment and reuse based on the flows from ARSA's outfall system to Preston Reservoir. California Water Code Section 13264 and Order No. 93-240 require a Report of Waste Discharge to be filed with the Regional Board prior to any new discharge or making any material changes to any discharge. A material change includes the addition of major industrial waste discharges or discharges resulting in a change of the character of the waste. A Report of Waste Discharge must first be filed and evaluated by the Regional Board to ensure that the prison's discharges are in compliance with all water quality laws and regulations. No reports or evaluations were in place as of the City's 2017 letter, and to our knowledge, none are in place now.

The City has therefore not fulfilled the conditions under Section 8a of the 2007 Agreement required for ARSA to eliminate flows to the lower Henderson/Preston System. The City has not resolved the provision of adequate reclaimed water to the golf course, which includes obtaining all water quality permits or permit modifications required by state laws and regulations. The 2007 Agreement thus remains in full effect until 2037, and ARSA is legally permitted and will continue to discharge to the lower Henderson/Preston System.

I am certain we both agree that water quality is vital for the safety and preservation of our respective communities. We value our long-term partnership with the City and look forward to maintaining it through the life of the 2007 Agreement. While we are always willing to discuss solutions that are reasonable and fair to all Parties, we feel it is important for the City to understand that ARSA will continue to dispose of secondary effluent to the lower Henderson/Preston System, in accordance with the 2007 Agreement and state laws and regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Agedney", written in black ink.

Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT D

Amador Regional Sanitation Authority

*"Servicing Amador City, Martell, & Sutter
Creek"*

December 3, 2021

Via Email and Certified Mail

Patrick Covello
Warden
California Department of Corrections and Rehabilitation
4001 Highway 104
P.O. Box 409099
Ione, CA 95640

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Mr. Covello:

This letter addresses the vitally important and ongoing wastewater disposal arrangement among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR") (collectively, "the Parties"). We are writing to confirm ARSA's right to dispose of secondarily treated wastewater through the lower Henderson/Preston System. For the reasons explained below, ARSA is legally permitted and will continue discharging secondary effluent to the lower Henderson/Preston System in accordance with its current contractual arrangements with the Parties.

Since 2007, the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement") has governed the Parties' rights and obligations to discharge wastewater through the Henderson/Preston System. As you are aware, the 2007 Agreement provides that ARSA may discharge, and the City *must* accept, annually up to 650 acre-feet of secondary effluent for disposal. CDCR may, solely through ARSA's existing outfall system and in strict compliance with its existing wastewater permit, discharge up to 350 acre-feet of secondary effluent annually, counted against ARSA's disposal right. CDCR's ability to discharge to the City under the 2007 Agreement is therefore derivative of and subordinate to ARSA's disposal right, not independent of it.

The 2007 Agreement remains in effect until 2037. Although there are limited rights to terminate the 2007 Agreement before 2037, CDCR has not taken the required steps to terminate, and the City of Ione has not effectively done so, for the reasons set forth in the attached letter from ARSA to the City, which letter is incorporated herein. Because no Party has effectively taken steps to end the 2007 Agreement early, it remains in effect until 2037, and ARSA is legally permitted and will continue to discharge to the lower Henderson/Preston System. Any actions taken by CDCR to prevent, reduce, interrupt, interfere with, or circumvent ARSA's rights to do so would be inconsistent with CDCR's contractual obligations to ARSA.

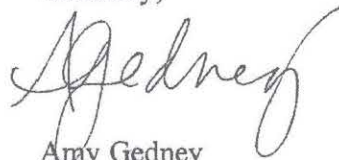
18 Main St., Sutter Creek, CA 95685 • Telephone: (209)267-5647 • Fax: (209)267-1655 • TTY: 711

The City of Sutter Creek is an equal opportunity service provider and employer

In addition, CDCR leases the Henderson/Preston System to ARSA in accordance with the 2007 Agreement under Ground Lease No. L-2070. The Lease terminates on September 18, 2037, to coincide with the termination date of the 2007 Agreement. The Lease acknowledges that CDCR leases to ARSA infrastructure that facilitates an essential utility service, and termination of ARSA's flows to the lower Henderson/Preston System would leave no alternative means for disposal. The Lease expressly recognizes that the Henderson/Preston System is part of a wastewater system, regulated under the California Water Code, and termination of the Lease is not practicable nor feasible as it would render an essential utility service inoperable. Any actions taken by CDCR to prevent, reduce, interrupt, interfere with, or circumvent ARSA's rights to discharge to the Henderson/Preston System would be inconsistent with CDCR's contractual obligations to ARSA under the Lease. In the event of any actual or threatened breach of the Lease agreement, ARSA may seek equitable injunctive relief from a court of competent jurisdiction.

We value our long-term partnership with CDCR and look forward to maintaining it through the life of the 2007 Agreement and the Lease. While we are always willing to discuss solutions that are reasonable and fair to all Parties, we feel it important for CDCR to understand that ARSA will continue to discharge secondary effluent to the lower Henderson/Preston System, prior to any discharges from CDCR, in accordance with the contractual arrangements among the Parties and state laws and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Gedney", with a stylized flourish at the end.

Amy Gedney
General Manager
Amador Regional Sanitation Authority

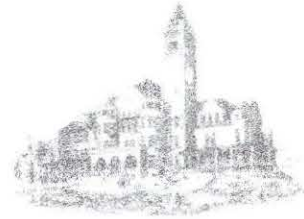
cc: ARSA Board

EXHIBIT E



RECEIVED

City of Sutter Creek



January 19, 2022

Amador Regional Sanitation Authority
Attn: Amy Gedney, General Manager
18 Main Street
Sutter Creek, CA 95685

Re: Lower Henderson/Preston Wastewater Disposal System

Dear Ms. Gedney,

The City of Ione is in receipt of your letter of December 3, 2021, in which you address wastewater disposal arrangements among the Amador Regional Sanitation Authority ("ARSA"), the City of Ione ("City"), and the California Department of Corrections and Rehabilitation ("CDCR").

When evaluating whether or not to send the 5 year notice the Ione City Council considered the cost to the Ione taxpayers, as is our fiduciary responsibility. It was determined that the losses Ione had incurred due to this contract could not continue. We reviewed our water resources and determined that we could meet our water obligations with our existing and future resources.

The City has successfully provided adequate reclaimed water for both Castle Oaks Golf Course over the past five years under our current permits and infrastructure. During the past few years, the City did not receive adequate flows from ARSA, was suffering from extreme drought conditions, and still managed to keep Castle Oaks Golf Course open with sufficient water.

Ione recognizes that ARSA may have some difficulty meeting the five-year deadline, and over the last four years Ione has reached out to ARSA for the status of your project. The Wastewater Committee discussed ARSA at its meetings and Ione staff reached out to ARSA with no response prior to your December 3, 2021, communication. The City is open to assisting ARSA with an extension of the five years however, this would require a new agreement with a new fee structure.

After a review of your letter the City disagrees with your analysis and reaffirms that the City intends to continue with our 2017 termination letter and cease services with ARSA as of July 19, 2022.

Sincerely,

Dan Epperson

Mayor, City of Ione

cc: Michael Rock, Interim City Manager
Sophia R. Meyer, City Attorney
Councilmembers Plamondon, Wratten, Rhoades

EXHIBIT F

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

January 28, 2022

Via Email and Certified Mail

Patrick Covello
Warden
California Department of Corrections and Rehabilitation
4001 Highway 104
P.O. Box 409099
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

Dear Mr. Covello:

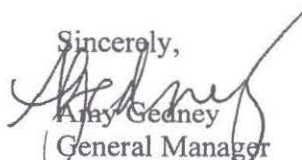
This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement, Waste Discharge Requirements Order No. 93-240, and Ground Lease No. L-2070 through at least 2037.

ARSA requires that its wastewater effluent will be accepted by the City prior to any effluent from CDCR. As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Moreover, any direct discharges from CDCR to the City are not permitted by the Central Valley Regional Water Quality Control Board ("Regional Board"), as required by California Water Code Section 13264. As such, any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement.

In addition, under Ground Lease No. L-2070, CDCR leases to ARSA infrastructure that facilitates an essential utility service, and termination of ARSA's flows through the lower Henderson/Preston System is not practicable nor feasible. In the event of any actual or threatened breach of the Lease agreement, ARSA may seek equitable injunctive relief from a court of competent jurisdiction.

We believe the above course of action is imperative for public health and safety. We look forward to working with CDCR to protect regional water quality.

Sincerely,


Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT G

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

January 28, 2022

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

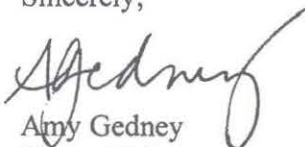
Dear Mr. Rock:

This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement and its Waste Discharge Requirements, Order No. 93-240, until at least 2037.

ARSA requires that the City will prioritize ARSA's wastewater effluent over any effluent from the California Department of Corrections and Rehabilitation ("CDCR"). As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Moreover, any direct discharges from CDCR to the City are not permitted by the Central Valley Regional Water Quality Control Board ("Regional Board"), as required by California Water Code Section 13264. As such, any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement.

We believe the above course of action is imperative for public health and safety. We look forward to working with the City to protect regional water quality.

Sincerely,



Amy Gedney
General Manager
Amador Regional Sanitation Authority

cc: ARSA Board

82456.00000\34582945.2

EXHIBIT H

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

February 3, 2022

Via Email and Certified Mail

Michael Rock
Interim City Manager
City of Ione
1 East Main St.
P.O. Box 398
Ione, CA 95640

Re: ARSA Annual Wastewater Disposal

Dear Mr. Rock:

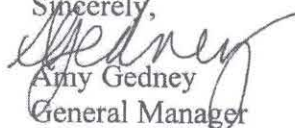
This letter concerns the Amador Regional Sanitation Authority's ("ARSA") annual wastewater flows to Preston Reservoir and the City of Ione ("City"). ARSA will deliver secondary effluent through the lower Henderson/Preston System in accordance with the water balance and ARSA's rights under the 2007 Agreement and its Waste Discharge Requirements ("WDRs"), Order No. 93-240, until at least 2037.

ARSA requires that the City will prioritize ARSA's wastewater effluent over any effluent from the California Department of Corrections and Rehabilitation ("CDCR"). As explained in our letter dated December 3, 2021, the 2007 Agreement provides that CDCR's rights to disposal are derivative of ARSA's existing rights. Direct discharges from CDCR to the City are not permitted by the WDRs. The only legally permissible way for the City to receive wastewater from CDCR is through ARSA, in full compliance with the WDRs and the 2007 Agreement. Any action taken to prevent, reduce, interrupt, interfere with, or circumvent ARSA from delivering its effluent to the City is a breach of the 2007 Agreement and a violation of the WDRs.

With respect to the City's January 19, 2022 letter, ARSA disagrees with the City's claims that it has successfully provided adequate reclaimed water to Castle Oaks Golf Course and that it did not receive adequate flows from ARSA. The City has not identified any valid factual or legal grounds for terminating the 2007 Agreement and the City would be in breach of the Agreement if it refuses to accept ARSA's deliveries as authorized under the Agreement. However, ARSA appreciates the City's offer to meet and discuss these issues. The parties should make a good faith attempt to resolve these issues through discussion and avoid unnecessary litigation.

ARSA's continued delivery of wastewater to the City is imperative for public health and safety. We look forward to working with the City to protect regional water quality.

Sincerely,



Amy Gedney
General Manager

Amador Regional Sanitation Authority

cc: ARSA Board

EXHIBIT I

RECEIVED

JUL 25 2022

City of Sutter Creek



CITY OF IONE

1 E. MAIN STREET
P.O. BOX 398
IONE, CA 95640
(209) 274-2412

July 20, 2022

Amy Gedney, General Manager
Amador Regional Sanitation Authority
18 Main Street
Sutter Creek, CA 95685

Dear Amy:

Per your request on July 11, 2022, and our ongoing discussions about a long-term agreement between the City of Ione and ARSA I submit this letter with key points that are a basis for beginning formal negotiations on a long-term agreement with ARSA to accept wastewater effluent from Preston Reservoir to the City of Ione Tertiary Plant.

1. The new term will be 5 years with an option for both parties to extend for two additional 5-year terms for a total of 15 years
2. ARSA must have retention ponds to deal with years where water must be stored. Heavy rainfall years should not result in releasing too much water but rather controlling the balance through storage ponds.
3. Strongly recommend ARSA divert water from the creek. This will give ARSA more options and flexibility in balancing the water throughout the year for all parties.
4. Strongly recommended ARSA dredge the bottom of Preston Reservoir as soon as practically possible and no longer than two years from the approval date of this new agreement
5. The City of Ione will take the following range of acre feet per year from ARSA: 100-400
6. If the City rejects water from ARSA because of discharge violations that liability and cost is on ARSA to cure the problem
7. If ARSA cannot send the minimum 100 ac/ft per/year the financial penalty will be _____ for every acre foot not delivered

8. If the City of Lone does not take the minimum 100-acre ft/year the City is fined ____ foot every acre foot not taken if and only if the City can release the water to COGC without causing a violation of the City's WDR permit.
9. A flow meter must be installed at Preston Reservoir so that ARSA knows how much water it is discharging. This is required in ARSAs current WDR Permit
10. City strongly recommends ARSA cure the CDO currently on their WDR Permit

If the City and ARSA immediately embark on negotiating a new agreement then the five-year notice to eliminate all flows to the lower Henderson/Preston system as per Section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal will be suspended until such time the new agreement is approved by the City and ARSA. If no agreement is achieved within eighteen months of August 1, 2022, then the five-year notice to eliminate flows will take full force and effect on February 1, 2024.

This letter is meant to be a strong starting point to negotiate a very detailed and long-term agreement that is intended to be beneficial to all parties affected by the outcome of this hopefully very successful partnership with ARSA. All the items listed above are negotiable and nothing is set in concrete.

I look forward to beginning the process of negotiating a new agreement that will benefit the City of Lone, City of Sutter Creek, ARSA, COGC, CDCR and other affected parties.

Sincerely,



Michael Rock
Interim City Manager
City of Lone, CA

EXHIBIT J

Amador Regional Sanitation Authority



"Servicing Amador City, Martell, & Sutter Creek"

July 29, 2022

Mr. Michael Rock
1 East Main Street
P.O. Box
Ione, CA 95640

SENT VIA EMAIL and CERTIFIED MAIL

Dear Michael:

Amador Regional Sanitation Authority ("ARSA") is in receipt of your July 20, 2022 letter.

As you know, ARSA has repeatedly objected to the City of Ione's ("City") attempted 5-year notice ("2017 Notice") under section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System ("2007 Agreement"). As recently as December 3, 2021, ARSA reiterated its position that, in no uncertain terms, City's supposed termination notice was void and invalid because it did not satisfy the conditions precedent for such a notice. The notice can only be given *after* the City and CDCR have resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course. For reasons further explained in that letter, no such resolution was made prior to the Notice.

Let me be clear, ARSA has always been, and continues to remain, even now, willing to embark on negotiating the terms of a potential new agreement consistent with the parties' existing rights under sections 18 and 20 of the 2007 Agreement. ARSA's position continues to be that the 2017 Notice is null, void, invalid, and of no legal force and effect and therefore, any purported "suspension" or extension of that illegal notice until Feb. 1, 2024 is also void. ARSA's desire and willingness to cooperate and explore a new long-term agreement with the City does not, in any way, mean or imply that ARSA accepts and agrees to unilaterally-invoked termination date of February 1, 2024. ARSA continues to reserve all rights with respect to its objections to City's 2017 Notice and lack of compliance with Section 8a; and furthermore, pursuant to section 21 of the 2007 Agreement, ARSA has made no express, explicit, or waiver of its rights under the existing 2007 Agreement and maintains that any termination notice to date has not complied with Section 8a and that any future notice must comply with Section 8a.

With those points being made, ARSA is, willing to, "immediately embark on negotiating a new agreement" consistent with section 18 and 20 of the existing 2007 Agreement and consistent with our recent discussions over the last four months.

Please be advised that should the City refuse wastewater from ARSA via Preston Reservoir, or otherwise prevents ARSA from conveying flow through the lower system, ARSA is prepared to seek all remedies available to it under law, as provided in Section 14 and 16 of the 2007 Agreement.

Amador Regional Sanitation Authority



"Servicing Amador City, Martell, & Sutter Creek"

We trust that we have made our position very clear. ARSA will continue to meet and confer and explore improvements, but maintains its position that 2017 Notice is invalid and void and does not agree to any "suspended" notice until February 1, 2024.

Sincerely,

Amy Gedney
General Manager

Cc: ARSA Board
George Lee

EXHIBIT K



CITY OF IONE

1 E. MAIN STREET
P.O. BOX 398
IONE, CA 95640
(209) 274-2412

August 16, 2022

Amy Gedney, General Manager
Amador Regional Sanitation Authority
18 Main Street
Sutter Creek, CA 95685

SUBJ: Response to ARSA Letter dated July 29, 2022

Dear Amy:

The City of Ione is in receipt of your letter dated July 29, 2022.

Your letter purportedly responds to the letter from the City of Ione dated July 20, 2022.

However, your letter did not respond to any of the ten talking points the City of Ione offered as a starting point to negotiating a long-term Agreement with ARSA. Instead, your letter focused on ARSA's objection to the 5-Year Notice the City of Ione sent to ARSA in 2017.

It is ARSA's assertion that the 5-Year Notice is "void and invalid because it did not satisfy the conditions precedent for such a notice". However, if ARSA's assertion is correct (which the City of Ione does not believe) then ARSA could have enacted Section 14 of the September 18, 2007, Agreement which allows for one party to give written notice to the other party that a breach of the Agreement has occurred. However, this did not occur, and ARSA did not send a written notice to the City asserting a breach within ten days of the five-year notice which states that ARSA will eliminate flows to the lower Henderson/Preston System.

Thus, it is the City of Ione's position that the five-year notice is legal and valid and as of July 31, 2022, the City of Ione is not obligated to receive any wastewater from ARSA's system. However, the City wishes to cooperate with ARSA and CDCR in balancing the regional wastewater and will participate in crafting a long-term agreement that can satisfy all parties.

ARSA's desire to have a meeting to discuss water balances (emails from August 9-15, 2022) is puzzling. The City and ARSA have worked together for decades and suddenly there is an urgency to discuss water balances? The City sent its five-year notice five years ago last month and ARSA only started meeting with the City of Lone and COGC a few months ago. Negotiating in good faith also includes negotiating in a timely and professional manner. This simply has not occurred with ARSA. ARSA continues to threaten litigation against the City of Lone but now demands an urgent meeting to discuss the water balances.

The City of Lone's position has been consistent. The City is willing to cooperate with ARSA in order to assist ARSA with its need to balance wastewater throughout the region. However, ARSA is not in a position to demand anything. The City of Lone is not obligated (as of August 1, 2022) to accept any wastewater from ARSA. Thus, the City's cooperation is voluntary, and ARSA should act accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Rock', with a long horizontal line extending to the right.

Michael Rock
Interim City Manager
City of Lone, CA

EXHIBIT L

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

September 8, 2022

Michael Rock
Interim City Manager
City of Ione
1 E. Main Street
P.O. Box 398
Ione, CA 95640

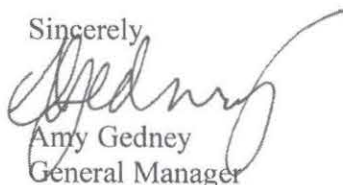
RE: Notice of Breach of Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System

Dear Michael:

Pursuant to the Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September 18, 2007 ("Agreement"), the City of Ione ("City") is obligated annually to accept a specified amount of wastewater from the Amador Regional Sanitation Authority ("ARSA") to the lower Henderson/Preston System until 2037. Although the City may terminate this obligation upon five years' notice, such right is expressly conditioned on the City (and the California Department of Corrections and Rehabilitation) having resolved how to provide adequate reclaimed water for the Castle Oaks Golf Course, which includes, but is not limited to, obtaining any necessary water quality permits or permit modifications required by state law. As detailed in my December 3, 2021, correspondence, a copy of which is enclosed for your reference, due to the City's ongoing failure to provide adequate reclaimed water for the golf course, any notice issued to date purporting to terminate the City's obligation to accept wastewater from ARSA is void and of no force and effect.

Over the past several months, the City has on more than one occasion refused to accept wastewater from ARSA, but later accepted those discharges. Since August 31, 2022, however, the City has refused to accept any wastewater from ARSA. Pursuant to paragraph 14 of the Agreement, ARSA provides this written notice that the City's refusal to accept wastewater from ARSA constitutes a breach of the Agreement, and ARSA is hereby meeting and conferring with the City in an attempt to bring the City into compliance with the Agreement. If the City continues to refuse to accept wastewater from ARSA in accordance with the Agreement, ARSA will have no choice but to pursue any and all available remedies under the law against the City in order to enforce ARSA's rights under the Agreement.

Sincerely,



Amy Gedney
General Manager

Amador Regional Sanitation Authority

1 SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
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11 Attorneys for Plaintiff EXEMPT FROM FILING FEES PURSUANT
12 AMADOR REGIONAL SANITATION AUTHORITY TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF AMADOR

16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By 

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF DONALD BROWN IN
SUPPORT OF EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Donald Brown, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am the President of Aquality Water Management ("Aquality") and have more than
5 35 years of experience in the operations of wastewater treatment plants in California. Throughout
6 my career, my positions have ranged from wastewater treatment plant operator to wastewater
7 treatment facilities manager to operations consultant. I have been responsible for planning,
8 organizing, and directing the operation and maintenance of wastewater treatment plants up to 30
9 million gallons per day. Through Aquality, I have provided operational assistance and consulting
10 services to the Amador Regional Sanitation Authority ("ARSA") for several years.

11 3. Among other services, I have assisted ARSA with various issues regarding the
12 discharge of wastewater from Preston Reservoir into the City of Lodi's ("Lodi") Castle Oaks Water
13 Reclamation Plant for tertiary treatment. Since March 2022, Lodi has periodically complained about
14 odor issues with the water from Preston Reservoir allegedly caused by high levels of hydrogen
15 sulfide. Since that time, ARSA has been treating the water to address any odor issues.

16 4. I have reviewed correspondence from West Yost dated September 22, 2022,
17 addressed to the Central Valley Regional Water Quality Control Board ("Regional Board") on
18 behalf of Lodi regarding the odor issues, among other related topics. On September 27, 2022, I
19 submitted a response on behalf of ARSA to the Regional Board reflecting my opinions regarding
20 the matter, a true and correct copy of which is attached as Exhibit "A" hereto.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct.

23 Executed this 28th day of September 2022, at Sacramento, California.

24 
25 DONALD BROWN
26
27
28

EXHIBIT A

September 24, 2022

Mr. John Baum

Assistant Executive Officer

Central Valley Regional Water Quality Control Board

11020 Sun Center Drive, No. 200

Via email: John.Baum@waterboards.ca.gov

RE: West Yost letter dated 9/20/2022

SUBJECT: City of Lone Acceptance of Secondary Effluent from Preston Reservoir into the City of Lone Tertiary Plant.

Dear Mr. Baum:

Aquality Water Management (Aquality) has been retained to respond to the West Yost letter regarding concerns over acceptance of the treated wastewater from the Preston Reservoir into the City of Lone Tertiary Treatment Plant. Aquality is familiar with the Amador Regional Sanitation Authority (ARSA) and the City of Sutter Creek Wastewater Treatment Plant having provided operational assistance and consulting services over the past several years.

While we understand the concerns over the nuisance odor situation, we feel that the cause and nature of the odors have not been thoroughly investigated and may have been exacerbated by the actions taken by the Operations staff at Lone in an attempt to mitigate their operational concerns. The secondary effluent from the Sutter Creek Wastewater Treatment Plant discharged into the reservoir was fully compliant with the wastewater discharge permit as the board can see from the reports submitted. Therefore, the secondary effluent would be highly treatable with a tertiary treatment process and thus, ARSA would not be directly responsible for the issues.

The concerns that ARSA and Sutter Creek have are of a more serious nature. Should the City of Lone continue to refuse to treat the water the reservoir will continue to rise and could potentially cause encroachment of the freeboard level cited in the permit and could, if a seasonally high rainfall event occurs, cause the reservoir to overflow. The West Yost letter documents the flow data and chemical usage and effort to measure the odors, but there is no mention of any investigation into the condition of the tertiary filters. The filter media in the system diminishes over time due to the abrasion that occurs during the backwash cycle. As the media gets smaller it compacts tighter and the smaller particles that are not flushed out of the

filter settle onto the media surface which further restricts the flow through the filter and increases the backwash frequency further reducing the treatment volume. Overuse of polymers also is known to cause clumping of the media which also reduces the flow.

In AQUALITY's experience any increase in frequency of backwashing in the filter would require verification of the condition of the media, investigation of the effectiveness of the polymer being used, and/or investigating any significant change in the effluent quality from all sources. Should the City of Lone refuse to accept the water from the reservoir as agreed in the ARSA documents without verifying the condition of their process equipment, their actions would be contributing to a potentially more serious event.

We will be seeking additional information regarding the operation and maintenance of the City of Lone Tertiary Treatment Plant and the basis of design to further evaluate our concerns.

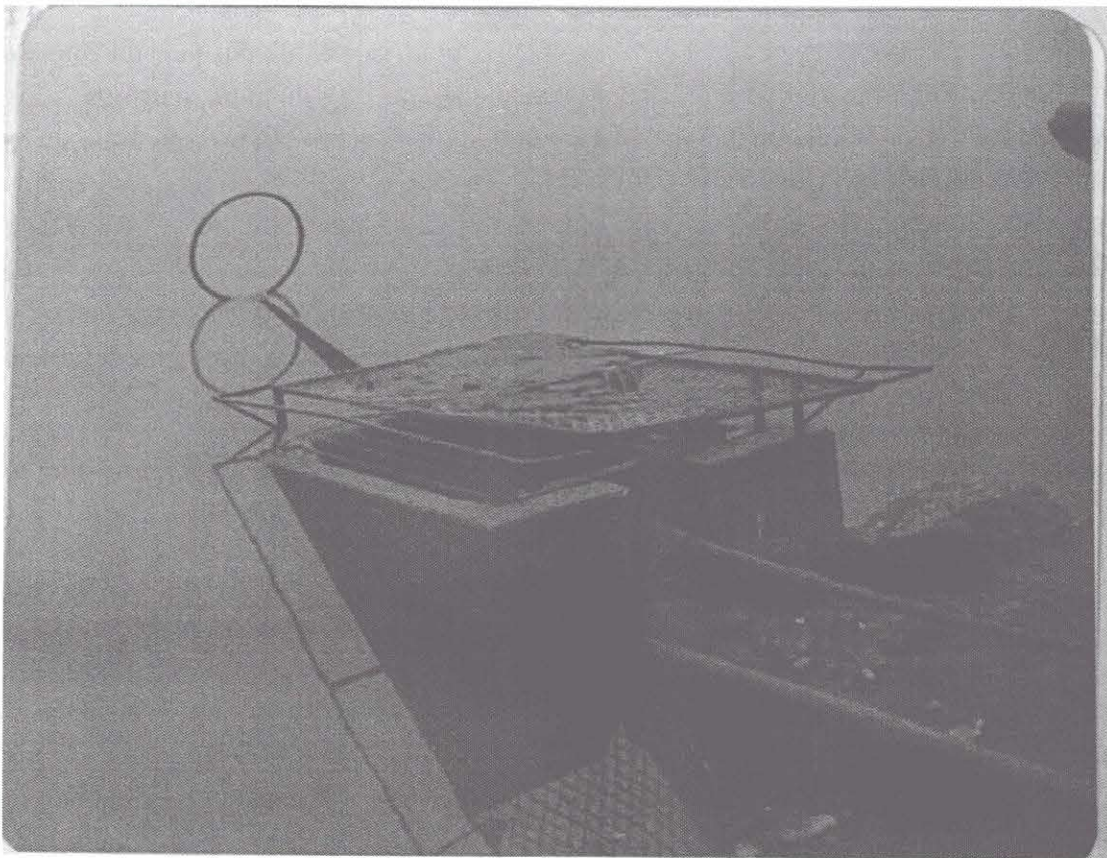
The Preston Reservoir served the City of Sutter Creek, CDCR Mule Creek, ARSA for many years as well as the City of Lone to meet the irrigation supply for the Castle Oaks Golf Course. The reservoir also collects storm water runoff. When the wet season arrives each year, the irrigation needs of the golf course are reduced and water production ceases. Historically, intermittently taking flows from Preston Reservoir has created issues caused by sedimentation when flows are stopped at the tertiary plant. When flow returns there were short term periods where these solids were noticed but not long enough to create issues. When flows are stopped for longer periods, such as what has recently been occurring, larger amounts of sedimentation may be building up contributing to this issue.

The reservoir contains enough dissolved oxygen to prevent hydrogen sulfide from significantly forming, however I suspect that the organic material settling in the pipeline during stoppages could consume the dissolved oxygen and could result in formation of hydrogen sulfide over time creating some odor as the line flushes out the sediment and could impact the throughput through the filter for a short time.

The West Yost letter infers that all of the issues result from the actions of ARSA and or Sutter Creek when in fact many of these are not. The City of Sutter Creek's wastewater is fully compliant disinfected secondary effluent, which is fully filterable in a properly operated and maintained tertiary filter. Once the wastewater enters the ARSA pipeline their responsibility changes to monitoring the system between the plant and until it enters the Preston reservoir. Once it is there, the only control is the discharge into the tertiary treatment plant which is solely controlled by the City of Lone. The operation and maintenance is then the responsibility of the City of Lone.

From the time the secondary treated effluent is discharged into the pipeline until the unused portion enters Preston reservoir it flows by gravity into the reservoir. The reservoir also receives rainfall and runoff from the surrounding upgradient areas. This flow would include organic and inorganic material flowing off the surface into the reservoir which is a natural occurrence in surface water open storage although it typically is removed by the tertiary system, which is under control of the City of Lone. However, the only information included in the letter does not identify what other measures were taken to investigate the cause of the odors or what was done to investigate the filter performance or polymer used other than increasing the dose.

ARSA and Sutter Creek have conferred with the City of Lone on ways to remove the water from the reservoir nearer the surface by modifying the intake inside the reservoir, but this action can't be taken easily until the reservoir is very low. This action requires cooperation from all parties working through the current situation in spite of the difficulties. See Picture 1. below.



Picture 1 demonstrates the outlet sluice gate currently under water which could be modified to accept water from nearer the surface to minimize sediment from the lower elevation of the reservoir. Notice the accumulation of solids on the coarse screen.

We ask that the RWQCB consider these opinions before taking an action that does not consider all of the potential risks. It is our hope that all of the parties work together to resolve the collective concerns and find a reasonable solution that fairly meets the needs of all.

Sincerely,

Aquality Water Management

A handwritten signature in black ink that reads "Donald Brown". The signature is written in a cursive style with a long, sweeping underline.

Donald Brown, President

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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By [Signature]

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF GARY GHIO IN
SUPPORT OF EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Gary Ghio, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I have been a licensed engineer in the State of California for 41 years with extensive
5 experience in managing wastewater disposal systems. Since 2011, I have been the Engineer for the
6 Amador Regional Sanitation Authority ("ARSA"), a joint powers agency responsible for providing
7 wastewater conveyance and disposal services to the Cities of Amador City and Sutter Creek and
8 the County of Amador.

9 3. Wastewater from the City of Sutter Creek, Amador City, and the Martell community
10 is treated by the Sutter Creek Wastewater Treatment Plant ("Sutter Creek WTP"), which is owned
11 and operated by the City of Sutter Creek. Disinfected secondary effluent from the Sutter Creek
12 WTP is conveyed through a series of pipelines and reservoirs, known as the "Henderson/Preston
13 System," and ultimately to Preston Reservoir for discharge to the City of Lone ("Lone") for tertiary
14 treatment at its Castle Oaks Water Reclamation Plant ("Castle Oaks WRP") for irrigation use at the
15 Castle Oaks Golf Course ("Golf Course").

16 4. The Henderson/Preston System is owned by the California Department of
17 Corrections and Rehabilitation ("CDCR"). Since approximately 1977, CDCR has leased the
18 pipelines and reservoirs that make up the Henderson/Preston System to ARSA. A true and correct
19 copy of the current lease between ARSA and CDCR, Ground lease No. L-2070 ("Lease"), executed
20 on February 23, 2009, is attached as Exhibit "A" hereto.

21 5. Under the Lease, ARSA uses the Henderson/Preston System to transport water and
22 wastewater pursuant to a separate agreement between ARSA, CDCR, and Lone, identified as the
23 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September
24 18, 2007 ("Wastewater Agreement"), a true and correct copy of which is attached as Exhibit B to
25 the Lease.

26 6. The Wastewater Agreement governs the wastewater rights and obligations among
27 ARSA, CDCR, and Lone, as well as the relationship and respective rights between ARSA, CDCR,
28 and Lone with regard to the Henderson/Preston System. The Wastewater Agreement obligates Lone

1 to accept 650 acre feet (or 211,803,427 gallons) of secondarily treated wastewater from Preston
2 Reservoir annually, specifically up to 95 acre feet (or 30,955,886 gallons) of wastewater per month
3 from April through September and up to 10 acre feet (or 3,258,514 gallons) of wastewater per
4 month from October through March.

5 7. The Wastewater Agreement provides for up to 95 acre feet (or 30,955,886 gallons)
6 of wastewater per month from April through September because those months typically fall within
7 the irrigation season, i.e., when the wastewater is needed due to a lack of rain. The Wastewater
8 Agreement only provides for a maximum of 10 acre feet (or 3,258,514 gallons) of wastewater per
9 month from October through March because those months generally fall within the rainy season,
10 i.e., when limited water is needed for irrigation. Based on my experience since the Wastewater
11 Agreement was entered into roughly 15 years ago, however, the respective irrigation and rainy
12 seasons generally begin roughly one month later than what is reflected in the Wastewater
13 Agreement, meaning the irrigation season will likely last through at least October, depending on
14 the commencement of the rainy season.

15 8. The Central Valley Regional Water Quality Control Board's ("Regional Board")
16 Water Reclamation Requirements ("WRRs") Order No. 93-240 regulates the Castle Oaks WRP
17 and flows thereto from the Henderson/Preston System. WRRs Order No. 93-240 only permits
18 wastewater treatment and reuse based on the flows to Preston Reservoir through the
19 Henderson/Preston System. WRRs Order No. 93-240 also names only ARSA, Ione, and Portlock
20 International, Ltd. (the Golf Course) as the dischargers. Ione has received no other water quality
21 permits or permit modifications from the Regional Board that allow Ione to provide reclaimed water
22 to the Golf Course in any manner other than through the Henderson/Preston System from Preston
23 Reservoir. A true and correct copy of WRRs Order No. 93-240 is attached as Exhibit "B" hereto.

24 9. Pursuant to WRRs Order No. 93-240, ARSA can store a maximum of 229 acre feet
25 of water (or 74,619,977 gallons) in Preston Reservoir, which lies within two feet of the freeboard
26 (i.e., the vertical distance between the reservoir water surface and the crest of the reservoir's
27 embankment). Although such capacity would exceed WRRs Order No. 93-240, at 270 acre feet (or
28 86,350,628 gallons), the dam at Preston Reservoir will overtop and wastewater will overflow from

1 the Reservoir.

2 10. In the event Preston Reservoir spills over, or the dam does not hold, the wastewater
3 will flood a nearby Cal Fire Academy property and then run through a nearby creek, Mule Creek,
4 and into the residential subdivision surrounding the Golf Course. The flooding and discharge of
5 disinfected secondary effluent into Mule Creek and onto residential property poses significant
6 public health and water quality contamination issues, as disinfected secondary effluent contains
7 harmful pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites. Although
8 the wastewater that is conveyed into Preston Reservoir through the Henderson/Preston System has
9 undergone secondary treatment at the Sutter Creek WTP, local runoff and waterfowl contribute to
10 the bacteria in Preston Reservoir. Attached as Exhibit "C" hereto is a true and correct copy of the
11 Preston Dam Break Inundation Map, which depicts the areas that would be impacted with flooding
12 of disinfected secondary effluent in the event Preston Reservoir spills over.

13 11. Based on Preston Reservoir's current amount of 115 acre feet (or 37,472,914
14 gallons) of wastewater, in the event of a substantial, upcoming rainy season in the region, such as
15 one that includes a 100-year storm event like that experienced in 2017, Preston Reservoir will reach
16 its permitted capacity in early March 2023, and will spill over in April 2023, before the end of the
17 anticipated rainy season. Water balance is required by the Regional Board in order to verify that
18 the system at issue has sufficient capacity for all flows under a 1 in 100 year storm season scenario.
19 Per Regional Board requirements, systems must be able to treat, store, and dispose of all flows
20 under the 1 in 100 year scenario each year.

21 12. In the past, Ione's Castle Oaks WRP has treated 1.2 million gallons (or 3.68 acre
22 feet) per day. In order to avoid the grave consequences that will ensue in the event Preston Reservoir
23 overflows, it is imperative that Ione immediately begin accepting at least 500,000 gallons (or 0.15
24 acre feet) of wastewater from ARSA from Preston Reservoir. Based on my modeling, the
25 acceptance of at least 500,000 gallons for at least 30 days should be sufficient to avoid Preston
26 Reservoir spilling over before the end of the upcoming rainy season, depending on the extent and
27 duration of the rainy season. The only viable option for ARSA to discharge wastewater from the
28 Preston Reservoir is to discharge the water to the Castle Oaks WRP; no other viable options exist.

1 13. Ione has expressed an unwillingness to accept wastewater from Preston Reservoir
2 on the grounds that the water is allegedly high in hydrogen sulfide, which could cause odor issues
3 at the Castle Oaks WRP and the Golf Course, and that the water purportedly has high turbidity (i.e.,
4 cloudiness), which may cause treatment difficulties.

5 14. On September 9, 2022, the Regional Board issued correspondence to ARSA, Ione,
6 and the Golf Course addressing the issue, a true and correct copy of which is attached as Exhibit
7 "D" hereto. Among other items, the Regional Board's September 9, 2022, letter stated in no
8 uncertain terms that "the capacity issues at Preston [Reservoir] are presenting an even greater risk
9 to water quality and public health than potential nuisance concerns related to the treatment of
10 wastewater from Preston [Reservoir] at Ione's [Castle Oaks WRP]."

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct.

13 Executed this 28th day of September 2022, at Sutter Creek, California.

14 

15 GARY GHIO
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EXHIBIT A

GROUND LEASE

Lease No.: L-2070

Lessee: Amador Regional Sanitation Authority

LEASE COVERING PREMISES LOCATED AT**Mule Creek Prison and Preston Youth
Correctional Facility****Amador County****AGENCY****Department of Corrections and Rehabilitation****REAL PROPERTY NOS.: 43 and 1575**

This Lease, dated for reference purposes only, January 1, 2009, by and between the State of California, acting by and through the Director of General Services (DGS), with the consent of the California Department of Corrections and Rehabilitation (CDCR), hereinafter collectively referred to as STATE, and the Amador Regional Sanitation Authority (ARSA), a joint powers authority, hereinafter referred to as LESSEE.

RECITALS

WHEREAS, CDCR has under its jurisdiction certain real properties located in the County of Amador, State of California, commonly known as the Mule Creek State Prison (MCSP) and the Preston Youth Correctional Facility, formerly known as Lone Youth Authority, and hereinafter referred to as "Preston"; and

WHEREAS, pursuant to Government Code (GC) Section 14672.100, the Director of the Department of General Services, with the consent of CDCR, may lease real property appurtenant to or part of Preston, which real property is located in Amador County and further described in this Lease to ARSA (LESSEE) for a term not to exceed thirty (30) years and at a rate of one dollar (\$1.00) per year for its continued use as a wastewater delivery and disposal system; and

WHEREAS, CDCR owns a series of pipelines and reservoirs, each of which interconnect to allow the transport of water and or wastewater, which is known as Henderson/Preston System. The Henderson/Preston System, hereinafter referred to as the "Premises", is depicted in "Supplement #2 to Appendix L of Amador County Wastewater Management Plan", dated November 1977, and hereinafter referred to as the "Water Plan". Per the Water Plan, said Premises is composed of an upper element and a lower element. The upper element consists of the area from the outfall of the Sutter Creek Treatment Plant to Preston, including all pipelines, rights of way, reservoirs, and water rights. The lower element includes the components that lie below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir. Said Water Plan defines and illustrates the elements of the Henderson/Preston System, is marked Exhibit "A", consists of two (2) pages and is attached hereto and by this reference made a part hereof; and

WHEREAS, the City of Lone, LESSEE and CDCR, entered into the "Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System", hereinafter referred to as "Agreement for Wastewater", dated September 18, 2007. Said Agreement governs the wastewater disposal rights and obligations among the parties to the Agreement, is marked Exhibit "B", which consists of nine (9) pages, and is attached hereto and by this reference made a part hereof; and

WHEREAS, LESSEE currently occupies the Premises per the "Agreement for Wastewater Management" dated March 22, 1977, which agreement shall be superseded by this Lease and the Agreement for Wastewater; and

WHEREAS, STATE is willing to lease the Premises to the LESSEE, and LESSEE is willing to lease the Premises from STATE, on the conditions set forth herein.

NOW, THEREFORE, it is hereby mutually agreed as follows:

WITNESSETH

DESCRIPTION

1. STATE does hereby lease to LESSEE, and LESSEE hereby hires from STATE, the Premises, as further described and depicted in the Water Plan, Exhibit "A" to this Lease.

TERM

2. The term of this Lease shall be for a period of twenty-nine (29) years eight (8) months to commence on January 1, 2009, and shall terminate on September 18, 2037, to coincide with the termination date of the Agreement for Wastewater.

USE

3. (a) LESSEE agrees to use the leased Premises to transport water and wastewater through the Premises pursuant to the Agreement for Wastewater, attached hereto as Exhibit "B", and by this reference made a part hereof.

(b) All activities upon the Premises will be conducted hereunder only in a manner which will not interfere with the orderly operation of the MCSP and Preston.

LESSEE'S
OBLIGATION FOR
WATER
DIVERSION

4. (a) LESSEE agrees to annually divert a minimum of 250 acre/feet of water and a maximum of 1,100 acre/feet, from the Sutter Creek point of diversion in order to maintain STATE's water rights, as is more particularly described in the Water Plan, Exhibit "A" to this Lease. STATE reserves all of its water rights including the water rights for diversion from Sutter Creek at a maximum level of 1,100 acre/feet; and

(b) LESSEE shall maintain and supply upon reasonable request documentation of water diversion rates. Said documentation shall be sent to:

Department of Corrections and Rehabilitation
Facilities Management Branch
9838 Old Placerville Road, Suite B
Sacramento, California 95827

(c) STATE reserves its claim to receive not less than 250 acre/feet of water annually for use at Preston.

RENT

5. The first annual rent payment shall be paid by the LESSEE in the amount of ONE DOLLAR AND 00/100s (\$1.00), due and payable on January 1, 2009. Rent shall be payable annually in advance for the duration of the Lease, or at the LESSEE's option, shall be paid in one lump sum in advance.

All rent payments shall be addressed and delivered to:

Department of General Services
Accounts Receivable PAL (L-2070)
P.O. Box 989053
West Sacramento, CA. 95798-9053

FEE

6. LESSEE will reimburse DGS for its costs related to the lease, including, but not limited to, any survey costs, title transfer fees, administrative costs, and department staff time. DGS will invoice for the fees and payment shall be made to DGS at the address shown above and shall be made by February 1, 2009.

**LESSEE'S ACCESS
RIGHTS**

7. During the term of this Lease, STATE hereby grants to LESSEE and its contractors, agents, employees, representatives or licensees, the non exclusive temporary right to access, at any and all times and at any and all places, upon STATE lands and easements identified as the Premises. LESSEE has acquired or shall acquire all access rights for the lands not owned by STATE, at LESSEE's own expense.

**CONDITION
OF PREMISES**

8. (a) LESSEE has visited and inspected said Premises and it is agreed that the Premises stated herein, and on the attached Exhibit "A", is not described using a legal description and that the description is approximate. It is also acknowledged by all parties to this Lease, that the Premises will be leased "as-is" and the STATE does not warrant or guarantee the condition of the system, its pipelines, ponds, dams, equipment and appurtenances included hereunder.

(b) LESSEE agrees, pursuant to the "Surrender of Premises" clause of this Lease, to surrender up to STATE the Premises with any real property improvements therein, in at least the same condition as when received, reasonable use and wear thereof and damage by act of God, or by the elements excepted.

**TERMINATION
AND INJUNCTIVE
RELIEF**

9. The parties to this Lease hereto recognize that the Premises leased hereunder is part of a wastewater system, regulated under the California Water Code, and that termination of this Lease is not practicable nor feasible as it would render an essential utility service inoperable, with no alternate means readily available to STATE and LESSEE to dispose of their effluent that is not in violation of their other permit obligations. Therefore, the parties to this Lease have deleted any reference herein to termination of this Lease for breach, and instead expressly agree that injunctive relief to cure any actual or threatened breach is appropriate, and agree that either party shall be entitled to seek equitable injunctive relief from a court of competent jurisdiction to enforce compliance with the obligations hereunder. Neither party shall be entitled to defend such action on the basis that injunctive relief is improper, or that monetary damages are adequate. In the event of a violation of an injunctive order issued under this provision, in a subsequent proceeding to enforce the injunction, a court may, should it deem it appropriate, issue an order terminating the lease thereafter, on such terms as may be just and which will not work undue hardship on the parties to this Lease.

HOLD OVER

10. Any holding over after the expiration of said term or any extension thereof, with the written consent of STATE, shall be deemed a tenancy only from month to month. Otherwise, the terms and conditions specified in lease shall remain applicable.

UTILITIES

11. LESSEE agrees to pay at its sole cost and expense any and all water, electric, gas and other utility charges or any other charges payable in connection with LESSEE's use of said Premises during the term of this Lease. No utilities will be provided by STATE and STATE assumes no liability for the existence or nonexistence of utilities.

**REGULATION
BY STATE**

12. LESSEE agrees to cooperate with the MCSP and or Preston to ensure that activities conducted on the Premises, or persons brought onto the Premises to conduct such activities, do not interfere with the orderly operation of the facilities.

**AGREEMENT TO
REGULATE**

13. LESSEE hereby agrees to continue to operate the Premises in accordance with those guidelines found within the Agreement for Wastewater as outlined in the attached Exhibit "B".

IMPROVEMENTS

14. (a) STATE hereby grants to LESSEE the right to, at its sole cost and expense, improve the Premises. Said improvements include but are not limited to, installing, operating, maintaining, repairing and removing and or demolishing components of the wastewater system. Additionally, LESSEE shall keep the Premises fully functional and operational, in accordance with generally accepted and recommended practices and procedures and in compliance with all applicable federal, state and local laws and regulations, any and all improvements including, but not limited to any pipelines, valves and valve boxes, ponds, dams, equipment, pipes and pipelines, valves, wells, pumps, electrical panels, meter socket and wiring or other improvements existing on the Premises or constructed upon the Premises by LESSEE.

(b) LESSEE hereby assumes, at its sole expense; without limitation, the cost of any necessary improvements as defined in paragraph (a) immediately preceding this paragraph of this Lease, as well as environmental impact reports, engineering reports, government permits, or any other applicable regulatory compliance items.

(c) Prior to making any needed improvements to the Premises, LESSEE shall submit plans, specifications, and/or drawings, as applicable, in writing to the STATE. LESSEE shall receive STATE's written consent to proceed with such improvements. Said consent will not be unreasonably withheld.

(d) LESSEE agrees that in no event shall STATE be required to perform any maintenance on or make repairs or alterations to the leased Premises of any nature whatsoever.

(e) When making any necessary excavation on the Premises, LESSEE shall make such excavation in a manner that will cause the least damage to the surface of the ground, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as existed prior to said excavation as practicable.

LIENS

15. (a) During continuance in force of this Lease, LESSEE shall keep the leased Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by LESSEE and shall indemnify, hold harmless and defend STATE from such liens and encumbrances arising out of any work performed or materials furnished by or at the direction of LESSEE or contractors of LESSEE. Notice is hereby given that STATE shall not be liable for any work or materials furnished to LESSEE on credit and no mechanic's or other lien for any such work or materials shall attach to or affect STATE's interest in the leased Premises based on any work or materials supplied to LESSEE or anybody claiming through LESSEE. LESSEE shall within thirty (30) days after being furnished a notice of filing of any such lien, take action, whether by bonding or otherwise, to remove or satisfy any such lien.

(b) STATE shall have the right at all times to post and keep posted on the leased Premises any notices, that STATE deems proper for its protection and the protection of the leased Premises and STATE from liens. If, nevertheless, any

such lien shall be recorded, LESSEE shall, within sixty (60) days after notice from STATE, pay, settle, or otherwise release such lien, or deposit into escrow with a reputable bank or trust company in California a sum sufficient to satisfy such lien, in full. In the event of unsuccessful termination of any litigation in connection with such lien and under the terms of which it shall be obligated to pay such lien upon the unsuccessful termination of such litigation, then, upon the failure of LESSEE to comply with said requirements, STATE may pay or otherwise dispose of said lien, or defend, settle, or compromise any lawsuit brought to foreclose the same, in its sole discretion, and all amounts so paid by it or any loss sustained by STATE on that account, including reasonable amount for its attorney's fees, shall be repaid to STATE and shall be in addition to any other payments by way of rents, or otherwise, required under the terms of this Lease. A failure to pay any such sum within thirty (30) days after mailing of bill therefore to LESSEE shall constitute a breach of this Lease.

NOTICES

16. (a) All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.

(b) All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00a.m. and 5:00p.m. Pacific Time so long as such day is not a state or federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

	To the LESSEE:	ARSA Attn.: Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685 (209) 267-5647 (phone)
STATE:	To the DGS:	Department of General Services Real Estate Services Division-SOLD (L-2070) 707 Third Street, MS 505 Post Office Box 989052 West Sacramento, California 95798-9052 (916) 375-4025 (phone)
	To CDCR:	California Department of Corrections Attn.: Warden Mule Creek State Prison 4001 Highway 104 Sutter Creek, CA 95685 (209) 274-5225 (phone)
		California Department of Corrections Attn.: Superintendent Preston Youth Correctional Facility (PYCS) 201 Waterman Road Ione, CA 95640

**NOTICES
(CONTINUED)**

(209) 274-8102 (phone)

(c) The address to which notices may be mailed as aforesaid to either party, may be changed by written notice given by subject party to the other, as hereinbefore provided; but nothing herein contained shall preclude the giving of any such notice by personal service.

SUBLETTING

17. LESSEE shall not assign this Lease in any event and shall not sublet the leased Premises or any part thereof and will not permit the use of the leased Premises by anyone other than the LESSEE without prior written consent by the STATE.

**RECOVERY OF
LEGAL FEES**

18. If action is brought by any parties to this Lease for any breach hereof, or to restrain the breach of any agreement contained herein, the prevailing party in such action shall be entitled to the amount in attorney's fees in said action as the court shall determine to be reasonable, which shall be fixed by the court as part of the costs of said action.

**PARTNERSHIP
DISCLAIMER**

19. LESSEE, and any and all agents and employees of LESSEE, shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties to this Lease herein as partners.

HOLD HARMLESS

20. (a) This Lease is made upon the express condition that STATE is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of STATE.

(b) LESSEE agrees to defend, indemnify and hold harmless STATE from all liability, loss, cost or obligation on account of or arising out of LESSEE's use and/or occupancy of the Premises during the Lease term or any such injury or loss, however occurring.

(c) LESSEE further agrees to provide necessary Workers' Compensation Insurance for all employees of LESSEE upon said Premises at the LESSEE's own cost and expense.

INSURANCE

21. STATE acknowledges that LESSEE is self-insured in whole or in part as to any of the below described types and levels of coverage. LESSEE shall provide STATE with written acknowledgment of this fact at the time of the execution of this Lease. Said acknowledgment shall contain the STATE Lease Number, L-2070. If, at any time after the execution of this Lease, LESSEE abandons its self-insured status, LESSEE shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this "Insurance" clause pertaining to policies of insurance in regard to those types and levels of insurance as follows:

COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain general liability with limits of not less than \$1,000,000 aggregate for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal & advertising

injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the LESSEE's limit of liability.

The policy must include State of California, Department of General Services, LESSEE, and their officers, agents, employees and servants as additional insureds, but only insofar as the operations under the Lease are concerned.

AUTOMOBILE LIABILITY

LESSEE shall maintain motor vehicle liability with limits of not less than \$1,000,000 per accident for bodily injury and property damage. The State of California and Department of General Services are to be additional insured with respect to liability arising out of all vehicles owned, hired and non-owned.

WORKERS' COMPENSATION

LESSEE shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Lease, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required, and the policy shall include a waiver of subrogation in favor of the State of California.

GENERAL REQUIREMENTS

LESSEE shall ensure that the following general requirements are met:

(a) Insurance Companies must be acceptable to Department of General Services, Office of Risk and Insurance Management.

(b) LESSEE shall provide STATE with a true copy of the policy in place providing coverage for General Liability, within thirty (30) days after each insurance policy renewal.

(c) Coverage needs to be in-force for complete term of this Lease. If insurance expires during the term of the Lease, a new certificate must be received by the STATE at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of the original contract.

(d) Insurance policies shall contain a provision that coverage will not be cancelled without thirty (30) days prior written notice to STATE.

(e) LESSEE is responsible for any deductible or self-insured retention contained within the insurance program.

(f) In the event LESSEE fails to keep in effect at all times the specified insurance coverage, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event, subject to the provisions of this Lease.

(g) Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by STATE.

It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the required insurance coverage.

NON-DISCRIMINATION

22. LESSEE agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, age or physical handicap. LESSEE agrees to take action to ensure that applicants for employment and employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, age or physical handicap. (See California Government Code Sections 12920-12994 for further details.)

Remedies for willful violation:

(a) STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgment having the effect from a court in an action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the Government Code.

(b) STATE shall have the right to seek appropriate legal relief, whether monetary or injunctive, as a result of said breach, and consistent with the provisions of the "Termination and Injunctive Relief" clause of this Lease.

AMERICANS WITH DISABILITIES ACT

23. Where applicable, LESSEE shall comply with all federal requirements established under the 28 Code of Regulations, Part 36, Americans with Disabilities Act, to ensure the Premises is accessible to all participants and to provide equally effective communications.

LOSSES

24. STATE will not be responsible for losses or damage to personal property, equipment or materials of the LESSEE and all losses shall be reported to STATE immediately upon discovery.

DEBT LIABILITY DISCLAIMER

25. STATE will not be liable for any debts or claims that arise from the operation of this Lease.

TAXES / ASSESSMENTS

26. LESSEE agrees to pay all lawful taxes, assessments, or charges which at any time may be levied upon interest in this agreement. It is understood that this lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.

PROTECTION OF PREMISES

27. No removal of soil in excess of five (5) cubic yards, or dumping of refuse by LESSEE, except for transport of wastewater as contemplated by this Lease, is permitted in any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises; and LESSEE agrees not to cut or remove any trees, larger than four (4) inches in diameter and measured at three (3) feet in height, thereon except as approved in writing by STATE and LESSEE further agrees that at all times to exercise due diligence in the protection of the Premises against damage or destruction by fire or other causes.

PROPERTY RESTRICTIONS

28. LESSEE shall comply with the following with respect to activities on the Premises:

(a) LESSEE shall not permit hunting on the Premises but shall not be required to post "No Hunting" signs; and

(b) Compliance to any and all rules and regulations by governing agencies to include EPA, Department of Health or local water quality board must be strictly adhered to; and

(c) Should LESSEE desire to use pesticides on the area (either herbicides, rodenticides or insecticides) all applicable Environmental Protection Agency (EPA) both state and federal, standards must be met and prior approval must be received from STATE as not all EPA approved pesticides will be permitted.

AERIAL APPLICATIONS

29. Any aerial applications of any pesticides on the Premises shall be in compliance with the California Food and Agriculture Code (FAC), Section 12972 and Title 3, California Code of Regulations (3 CCR), Section 6614.

LESSEE shall notify the Warden and Superintendent in writing within three (3) business days in advance, of any aerial application and a completed Material Safety Data Sheet (MSDS) shall accompany the notice. LESSEE shall ensure that there will be minimal to no drift over the prison site adjacent to the subject Premises. LESSEE shall insure that any aircraft used for any aerial application will not encroach into the airspace of the MCSP and Preston.

WEED ABATE- MENT

30. Any weed burning operations on the leased Premises will be carried out pursuant to local ordinances and at LESSEE's own cost and expense. LESSEE will inform MCSP and Preston in advance of any weed burning operations.

ENVIRONMENTAL COMPLIANCE AND HAZARDOUS WASTE

31. (a) Compliance. LESSEE shall be solely responsible for determining the applicability of and for complying with all applicable federal, state and local environmental, natural resources, zoning laws and regulations, including but not limited to CERCLA (42 USC 9601.14), SARA [42 USC 11021(e)], or Resources Conservation and Recovery Act of 1976 (RCRA), Pub. L. 94-580 (1976), 42 USC 6901 et seq. and amendments, including the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616 (1984), with respect to LESSEE's activities on the Premises. LESSEE agrees that it shall comply with all applicable laws, federal, state, and local, existing during the term of this Lease pertaining to the use, storage, generation, treatment, transportation, and disposal of LESSEE's hazardous substances (including petroleum and petroleum derivatives) as that term is defined in such applicable law.

(b) Copies of Materials. LESSEE shall maintain copies of Material Safety Data Sheets (MSDS) and hazardous waste manifests, if any, for all hazardous materials used or transported on or from the Premises. MSDS and manifests shall be provided to the CDCR Facilities Management Division upon its request. If LESSEE is required to prepare a Business Plan, as specified by Health and Safety Code Section 25500 et seq., or a Hazardous Waste Contingency Plan, as specified in 22 CCR 66264.51 et seq., then a copy of the plan shall be submitted first to the Facilities Management Division for review and written approval.

(c) Spill Reporting; Cleanup. Any spill or release of a hazardous substance or material to the air, soil, surface water, or groundwater will be immediately reported to STATE as well as to appropriate government agencies, and shall be promptly and fully cleaned up and the Premises (including soils, surface water, and groundwater) restored to its original condition or such condition as approved by the applicable government agency with jurisdiction.

(d) RCRA Facility Prohibited. LESSEE shall not apply to become a "permitted" RCRA hazardous waste storage or disposal facility on the Premises.

(e) Inspection. STATE or its representatives reserve inspection rights pursuant to the "STATE's Rights to Enter" clause of this Lease.

Termination. Any violation of federal, state, or local environmental law by LESSEE, which continues unaddressed for a period of thirty (30) days from the date LESSEE receives notice of such violation, shall be grounds for STATE to pursue specific performance and injunctive relief in accordance with the "Termination and Injunctive Relief" clause of this Lease. STATE shall not have the right to pursue remedies under said clause if LESSEE commences addressing the violation within such thirty (30) day period and, thereafter, diligently pursues remediation of the violation.

(f) Indemnification by LESSEE. In addition to any other indemnity set forth herein, LESSEE shall fully indemnify, defend, and hold harmless STATE and its agents and representatives for any violation of environmental, hazardous waste, hazardous materials (including petroleum and petroleum derivatives), and/or natural resources law caused by LESSEE or LESSEE's agents or representatives. Furthermore, LESSEE shall reimburse the STATE for any and all costs and liability related to investigation, clean up, settlement amounts, and/or fines, including attorneys' fees, incurred by the STATE for such violation.

(g) Indemnification by STATE. In the event a government order is issued naming LESSEE as a potentially responsible party, or LESSEE incurs any other loss, cost, expense (including attorney's fees) or liability during or after the term of the Lease in connection with contamination which pre-existed LESSEE's obligations and occupancy under this Lease, or which was caused by STATE, STATE will hold harmless and defend LESSEE in connection therewith and shall be solely responsible as between LESSEE and STATE for all efforts, liabilities, losses, costs and expenses therefore, including attorney's fees. LESSEE shall have the burden of proof that the condition pre-existed the LESSEE's use and occupancy of the Premises or was caused by STATE.

SURRENDER OF PREMISES

32. (a) All personal property and equipment that is nonessential to the wastewater operations on the Premises shall be removed by LESSEE, at its sole cost and expense within thirty (30) days after expiration or termination of LESSEE's tenancy.

(b) Should LESSEE fail to remove said nonessential personal property and equipment within thirty (30) days after expiration or termination of the Lease, STATE may do so at the risk of LESSEE. Upon written demand by STATE, LESSEE shall immediately pay all costs and expenses associated with the removal of said property belonging to LESSEE.

(c) LESSEE may, however, with written consent of STATE, abandon in place any and all of LESSEE's nonessential personal property and equipment, whereupon, as abandoned, title to said improvements will vest in STATE.

RELOCATION

33. In the event that Court should terminate this Lease for a refusal to obey an injunctive order as provided in the "Termination and Injunctive Relief" clause of this Lease, LESSEE acknowledges and agrees that it has no claim against STATE for Relocation Payments, Relocation Advisory Assistance, or costs pursuant to the Government Code sections 7260 et seq, or any regulations implementing or interpreting such sections. LESSEE further agrees that it has no claim in either law or equity against STATE for damages or other relief should the Lease be so terminated, and waives any such claims it may have.

STATE'S RIGHT TO ENTER

34. During the term of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises for survey, inspection, or any other lawful STATE purposes.

EASEMENTS AND RIGHTS OF WAY

35. This lease is subject to all existing easements and rights of way. STATE further reserves the right to grant additional public utility easements as may be necessary and LESSEE hereby consents to the granting of any such easement, as long as such easement does not interfere with the operations of LESSEE's established uses. If the right to grant such easement is exercised, the public utility or their contractor will be required to reimburse LESSEE for any damages caused by the construction work on the easement area.

MINERAL RIGHTS

36. LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under said Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.

BINDING

37. The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties to this Lease hereto.

UNDERGROUND UTILITIES

38. LESSEE shall be responsible for maintaining all underground utilities to include all pipelines connecting to the Premises.

ESSENCE OF TIME

39. Time is of the essence for each and all of the provisions, covenants and conditions of this Lease.

CLAUSE HEADINGS

40. All clause headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

WAIVER

41. If STATE waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of that or any subsequent term, covenant or condition. Failure by STATE to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or decrease STATE'S right to insist thereafter upon strict performance by LESSEE. Waiver by STATE of any term, covenant, or condition contained in this Lease may only be made by a written document properly signed by an authorized STATE representative.

SEVERABILITY

42. If any term, covenant, condition, or provision of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.

This Lease contains all currently enforceable agreements between STATE and LESSEE. In addition, this Lease and with Exhibit B are intended to be compatible and work together and collectively supersede all prior agreements between STATE and LESSEE. There have been no representations by STATE or understandings made between STATE and LESSEE other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease hereto.

IN WITNESS WHEREOF, this agreement has been executed by the parties to this Lease hereto as of the date written below.

STATE OF CALIFORNIA

DIRECTOR OF DEPARTMENT OF
GENERAL SERVICES

By:


TONY PSIHOPAIDAS, Manager
State Owned Leasing & Development
707 Third Street, MS-505
West Sacramento, CA 95605
(916) 375-4025

02/23/09
Execution Date

LESSEE:

AMADOR REGIONAL SANITATION AUTHORITY,
a Joint Powers Authority

By:


ROB DUKE, General Manager

1-28-09
Date Signed

Consent:

DEPARTMENT OF CORRECTIONS

By:


DEBORAH HYSEN, Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

MCDONOUGH HOLLAND & ALLEN

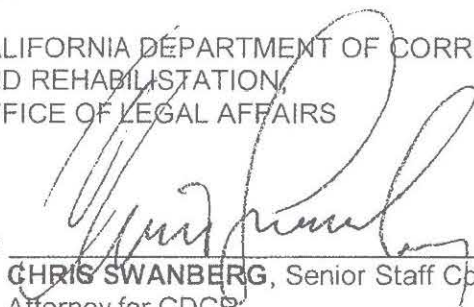
By:


HARRIET STEINER
Attorney for ARSA

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION,
OFFICE OF LEGAL AFFAIRS

By:


CHRIS SWANBERG, Senior Staff Counsel
Attorney for CDCR

Approval Recommended:

DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION
State Owned Leasing and Development

By:

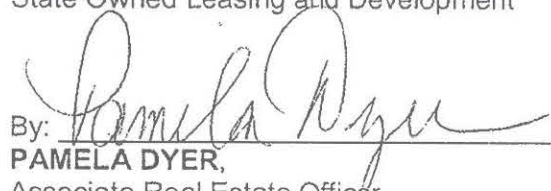

PAMELA DYER,
Associate Real Estate Officer

EXHIBIT A

SUTTER CREEK - IONE OUTFALL

WASTEWATER

RECLAMATION PROJECT

SUPPLEMENT #2

TO

APPENDIX L

OF

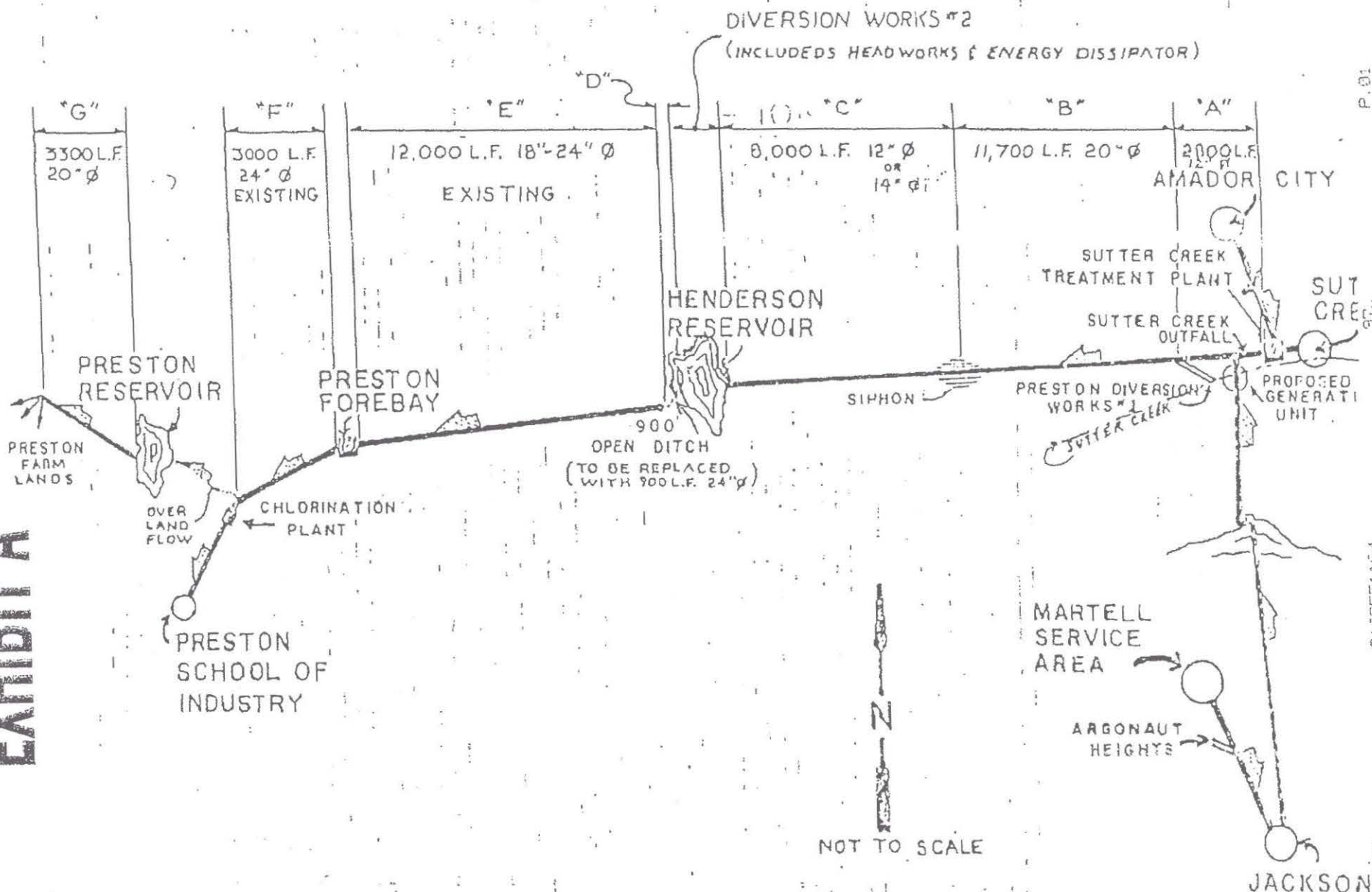
AMADOR COUNTY

WASTEWATER MANAGEMENT PLAN

NOVEMBER, 1977

PROJECT NO. 75-0995

EXHIBIT A



SUTTER CREEK- IONE OUTFALL PROJECT
FACILITIES INVENTORY

EXHIBIT B

AGREEMENT TO REGULATE USE OF HENDERSON/PRESTON WASTEWATER DISPOSAL SYSTEM

This agreement is made this 18th day of September, 2007, by and between the California Department of Corrections and Rehabilitation, a California State Agency ("CDCR"), the City of Ione, a municipality formed pursuant to the laws of the State of California ("Ione"), and the Amador Regional Sanitation Authority, a joint powers agency formed pursuant to the laws of the State of California ("ARSA") (collectively, CDCR, Ione, and ARSA, shall be referred to as the "Parties"). The Parties hereby agree as follows:

WHEREAS, as settlement of past litigation, Ione and ARSA entered into an agreement and grant of easement entitled "Preston Farmlands Wastewater Disposal Contract and Grant of Easement" dated July 30, 1990 ("1990 Settlement Agreement"); and,

WHEREAS, the 1990 Settlement Agreement has been amended or assigned by the parties to the 1990 Settlement Agreement; and,

WHEREAS, this agreement will reallocate and govern the wastewater disposal rights and obligations among the Parties, but will not alter the 1990 Settlement Agreement, any and all amendments thereto, and any agreements implementing the 1990 Settlement Agreement, as those agreements govern the relationship and obligations between Ione or ARSA and any developer of the Preston Farmlands, as referred to in the agreements and amendments, and their successors and assigns and except as those agreements govern the relationship and obligations between Ione or ARSA and the present and future owners, operators, and lessees of the Castle Oaks Golf Course and their successors and assigns; and,

WHEREAS, pursuant to the 1990 Settlement Agreement, as amended, Ione was required to pay ARSA an annual payment (currently \$20,000.00), which payment Ione in turn imposed on Castle Oaks Golf Course. The Parties intend to eliminate such fee for Ione and for Castle Oaks Golf Course by not including it herein as part of this agreement; and,

WHEREAS, this agreement does not extend to, or otherwise affect, Portlock International, Ltd.'s obligation to pay for operation of the Ione Tertiary Plant, which obligation ends December 31, 2013 and is governed by other agreements; and,

WHEREAS, CDCR owns a series of pipelines and reservoirs, including Henderson Reservoir, Preston Forebay and Preston Reservoir, each of which is interconnected so as to allow the transport of water and or wastewater from a point of diversion along Sutter Creek to the Preston Reservoir, in Ione, California ("Henderson/Preston System") (described in Exhibit 1); and,

WHEREAS, CDCR and ARSA have in place a lease agreement whereby ARSA has the right to use the Henderson/Preston System, subject to the terms and conditions contained therein, which lease expires in July 2008 ("ARSA/CDCR Lease"); currently ARSA uses the Henderson/Preston System to transport ARSA's secondary-treated wastewater to Preston Reservoir and then to Ione for treatment, disposal and use; and,

WHEREAS, ARSA and CDCR intend to execute a new lease or extend the existing ARSA/CDCR lease governing the use of the Henderson/Preston System. The new or extended lease will be for thirty (30) years. With regard to the lower system (as hereinafter described), the lease will contain a five (5) year cancellation clause that can be invoked by either party, subject to ARSA's continuing obligations to supply secondary treated wastewater to the CDCR's Preston Youth Correctional Facility and to maintain CDCR's water right from Sutter Creek, which obligations shall remain in effect unaffected by any such cancellation as will their rights to usage to the extent necessary to carry out those obligations; and,

WHEREAS, this agreement will govern the relationship and respective rights between the Parties with regard to the Henderson/Preston System; and,

WHEREAS, the upper Henderson/Preston System as referred to in this agreement includes the parts of the Henderson/Preston System from the outfall of the Sutter Creek Treatment Plant to Preston Youth Correctional Facility, including all pipelines, rights of way, reservoirs, water rights, etc; and,

WHEREAS, the lower Henderson/Preston System as referred to in this agreement includes the components of the Henderson/Preston System from below Preston Forebay to the outfall of the pipeline where it enters Castle Oaks property, including Preston Reservoir; and,

WHEREAS, ARSA will continue to deliver effluent to the lone tertiary plant subject to the five-year termination clause provided herein in sections 8a and 8b; and,

WHEREAS, CDCR operates Mule Creek State Prison ("MCSP") and the Preston Youth Correctional Facility, both located within Ione City limits, and which two facilities along with the California Department of Forestry utilize the wastewater treatment plant at MCSP for their wastewater disposal; and,

WHEREAS, Ione operates two wastewater treatment plants, a portion of one treatment plant is located within the boundaries of Ione providing secondary level treatment of wastewater, and the other located in Amador County providing tertiary treatment of wastewater; and,

WHEREAS, each of the Parties' wastewater disposal systems are interrelated and interconnected; and,

WHEREAS, all of the Parties wish to work together to achieve a solution that addresses their respective wastewater needs; and,

WHEREAS, a water balance study was conducted by Lee and Ro, Inc. and completed on April 11, 2007 to determine the amount, if any, of surplus disposal capacity that currently exists in the Henderson/Preston System; and

WHEREAS, the water balance study resulted in an estimated surplus capacity that is allocated pursuant to this agreement.

IT IS AGREED by and among the parties hereto as follows:

1. Pursuant to the water balance and on the effective date of this agreement, the surplus capacity described above is allocated and each party's total allowable discharge to Preston Reservoir is as follows:

	Total Allowable Discharge to Henderson/Preston System
ARSA	650 acre-feet (af)
CDCR	350 af (counted against ARSA's 650 af disposal amount)
Ione	150 af (this amount is essentially a negative capacity amount to the extent that it relieves Ione of the obligation to take this amount from the other Parties)

2. Ione shall be obligated annually to accept from ARSA/CDCR a combined total of 650 af of secondarily treated wastewater for disposal. The method and location of disposal shall be the concern and obligation of Ione.

3. CDCR may dispose of up to 350 af (increased from its current allowance of 130 af) of treated wastewater into Preston Reservoir annually. CDCR's 350 af allowance shall be counted against ARSA's 650 af disposal right.

4. The effluent discharged to Preston Reservoir must be in compliance with the Waste Discharge Requirements established by the Regional Water Quality Control Board for the discharging party, and shall not contain constituents that cause the Ione tertiary plant to violate its Waste Discharge Requirements. Each party agrees to share all non-privileged wastewater effluent quality data with the other parties including monthly, quarterly, and annual reports submitted to the Central Valley Regional Water Quality Control Board. This information shall be furnished in a timely fashion to permit the City of Ione tertiary plant staff to evaluate potential impacts to operation of the plant. If requested, data shall be transmitted by facsimile or email. Such requests shall include all public information and shall not be limited to monitoring data that the party is required to provide pursuant to its Waste Discharge Requirements.

5. Unless otherwise agreed upon by the parties, discharges from Preston Reservoir to Ione, on a monthly basis, shall be as follows:

- a. October 1 through March 31st: discharges shall be limited to 10 af per month;
- b. April 1 through September 31st: discharges shall be limited to 95 af per month; and

- c. The above limitations may be waived by agreement of the parties in the event of an emergency and where necessary for the prevention of environmental damage or civil liabilities attendant to wastewater violations, and in such event and prior to any deviation from these limits the parties agree to meet and confer and attempt to reach mutual agreement regarding the exceedance amounts necessary to accomplish the prevention or mitigation of the emergency.

6. Subject to five-year termination clauses in sections 8a and 8b, in any year, ARSA and CDCR will continue to provide effluent from Preston Reservoir to the Ione tertiary plant for use on the Castle Oaks Golf Course, if such effluent is available. As provided for in the 1990 Agreement, as amended, Castle Oaks Golf Course will continue to utilize wastewater treated at the Ione tertiary plant prior to using water from any other source until December 31, 2013.

7. From the effective date of this agreement, ARSA agrees to eliminate all flows to Ione's secondary treatment ponds within four years. ARSA holds existing deeded disposal rights, transmittal rights, and rights of way and easements, to dispose of 1300 acre feet of treated effluent on the former Noble Ranch (County Assessor parcel numbers: 011330001501; 011330002501; and 011330003501) comprising approximately 850 acres of arable ranch land. A golf course resort has been entitled to be constructed on the property to be known as "Gold Rush Golf, LLC." A mitigated negative declaration for this project, including effluent disposal options, was adopted February 18, 2003, under City of Sutter Creek Resolution Number 02-03-27. Portions of the project have been constructed (e.g. conduit construction under the Highway 49 Bypass) and the remainder will be completed prior to the four-year deadline described in this section. The completion of the effluent disposal options are independent of the construction of the golf course resort project.

8. This agreement will be in effect for thirty (30) years from the time of its enactment, subject to the following:

- a. With regard to the lower Henderson/Preston System, ARSA agrees to eliminate all flows to the lower Henderson/Preston System within five years of receiving a written request to this effect from Ione, CDCR, or MCSP. Such written notice may only be given after Ione and CDCR have resolved how to provide adequate reclaimed water for both Castle Oaks Golf Course and Preston Youth Correctional Facility. Such resolution may include completing any necessary environmental review pursuant to CEQA for the new source of water; a contract between the new provider of water, MCSP, Ione, the golf course operator; and any necessary permits of modifications to existing permits pursuant to the Porter-Cologne Water Quality Control Act (Cal. Water Code, §§ 13000 et. seq.).
- b. ARSA shall have a right to cancel all discharges to the lower Henderson/Preston System five (5) years after it gives written notice to Ione and CDCR of its intent. ARSA agrees to work with the Parties to

attempt to coincide its withdrawal with the other parties' ability to find an alternate water source.

9. Beginning January 1, 2015, each party whose wastewater is being treated at the Ione Tertiary Plant agrees to pay a proportionate share of the tertiary plant operation and maintenance costs based on the amount of flows the party contributes to the tertiary plant. If any of the parties has withdrawn flows prior to 2014, that party will have no such operation and maintenance obligation. Each party's "proportionate share" will be defined by the JPA proposed herein, if it is formed. If the JPA is not formed, "proportionate share" will be defined by joint agreement of the Parties. To the extent that additional treatment, beyond what the discharging party is required to perform, is necessary to allow recycled water use of water treated at the Ione Tertiary Plant, that party will not be required to pay for such additional treatment, unless required under this agreement. Where the tertiary treated water from the Ione Tertiary Plant is sold to a recycled water user, the revenue generated from the sale will be distributed to the Parties in proportion to the amount of water the each party contributed to the tertiary plant.

10. MCSP shall endeavor to reduce its wastewater disposal into Preston Reservoir as soon as possible by implementing projects, which may include some or all of the following:

- a. Installing flushometers on toilets located in cells at MCSP; and
- b. Installing shower timers, as able, at MCSP.

In addition, CDCR shall conduct a preliminary feasibility study to determine the cost and feasibility for CDCR to increase the Preston Reservoir Dam height by sixteen (16) inches, increasing the capacity of the reservoir thereby.

11. To implement the provisions of this agreement, the Parties may prepare implementation memoranda, as opposed to amendments to this agreement, unless all Parties agree an amendment is necessary. Such implementation agreements may be executed by authorized representatives of the Parties.

12. The Parties to this agreement agree to explore and work towards creating a Joint Powers Authority to develop a sub-regional wastewater master plan for the Ione Valley. This plan may involve the following elements:

- a. Developing a permanent source of reclaimed water for the Castle Oaks Golf Course, Preston Youth Correctional Facility and other potential reclaimed water users within the Ione area.
- b. Developing a master plan and joint projects to improve the treatment and disposal capabilities of the MCSP and Ione wastewater facilities.
- c. ARSA's participation in the JPA will end when ARSA's discharges to the lower Henderson/Preston System end pursuant to sections 8a and 8b of this agreement.

13. Each of the Parties shall work to obtain all necessary permits, approvals, and authorizations to carry out this agreement in compliance with all pertinent Federal, State, and local laws and regulations.

14. In the event of a breach or default of this agreement, the aggrieved party will give written notice to the other parties within ten (10) days. After receiving such written notice, the Parties will meet and confer in an attempt to bring the violating party into compliance with this agreement. If, after meeting and conferring, the Parties fail to agree upon a plan to bring the violating party into compliance, the Parties may pursue mediation or other means agreed upon by the parties, including other remedies available by law.

15. Such non-performance provisions shall not apply if the nature of the breach or default is the result of a force majeure occurrence or is otherwise of a nature such that it cannot be fully cured within thirty (30) days, the party in default shall have such additional time as is reasonably necessary to cure the default so long as the party in default is proceeding diligently to complete the necessary cure after service of written notice by a non-defaulting party.

16. Each party retains any and all remedies it may have at law or in equity against each and every party hereto for breach of any duty established by this agreement.

17. Invalidity of any of the provisions contained in this agreement, or of the application thereof to any party by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other party and said agreement shall remain in full force and effect except for the invalidated provision.

18. This agreement may be amended only by written instrument signed by all the parties.

19. Any notice to any party shall be in writing and by fax or email and given by delivering the notice to such party in person or by sending the notice by registered or certified mail, return receipt requested with postage prepaid, to the party's mailing address. The respective mailing addresses of the parties are:

City:	City Manager City of Ione Post Office Box 398 Ione, CA 95640
ARSA:	Rob Duke General Manager 18 Main Street Sutter Creek, CA 95685

CDCR:

Warden
Mule Creek State Prison
4001 Highway 104
Ione, CA 95640

Either party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices shall be deemed given, received, made or communicated on the delivery date or attempted delivery date shown on the return receipt.

20. Nothing contained in this agreement shall act as a prohibition on the formation of additional contracts and agreements by and between the Parties to further implement the intentions of the Parties.

21. Failure of a party to insist upon the strict performance of any of the provisions of this agreement by any other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by the other party in the future. No waiver by a party of an act constituting breach or default shall be effective or binding upon such party unless the waiver is made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such breach or default under any provision of this agreement.

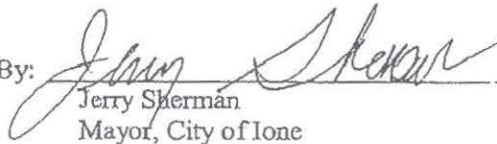
22. This agreement may be signed in counterparts, and shall have the same force and effect as if all signatures existed on the same document.

CITY OF IONE

Dated:

9-20-07

By:


Jerry Sherman
Mayor, City of Ione

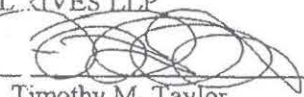
Approved as to form:

STOEL RIVES LLP

Dated:

9-26-07

By:



Timothy M. Taylor
Attorneys for the City of Ione

ARSA

Dated:

9-18-07

By:


Rob Duke
General Manager

Approved as to form:

Dated:

9/24/07

MCDONOUGH, HOLLAND & ALLEN

By:


Harriet Steiner
Attorneys for ARSA

Dated:

CDCR

By:

Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated:

By:

Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

ARSA

Dated: _____

By: _____

Rob Duke
General Manager

Approved as to form:

MCDONOUGH HOLLAND & ALLEN


Dated: _____

By: _____

Harriet Steiner
Attorneys for ARSA

Dated: _____

CDCR

By:  _____

Deborah Hysen
Chief Deputy Secretary
Facility Planning, Construction, and Management

Approved as to form:

CALIFORNIA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, OFFICE OF LEGAL
AFFAIRS

Dated: _____

By:  _____

Chris Swanberg
Senior Staff Counsel
Attorneys for CDCR

EXHIBIT B

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL VALLEY REGION

3443 Routier Road, Suite A
Sacramento, CA 95827-3098
PHONE: (916) 255-3000
FAX: (916) 255-3015

Body, MARTY, MARK, "ARSA
DISCHARGE
REQS
RECEIVED

PETE WILSON, Governor



7 December 1993

RECEIVED
PUBLIC WORKS AGENCY

DEC 18 1993

110 COURT STREET
JACKSON, CA 95642-2390

Mr. Roderick E. Schuler
Amador Regional Sanitation Authority
108 Court Street
Jackson, CA 95642

CERTIFIED MAIL
P 430 798 037

Mr. Watson Clifford, City Engineer
City of Ione
P.O. Box 398
Ione, CA 95640

CERTIFIED MAIL
P 430 798 038

Mr. George S. Lee, Vice President
Portlock International, Ltd.
P.O. Box 1368
Ione, CA 95640

CERTIFIED MAIL
P 430 798 039

**TRANSMITTAL OF ADOPTED/AMENDED WASTE DISCHARGE REQUIREMENTS FOR
AMADOR COUNTY REGIONAL OUTFALL AND CASTLE OAKS GOLF COURSE AND
DEVELOPMENT, AMADOR REGIONAL SANITATION AUTHORITY, CITY OF IONE,
PORTLOCK INTERNATIONAL, LTD.**

Enclosed is an official copy of Order No. 93-240 as amended by the California Regional Water Quality Control Board, Central Valley Region, at its last regular meeting.

JAMES B. MAUGHAN
Area Engineer

JBW:dlk

Enclosures: Adopted Order, Standard Provisions (Discharger only)

cc+Encl: Office of Drinking Water, Department of Health Services, Sacramento
Environmental Mgmt. Branch, Department of Health Services, Sacramento
Department of Fish and Game, Rancho Cordova
Department of Water Resources, Central District, Sacramento
Mrs. Betsy Jennings, State Water Resources Control Board, Sacramento
Mr. Archie Matthews, State Water Resources Control Board, Sacramento
Amador County Health Department, Jackson
Amador County Planning Department, Jackson
Mr. Richard Stowell, Dewante & Stowell, Sacramento

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 93-240

WATER RECLAMATION REQUIREMENTS
FOR
AMADOR COUNTY REGIONAL OUTFALL
AND
CASTLE OAKS GOLF COURSE AND DEVELOPMENT
AMADOR REGIONAL SANITATION AUTHORITY
CITY OF IONE
PORTLOCK INTERNATIONAL, LTD.
AMADOR COUNTY

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

1. Amador Regional Sanitation Authority (ARSA), the City of Ione, and Portlock International, Ltd. (hereafter Discharger) submitted a Report of Waste Discharge, dated 5 November 1993, for revised requirements for treatment and reclamation use of wastewater from the Amador County Regional Outfall.
2. ARSA is a special district which operates the Amador County Regional Outfall System. Effluent produced by the City of Sutter Creek wastewater treatment plant is stored in a series of reservoirs. ARSA provides water to a group of ranchers known as the Amador County Reclaimed Wastewater Users and to the Preston School of Industry in Ione. ARSA also augments this supply with water diverted from Sutter Creek.
3. The Board, on 24 June 1988, adopted Order No. 88-114 which prescribed requirements for Amador Regional Sanitation Authority, Amador County Regional Outfall, which included the discharge to 430 acres of State-owned and privately-owned property for pasture irrigation. This pasture area has been developed and is now the site of the Castle Oaks Golf Course and Development Project.
4. ARSA has several orders governing discharges from the Amador County Regional Outfall. Effluent from this system is delivered to the California Youth Authority, Preston School of Industry (Order No. 83-023) and Amador County Reclaimed Wastewater Users (Order No. 83-024) on a as needed basis. Preston filters and chlorinates the ARSA water and uses it for toilet flushing, landscaping irrigation, and fire protection.
5. In order to assure adequate disposal capacity for Amador County Regional Outfall effluent, ARSA has entered into a long-term agreement with the City of Ione to dispose of up to 900 acre-feet/year. The 18-hole Castle Oaks Golf Course is approximately 190 acres with 15 acres of ponds and is owned by the City of Ione.

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6. The City of Ione is proposing to construct a reclamation plant that will treat the secondary effluent in the ARSA outfall system to meet Title 22 requirements for unrestricted use. The treatment facility is owned and will be operated by the City of Ione, with Portlock International, Ltd. managing the irrigation system at the golf course. Until this facility is completed, the discharge will operate under interim effluent limitations. Exposure to golfers or residents will not be allowed during this interim period.
7. The wastewater treatment facilities will include a PVC-lined equalization lake, sand filters and a chlorine contact basin. Effluent will be reclaimed at the Castle Oaks Golf Course. Mostly irrigation will occur from April to November with limited irrigation demand during the winter.
8. The City of Ione will discharge an average of 1.2 million gallons per day (mgd) to holding ponds at the treatment plant and golf course followed by irrigation of the Castle Oaks Golf Course. ARSA will continue operations of Henderson and Preston Reservoirs for storage and regulation.
9. The Outfall System is in Sections 9-12, 16-18, T6N, R10E, MDB&M and Sections 22 and 23, T6N, R9E, MDB&M with surface water drainage to Mule and Sutter Creeks, tributary to Dry Creek, tributary to Mokelumne River as shown on Attachment A, which is attached hereto and a part of the Order by reference.
10. The City of Ione, ARSA and Portlock International, Ltd. on 30 November 1993 entered into an agreement as to the responsibilities each has concerning the treatment, conveyance and disposal of the wastewater.
11. The Board adopted a Water Quality Control Plan, Second Edition, for the Sacramento-San Joaquin Delta Basin (5B) (hereafter Basin Plan), which contains water quality objectives for all waters of the Basin. These requirements implement the Basin Plan.
12. The beneficial uses of Sutter and Mule Creeks and downstream waters are municipal, industrial and agricultural supply; recreation; esthetic enjoyment; navigation; ground water recharge; fresh water replenishment; and preservation and enhancement of fish, wildlife, and other aquatic resources.
13. The beneficial uses of the ground water are municipal, domestic, industrial, and agricultural supply.

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14. City of Ione has certified a Final Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, et seq.) and the State CEQA Guidelines. The project as approved will not have a significant effect on water quality.
15. The Board has reviewed the EIR and concurs there are no significant impacts on water quality.
16. The Department of Health Services has established statewide reclamation criteria in Title 22, California Code of Regulations, Section 60301, et seq. (hereafter Title 22) for the use of reclaimed water.
17. The Board consulted with the Department of Health Services, Amador County Health Department and considered their recommendations regarding public health aspects for use of reclaimed water.
18. Section 2511(a), Title 23, of the California Code of Regulations (CCR), exempts this discharge from the requirements of Chapter 15.
19. The Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
20. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Waste Discharge Requirements Order No. 88-114 is rescinded and the City of Ione, Amador County Regional Outfall System, Amador Regional Sanitation Authority, Portlock International, Ltd., its agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. Interim Effluent Limitations - Golf Course Irrigation (Construction and Development Phase):

1. The discharge of an effluent in excess of the following limits is prohibited:

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<u>Constituent</u>	<u>Units</u>	<u>Weekly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	23	---	240
Flow	mgd	---	1.2	---
BOD ₅	mg/l	---	40	80

B. Final Effluent Limitations:

1. The irrigation of the golf course and green space areas which are accessible to the public with reclaimed wastewater in excess of the following limits is prohibited:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	2.2	---	23
Flow	mgd	---	1.2	---
Settleable Matter	ml/l	---	0.2	0.5
BOD ₅	mg/l	---	10	30
Turbidity	NTU	2	---	5

2. The irrigation of dedicated disposal areas which are not accessible to golfer, residents or the public with reclaimed wastewater in excess of the following limits is prohibited:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	23	---	240
BOD ₅	mg/l	---	40	80

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C. Discharge Prohibitions:

1. Discharge of wastes to surface waters or surface water drainage courses is prohibited.
2. The by-pass or overflow of untreated or partially treated waste is prohibited.
3. Discharge of waste classified as 'hazardous' or 'designated,' as defined in Sections 2521(a) and 2522(a) of Chapter 15, is prohibited.

D. Discharge Specifications:

1. Neither the treatment nor the discharge shall cause a nuisance or condition of pollution as defined by the California Water Code, Section 13050.
2. The discharge shall not cause degradation of any water supply.
3. The discharge shall remain within the designated disposal area at all times.
4. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Executive Officer.
5. Wastewater shall be discharged to Castle Oaks Golf Course in accordance with a Wastewater Disposal Operations Plan which has been approved by the Executive Officer. Prior to irrigation of dedicated disposal areas pursuant to Effluent Limitation B.2., the Discharger shall submit to the Executive Officer a specific operation plan describing the irrigated area, rate of application, irrigated crops, and efforts to prevent public exposure.
6. A 2.0-foot freeboard shall be maintained in all treatment and storage ponds at all times or an operational plan shall be submitted which shows why a 2.0-foot freeboard is not needed to prevent overtopping of the berms.
7. Reclaimed wastewater shall meet the criteria contained in Title 22, Division 4, CCR (Section 60301, et seq.).
8. Reclaimed wastewater conveyance lines shall be clearly marked as such.

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9. The dissolved oxygen content of holding ponds shall not be less than 1.0 mg/l for 16 hours in any 24-hour period.
10. Areas irrigated with reclaimed water shall be managed to prevent breeding of mosquitos. More specifically,
 - a. Tail water must be returned and all applied irrigation water must infiltrate completely within a 12-hour period.
 - b. Ditches not serving as wildlife habitat should be maintained free of emergent, marginal, and floating vegetation.
 - c. Low-pressure and unpressurized pipelines and ditches accessible to mosquitos shall not be used to store reclaimed water.
11. Reclaimed water for irrigation shall be managed to minimize erosion and runoff from the disposal area.
12. Direct or windblown spray shall be confined to the designated reclamation area and prevented from contacting drinking water facilities.
13. The Discharger may not spray irrigate effluent during periods of precipitation and for at least 24 hours after cessation of precipitation, or when winds exceed 30 mph.
14. A 100-foot buffer shall be maintained between any flowing watercourse and the wetted area produced during spray disposal.
15. Signs with proper wording of sufficient size shall be placed at areas of access and around the perimeter of all areas used for effluent disposal to alert the public of the use of reclaimed water.
16. Runoff from irrigated areas, within 24 hours of the last application of reclaimed water, shall not be discharged to any surface water drainage course.
17. There shall be no irrigation or impoundment of reclaimed water within 500 feet of any domestic water well or within 100 feet of any irrigation well unless it is demonstrated to the satisfaction of the Executive Officer that less distance is justified.

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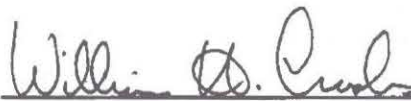
-7-

E. Provisions:

1. Reclaimed water controllers, valves, etc., shall be affixed with reclaimed water warning signs, and these and quick couplers and sprinkler heads shall be of a type, or secured in a manner, that permits operation by authorized personnel only.
2. The treatment facilities shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.
3. The Discharger may be required to submit other technical reports as directed by the Executive Officer.
4. The Discharger shall submit a report by 1 September each year which describes how the Preston Reservoir is being maintained for the up-coming winter season. This report should contain current levels in reservoir and methods planed to dispose of wastewater so that winter storage levels are reached.
5. The Discharger shall comply with the Monitoring and Reporting Program No. 93-240, which is part of this Order, and any revisions thereto as ordered by the Executive Officer.
6. The Discharger shall comply with the "Standard Provisions and Reporting Requirements for Waste Discharge Requirements", dated 1 March 1991, which are attached hereto and by reference a part of this Order. This attachment and its individual paragraphs are commonly referenced as "Standard Provision(s)."
7. The Discharger shall report promptly to the Board any material change or proposed change in the character, location, or volume of the discharge.
8. In the event of any change in control or ownership of land or waste discharge facilities presently described herein, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to this office.
9. The Board will review this Order periodically and will revise requirements when necessary.

WATER RECLAMATION REQUIREMENTS
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I, WILLIAM H. CROOKS, 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 3 December 1993.

A handwritten signature in dark ink, appearing to read "William H. Crooks", is written over a horizontal line.

WILLIAM H. CROOKS, Executive Officer

Attachments

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. 93-240

FOR
AMADOR COUNTY REGIONAL OUTFALL
AND
CASTLE OAKS GOLF COURSE AND DEVELOPMENT
AMADOR REGIONAL SANITATION AUTHORITY
CITY OF IONE
PORTLOCK INTERNATIONAL, LTD.
AMADOR COUNTY

EFFLUENT MONITORING

Effluent samples shall be collected just prior to discharge to the irrigation system. Effluent samples should be representative of the volume and nature of the discharge. Samples collected from the outlet structure of ponds will be considered adequately composited. Time of collection of a grab sample shall be recorded. The following shall constitute the effluent monitoring program:

<u>Constituents</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Total Coliform Organisms	MPN/100 ml	Grab	Daily
Flow	mgd	Cumulative	Daily
20°C BOD ₅	mg/l	Grab	Weekly
Settleable Matter	ml/l	Grab	Weekly
Turbidity	NTU	Grab	Weekly

STORAGE PONDS MONITORING

All dissolved oxygen samples shall be taken from the surface of the storage ponds.

<u>Constituents</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Dissolved Oxygen	mg/l	Grab	Weekly
Freeboard	feet	---	Weekly

MONITORING AND REPORTING PROGRAM
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GROUND WATER MONITORING

The following shall constitute the ground water monitoring program:

<u>Constituents</u>	<u>Units</u>	<u>Sampling Frequency</u>
Specific Conductivity	μ mhos/cm	Monthly
pH	pH Units	Monthly
Nitrate	mg/l	Monthly
Well Elevation	feet, USGS Datum	Monthly

The City of Ione will install at least one upgradient and two downgradient ground water monitoring wells by 1 June 1994 around the storage ponds at the Castle Oaks Golf Course.

REPORTING

In reporting the monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly the compliance with waste discharge requirements.

Monthly monitoring reports shall be submitted to the Regional Board by the 20th day of the following month.

The results of any monitoring done more frequently than required at the locations specified in the Monitoring and Reporting Program shall be reported to the Board.

Upon written request of the Board, the Discharger shall submit a report to the Board by 30 January of each year. The report shall contain both tabular and graphical summaries of the monitoring data obtained during the previous year. In addition, the Discharger shall discuss the compliance record and the corrective actions taken or planned which may be needed to bring the discharge into full compliance with the waste discharge requirements.

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The Discharger shall implement the above monitoring program as of the date of this Order.

Ordered by:

William H. Crooks
WILLIAM H. CROOKS, Executive Officer

3 December 1993

(date)

JBM

INFORMATION SHEET

AMADOR REGIONAL COUNTY OUTFALL AND CASTLE OAKS GOLF COURSE AND DEVELOPMENT, AMADOR REGIONAL SANITATION AUTHORITY, THE CITY OF IONE, PORTLOCK INTERNATIONAL, LTD., AMADOR COUNTY

Year-round irrigation of the Castle Oaks Golf Course with tertiary treated wastewater will replace the existing April to October discharge of secondary effluent to farm land that Amador Regional Sanitation Authority has been using to dispose of its wastewater. The new treatment facility and golf course are off Highway 104, just west of the City of Ione in Amador County. The treatment plant is owned and operated by the City of Ione. Portlock International, Ltd. will manage the irrigation of the golf course.

The Board, on 24 June 1988, adopted Order No. 88-114 prescribing requirements for Amador Regional Sanitation Authority, Amador County Regional Outfall System included the discharge to 430 acres of State-owned and privately-owned property for pasture irrigation. This area is now the site of the Castle Oaks Golf Course and Development Project. The City owns the golf course and ARSA has an agreement with the city to supply wastewater for irrigation purposes up to 900 acre-feet/year.

ARSA is a special district which operates the Amador County Regional Outfall System. Secondary effluent produced by the City of Sutter Creek wastewater treatment plant, mixed with water diverted from Sutter Creek is stored in Henderson and Preston reservoirs. ARSA provides water to ranchers from these reservoirs and to the Preston School of Industry in Ione. Preston filters and chlorinates the ARSA water and uses it for toilet flushing, landscaping irrigation, and fire protection.

ARSA also is under Order No. 83-024 governing discharges from the Amador County Regional Outfall to reclaimed wastewater users. Preston School, which receives wastewater from the outfall, is governed by Order No. 83-023.

The 18-hole Castle Oaks Golf Course has been constructed. However, the course is not open for use; the site will continue to use secondary treated wastewater during the construction phase of the treatment facilities. In the spring of 1994, the treatment facility is expected to be completed. The treatment facility will include a PVC-lined equalization lake, sand filters and a chlorine contact basin. Effluent will be used for irrigation and water hazards at the Castle Oaks Golf Course. The average flow of tertiary treated wastewater is expected to reach 1.2 mgd.

Golf course irrigation will occur mostly April to November. Surface water drainage is to Sutter and Mule Creeks, tributary to Dry Creek, and tributary to the Mokelumne River.



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

STANDARD PROVISIONS AND REPORTING REQUIREMENTS
FOR
WASTE DISCHARGE REQUIREMENTS

1 March 1991

A. General Provisions:

1. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, or protect the discharger from liabilities under federal, state, or local laws. This Order does not convey any property rights or exclusive privileges.
2. The provisions of this Order are severable. If any provision of this Order is held invalid, the remainder of this Order shall not be affected.
3. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
 - a. Violation of any term or condition contained in this Order;
 - b. Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts;
 - c. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge;
 - d. A material change in the character, location, or volume of discharge.
4. Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board. A material change includes, but is not limited to, the following:
 - a. An increase in area or depth to be used for solid waste disposal beyond that specified in waste discharge requirements
 - b. A significant change in disposal method, location or volume, e.g., change from land disposal to land treatment.
 - c. The addition of a major industrial, municipal or domestic waste discharge facility.
 - d. The addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.

A. General Provisions (continued)

5. Except for material determined to be confidential in accordance with California law and regulations, all reports prepared in accordance with terms of this Order shall be available for public inspection at the offices of the Board. Data on waste discharges, water quality, geology, and hydrogeology shall not be considered confidential.
6. The discharger shall take all reasonable steps to minimize any adverse impact to the waters of the state resulting from noncompliance with this Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.
7. The discharger shall maintain in good working order and operate as efficiently as possible any facility, control system, or monitoring device installed to achieve compliance with the waste discharge requirements.
8. The discharger shall permit representatives of the Regional Board (hereafter Board) and the State Water Resources Control Board, upon presentation of credentials, to:
 - a. Enter premises where wastes are treated, stored, or disposed of and facilities in which any records are kept,
 - b. Copy any records required to be kept under terms and conditions of this Order,
 - c. Inspect at reasonable hours, monitoring equipment required by this Order, and
 - d. Sample, photograph and video tape any discharge, waste, waste management unit or monitoring device.
9. For any electrically operated equipment at the site, the failure of which could cause loss of control or containment of waste materials, or violation of this Order, the discharger shall employ safeguards to prevent loss of control over wastes. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means.
10. The fact that it would have been necessary to halt or reduce the permitted activity in Order to maintain compliance with this Order shall not be a defense for the discharger's violations of the Order.
11. Neither the treatment nor the discharge shall create a condition of nuisance or pollution as defined by the California Water Code, Section 13050.

A. General Provisions (continued)

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

B. General Reporting Requirements

1. In the event the discharger does not comply or will be unable to comply with any prohibition or limitation of this Order for any reason, the discharger shall notify the Board by telephone at (916) 255-3000 as soon as it or its agents have knowledge of such noncompliance or potential for noncompliance, and shall confirm this notification in writing within two weeks. The written notification shall state the nature, time and cause of noncompliance, and shall describe the measures being taken to prevent recurrences and shall include a timetable for corrective actions.
2. The discharger shall have a plan for preventing and controlling accidental discharges, and for minimizing the effect of such events.

This plan shall:

- a. Identify the possible sources of accidental loss or leakage of wastes from each waste management, treatment, or disposal facility.
- b. Evaluate the effectiveness of present waste management/treatment units and operational procedures, and identify needed changes or contingency plans.
- c. Predict the effectiveness of the proposed changes in waste management/treatment facilities and procedures and provide an implementation schedule containing interim and final dates when changes will be implemented.

The Board, after review of the plan, may establish conditions that it deems necessary to control leakages and minimize their effects.

3. All reports shall be signed by persons identified below:
 - a. For a corporation: by a principal executive officer of at least the level of senior vice-president.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
 - c. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected or appointed official.

B. General Reporting Requirements (continued)

d. A duly authorized representative of a person designated in 3a, 3b or 3c of this requirement if;

(1) the authorization is made in writing by a person described in 3a, 3b, or 3c of this provision;

(2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a waste management unit, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(3) the written authorization is submitted to the Board

Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

4. Technical and monitoring reports specified in this Order are requested pursuant to Section 13267 of the Water Code. Failing to furnish the reports by the specified deadlines and falsifying information in the reports, are misdemeanors that may result in assessment of civil liabilities against the discharger.

5. The discharger shall mail a copy of each monitoring report and any other reports required by this Order to:

California Regional Water Quality Control Board
Central Valley Region
3443 Routier Road, Suite A
Sacramento, CA 95827-3098

or the current address if the office relocates.

C. Provisions for Monitoring

1. All analyses shall be made in accordance with the latest edition of:
(1) "Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater" (EPA 600 Series) and (2) "Test Methods for Evaluating Solid Waste" (SW 846-latest edition). The test method may be modified subject to application and approval of alternate test procedures under the Code of Federal Regulations (40 CFR 136).
2. Chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. In the event a certified laboratory is not available to the discharger, analyses performed by a noncertified laboratory will be accepted provided a Quality Assurance-Quality Control Program is instituted by the laboratory. A manual containing the steps followed in this program must be kept in the laboratory and shall be available for inspection by Board staff. The Quality Assurance-Quality Control Program must conform to EPA guidelines or to procedures approved by the Board.

Unless otherwise specified, all metals shall be reported as Total Metals.

3. The discharger shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings of continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of three years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

Record of monitoring information shall include:

- a. the date, exact place, and time of sampling or measurements,
 - b. the individual(s) who performed the sampling of measurements,
 - c. the date(s) analyses were performed,
 - d. the individual(s) who performed the analyses,
 - e. the laboratory which performed the analysis,
 - f. the analytical techniques or methods used, and
 - g. the results of such analyses.
4. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated at least yearly to ensure their continued accuracy.

C. Provisions For Monitoring (continued)

5. The discharger shall maintain a written sampling program sufficient to assure compliance with the terms of this Order. Anyone performing sampling on behalf of the discharger shall be familiar with the sampling plan.
6. The discharger shall construct all monitoring wells to meet or exceed the standards stated in the State Department of Water Resources Bulletin 74-81 and subsequent revisions, and shall comply with the reporting provisions for wells required by Water Code Sections 13750 through 13755.22

D. Standard Conditions for Facilities Subject to California Code of Regulations, Title 23, Division 3, Chapter 15 (Chapter 15)

1. All classified waste management units shall be designed under the direct supervision of a California registered civil engineer or a California certified engineering geologist. Designs shall include a Construction Quality Assurance Plan, the purpose of which is to:
 - a. demonstrate that the waste management unit has been constructed according to the specifications and plans as approved by the Board.
 - b. provide quality control on the materials and construction practices used to construct the waste management unit and prevent the use of inferior products and/or materials which do not meet the approved design plans or specifications.
2. Prior to the discharge of waste to any classified waste management unit, a California registered civil engineer or a California certified engineering geologist must certify that the waste management unit meets the construction or prescriptive standards and performance goals in Chapter 15, unless an engineered alternative has been approved by the Board. In the case of an engineered alternative, the registered civil engineer or certified engineering geologist must certify that the waste management unit has been constructed in accordance with Board-approved plans and specifications.
3. Materials used to construct liners shall have appropriate physical and chemical properties to ensure containment of discharged wastes over the operating life, closure, and post-closure maintenance period of the waste management units.
4. Closure of each waste management unit shall be performed under the direct supervision of a California registered civil engineer or California certified engineering geologist.

E. Conditions Applicable to Discharge Facilities Exempted From Chapter 15 Under Section 2511

1. If the discharger's wastewater treatment plant is publicly owned or regulated by the Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade according to California Code of Regulations, Title 23, Division 4, Chapter 14.
2. By-pass (the intentional diversion of waste streams from any portion of a treatment facility, except diversions designed to meet variable effluent limits) is prohibited. The Board may take enforcement action against the discharger for by-pass unless:
 - a. (1) By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a by-pass. Severe property damage does not mean economic loss caused by delays in production); and
 - (2) There were no feasible alternatives to by-pass, such as the use of auxiliary treatment facilities or retention of untreated waste. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a by-pass that would otherwise occur during normal periods of equipment downtime or preventive maintenance; or
 - b. (1) by-pass is required for essential maintenance to assure efficient operation; and
 - (2) neither effluent nor receiving water limitations are exceeded; and
 - (3) the discharger notifies the Board ten days in advance.

The permittee shall submit notice of an unanticipated by-pass as required in paragraph B.1. above.
3. A discharger that wishes to establish the affirmative defense of an upset (see definition in E.6 below) in an action brought for noncompliance shall demonstrate, through properly signed, contemporaneous operating logs, or other evidence, that:
 - a. an upset occurred and the cause(s) can be identified;

E. Dischargers Exempt from Chapter 15 (continued)

- b. the permitted facility was being properly operated at the time of the upset;
- c. the discharger submitted notice of the upset as required in paragraph B.1., above; and
- d. the discharger complied with any remedial measures required by waste discharge requirements.

In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

- 4. A discharger whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment, collection, and disposal facilities. The projections shall be made in January, based on the last three years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in four years, the discharger shall notify the Board by **31 January**.
- 5. Effluent samples shall be taken downstream of the last addition of wastes to the treatment or discharge works where a representative sample may be obtained prior to disposal. Samples shall be collected at such a point and in such a manner to ensure a representative sample of the discharge.
- 6. Definitions
 - a. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper action.
 - b. The monthly average discharge is the total discharge by volume during a calendar month divided by the number of days in the month that the facility was discharging. This number is to be reported in gallons per day or million gallons per day.

Where less than daily sampling is required by this Order, the monthly average shall be determined by the summation of all the measured discharges by the number of days during the month when the measurements were made.

E. Dischargers Exempt from Chapter 15 (continued)

- c. The monthly average **concentration** is the arithmetic mean of measurements made during the month.
- d. The "daily maximum" **discharge** is the total discharge by volume during any day.
- e. The "daily maximum" **concentration** is the highest measurement made on any single discrete sample or composite sample.
- f. A "grab" sample is any sample collected in less than 15 minutes.
- g. Unless otherwise specified, a composite sample is a combination of individual samples collected over the specified sampling period;
 - (1) at equal time intervals, with a maximum interval of one hour
 - (2) at varying time intervals (average interval one hour or less) so that each sample represents an equal portion of the cumulative flow.

The duration of the sampling period shall be specified in the Monitoring and Reporting Program. The method of compositing shall be reported with the results.

7. Annual Pretreatment Report Requirements:

Applies to dischargers required to have a Pretreatment Program as stated in waste discharge requirements.)

The annual report shall be submitted by **28 February** and include, but not be limited to, the following items:

- a. A summary of analytical results from representative, flow-proportioned, 24-hour composite sampling of the influent and effluent for those pollutants EPA has identified under Section 307(a) of the Clean Water Act which are known or suspected to be discharged by industrial users.

The discharger is not required to sample and analyze for asbestos until EPA promulgates an applicable analytical technique under 40 CFR (Code of Federal Regulations) Part 136. Sludge shall be sampled during the same 24-hour period and analyzed for the same pollutants as the influent and effluent sampling and analysis. The sludge analyzed shall be a composite sample of a minimum of 12 discrete samples taken at equal time intervals over the 24-hour period. Wastewater and sludge sampling and analysis shall be

E. Dischargers Exempt from Chapter 15 (continued)

performed at least annually. The discharger shall also provide any influent, effluent or sludge monitoring data for nonpriority pollutants which may be causing or contributing to Interference, Pass Through or adversely impacting sludge quality. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto.

- b. A discussion of Upset, Interference, or Pass Through incidents, if any, at the treatment plant which the discharger knows or suspects were caused by industrial users of the system. The discussion shall include the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of the industrial user(s) responsible. The discussion shall also include a review of the applicable pollutant limitations to determine whether any additional limitations, or changes to existing requirements, may be necessary to prevent Pass Through, Interference, or noncompliance with sludge disposal requirements.
- c. The cumulative number of industrial users that the discharger has notified regarding Baseline Monitoring Reports and the cumulative number of industrial user responses.
- d. An updated list of the discharger's industrial users including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The discharger shall provide a brief explanation for each deletion. The list shall identify the industrial users subject to federal categorical standards by specifying which set(s) of standards are applicable. The list shall indicate which categorical industries, or specific pollutants from each industry, are subject to local limitations that are more stringent than the federal categorical standards. The discharger shall also list the noncategorical industrial users that are subject only to local discharge limitations. The discharger shall characterize the compliance status through the year of record of each industrial user by employing the following descriptions:
 - (1) Complied with baseline monitoring report requirements (where applicable);
 - (2) Consistently achieved compliance;
 - (3) Inconsistently achieved compliance;
 - (4) Significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii);

E. Dischargers Exempt from Chapter 15 (continued)

- (5) Complied with schedule to achieve compliance (include the date final compliance is required);
- (6) Did not achieve compliance and not on a compliance schedule;
- (7) Compliance status unknown.

A report describing the compliance status of any industrial user characterized by the descriptions in items (d)(3) through (d)(7) above shall be submitted quarterly from the annual report date to EPA and the Board. The report shall identify the specific compliance status of each such industrial user. This quarterly reporting requirement shall commence upon issuance of this Order.

- e. A summary of the inspection and sampling activities conducted by the discharger during the past year to gather information and data regarding the industrial users. The summary shall include but not be limited to, a tabulation of categories of dischargers that were inspected and sampled; how many and how often; and incidents of noncompliance detected.
- f. A summary of the compliance and enforcement activities during the past year. The summary shall include the names and addresses of the industrial users affected by the following actions:
 - (1) Warning letters or notices of violation regarding the industrial user's apparent noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the apparent violation concerned the federal categorical standards or local discharge limitations;
 - (2) Administrative Orders regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;
 - (3) Civil actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;

E. Dischargers Exempt from Chapter 15 (continued)

- (4) Criminal actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - (5) Assessment of monetary penalties. For each industrial user identify the amount of the penalties;
 - (6) Restriction of flow to the treatment plant; or
 - (7) Disconnection from discharge to the treatment plant.
- g. A description of any significant changes in operating the pretreatment program which differ from the discharger's approved Pretreatment Program, including, but not limited to, changes concerning: the program's administrative structure; local industrial discharge limitations; monitoring program or monitoring frequencies; legal authority or enforcement policy; funding mechanisms; resource requirements; and staffing levels.
 - h. A summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases.
 - i. A summary of public participation activities to involve and inform the public.
 - j. A description of any changes in sludge disposal methods and a discussion of any concerns not described elsewhere in the report.

Duplicate signed copies of these reports shall be submitted to the Board and:

Regional Administrator
U.S. Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

and

State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Revised March 1993 to update phone number of Central Valley Regional Board.

EXHIBIT C

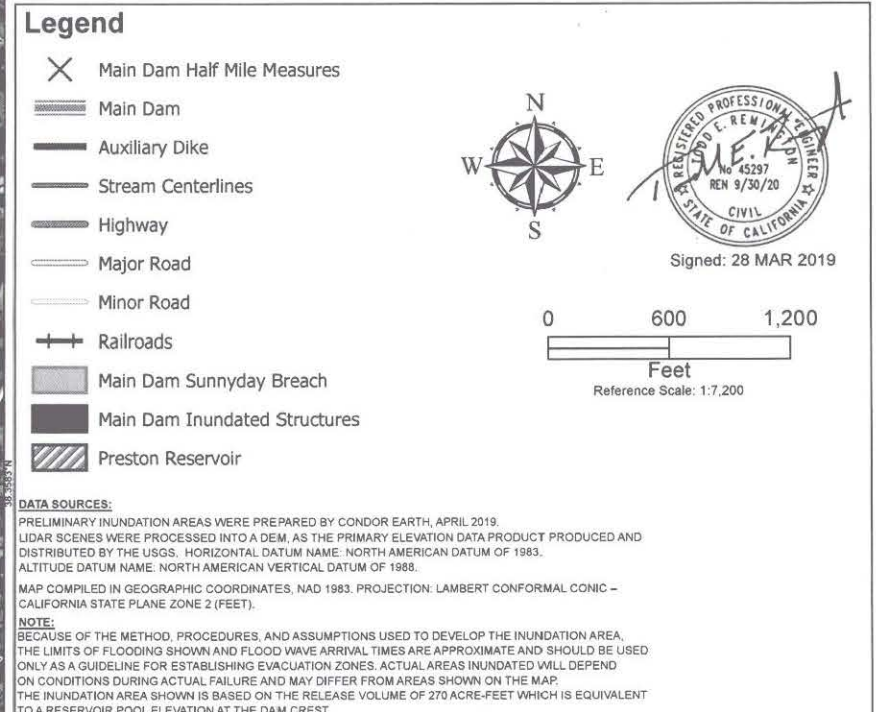
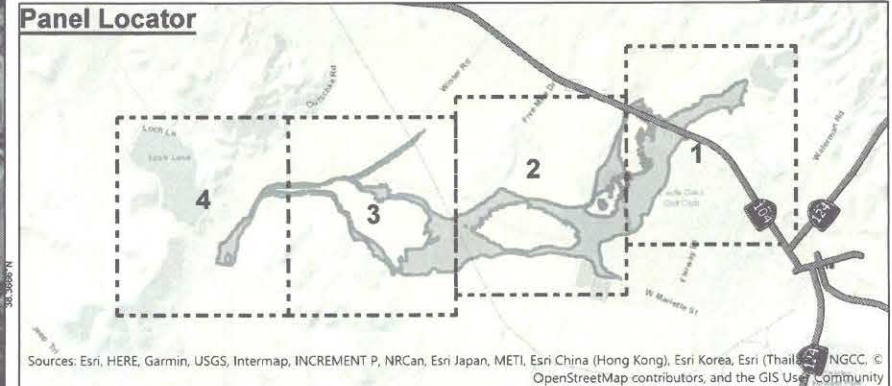


Preston Dam Break Inundation Map

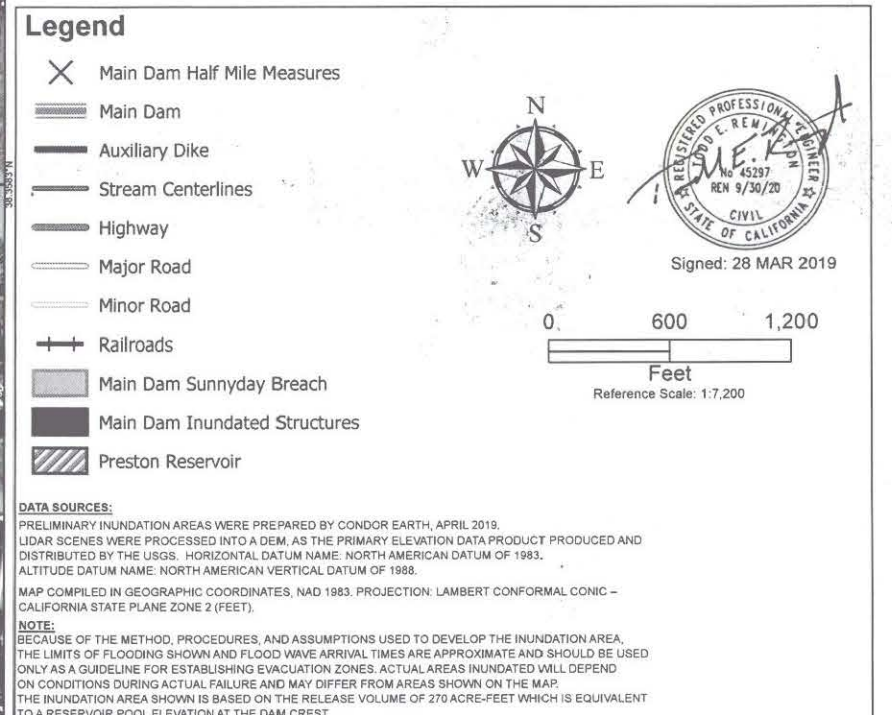
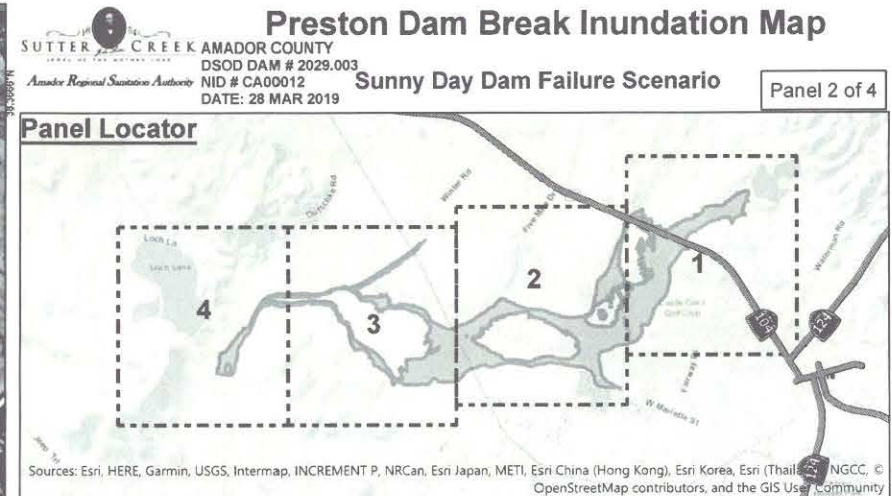
AMADOR COUNTY
DSOD DAM # 2029.003
NID # CA00012
DATE: 28 MAR 2019

Sunny Day Dam Failure Scenario

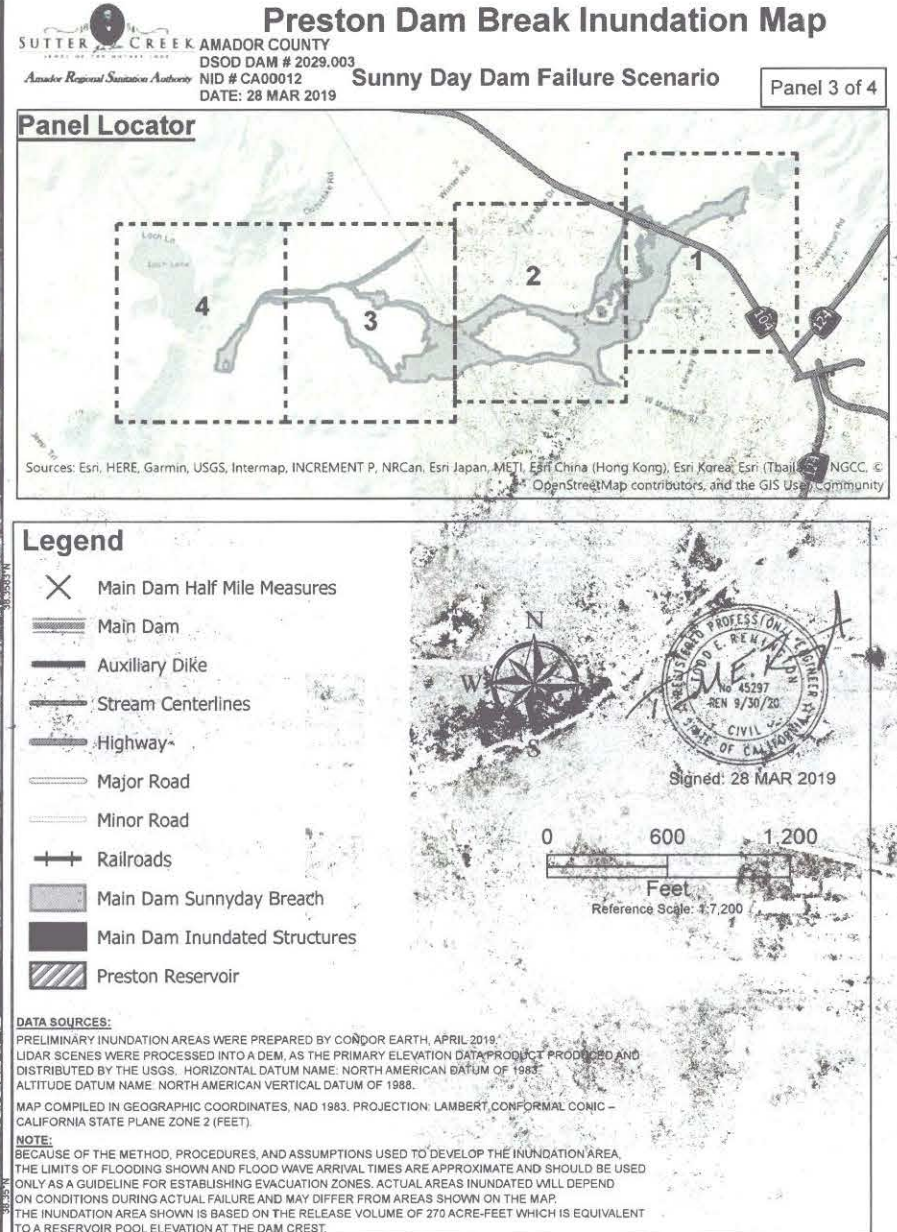
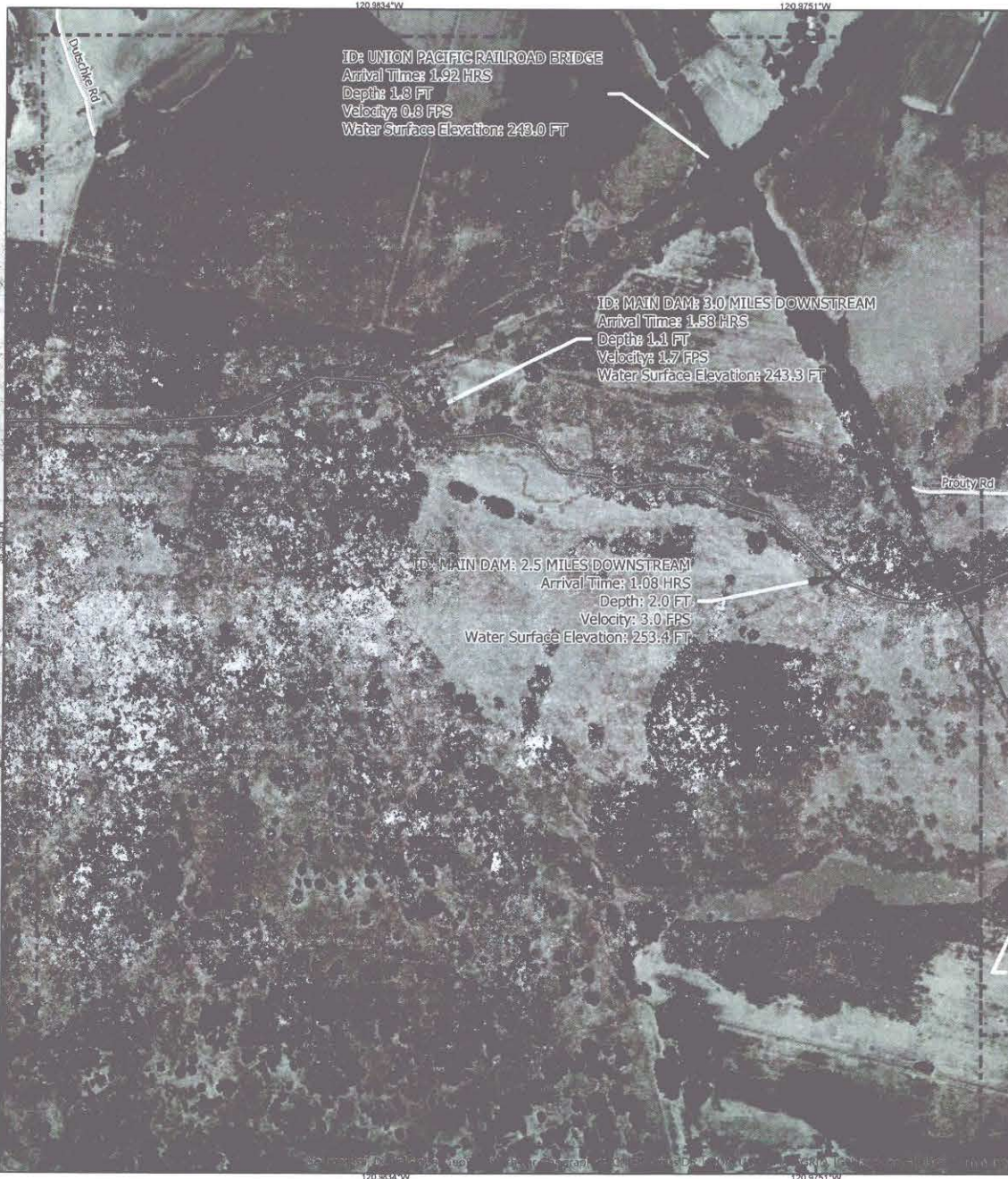
Panel 1 of 4



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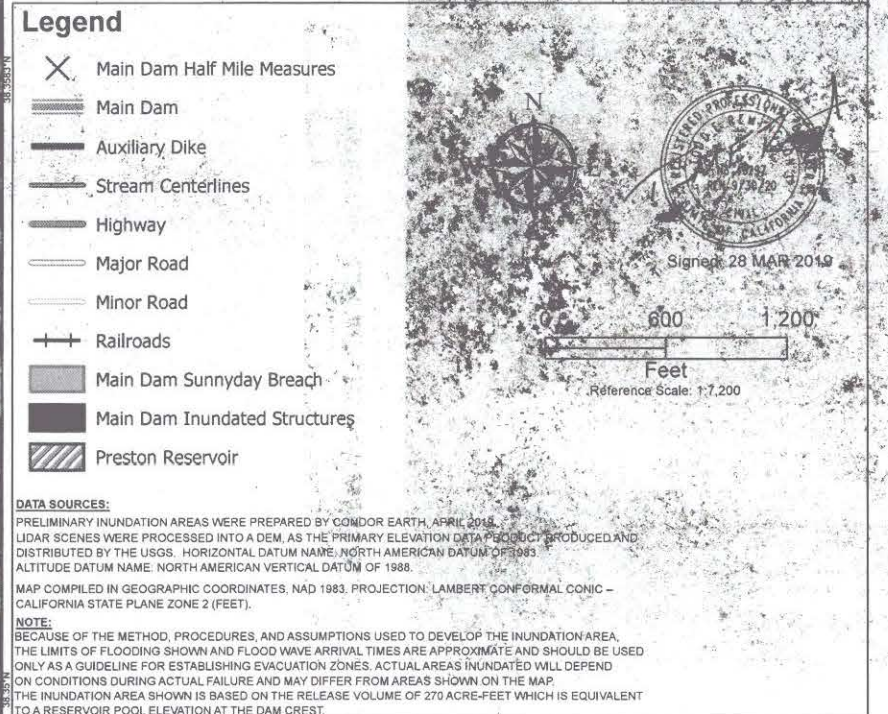
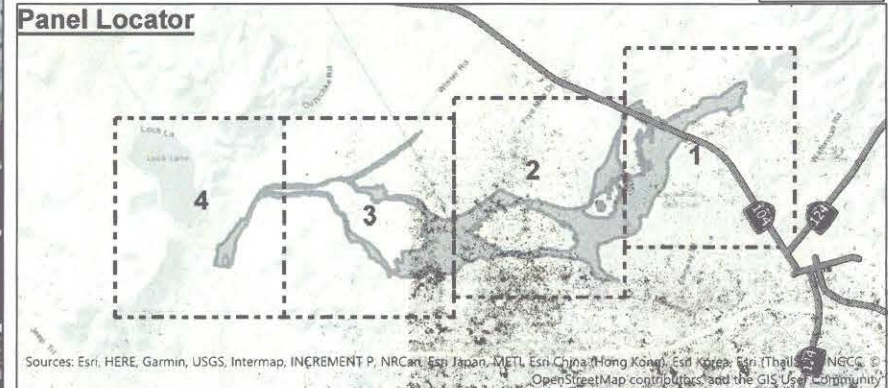
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Preston Dam Break Inundation Map
 SUTTER CREEK AMADOR COUNTY
 DSOD DAM # 2029.003
 Amador Regional Sanitation Authority NID # CA00012
 DATE: 28 MAR 2019 Sunny Day Dam Failure Scenario Panel 4 of 4



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EXHIBIT D

Central Valley Regional Water Quality Control Board

9 September 2022

Robin Peters
ARSA, Board Chairman
18 Main Street
Sutter Creek, CA 95685
RPeters@cityofsuttercreek.org
Sent via email

Dominic Atlan
Castle Oaks Golf Course, Manager
1000 Castle Oaks Drive
Ione, CA 95640
datlan@ione-ca.com
Sent via email

Dan Epperson
City of Ione, Mayor
1 East Main Street
Ione, CA 95640
depperson@ione-ca.com
Sent via email

PRESTON RESERVOIR CAPACITY AND TERTIARY PLANT NUISANCE CONDITIONS, CITY OF IONE, AMADOR COUNTY REGIONAL OUTFALL AND CASTLE OAKS GOLF COURSE AND DEVELOPMENT, AMADOR COUNTY

On 3 December 1993, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Water Reclamation Requirement (WRRs) 93-240, which regulate the conveyance, storage, tertiary treatment, and land application of secondary treated domestic wastewater from the City of Sutter Creek Wastewater Treatment Plant.

The Amador Regional Sanitation Authority (ARSA) operates the conveyance, storage, and disposal system between the Sutter Creek wastewater treatment plant and Preston Reservoir (Preston). The system moves effluent from the Sutter Creek wastewater treatment plant to several land application areas and storage reservoirs (which includes Henderson Reservoir), eventually discharging to Preston, which is in Ione. ARSA and the City of Ione are both named in the WRRs 93-240 and have entered into a formal agreement¹ to send effluent from Preston to the City of Ione Tertiary Treatment Plant (Tertiary Plant) for further treatment and reuse on Castle Oaks Golf Course (golf course).

It is Central Valley Water Board staff's understanding that the City is concerned the water coming out of Preston may be high in hydrogen sulfide, which could cause odor issues at the Tertiary Plant and on the golf course. In addition, the intake of Preston

¹ The Board understands that the status of this agreement is in dispute.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

water for delivery to the Tertiary Plant occurs at the bottom of the reservoir and has high turbidity which may be causing treatment difficulties. However, the Board has also been made aware that Preston and Henderson Reservoirs are at or near capacity, limiting the ability of the system to withstand higher flows that may occur during the upcoming rainy season. It is of utmost importance for these capacity issues to be resolved promptly to avert potential public health and water quality contamination issues that may occur if the system becomes unable to handle additional inflows.

One way to help alleviate the current situation is for the Board to allow the City to accept water from Preston, even though that may result in the creation of nuisance conditions, which would ordinarily be considered a violation of WRRs 93-240. With the understanding that the capacity issues at Preston are presenting an even greater risk to water quality and public health than potential nuisance concerns related to the treatment of wastewater from Preston at Lone's tertiary facility, the Central Valley Water Board's Compliance and Enforcement Unit will exercise its prosecutorial discretion to not pursue enforcement of odor nuisance conditions that may occur as a result of the City's acceptance of treated wastewater from Preston at the Tertiary Plant or golf course between 9 September 2022 and 1 January 2023.

The Board expects that all dischargers named in WRRs 93-240 will continue to work cooperatively to address both the capacity concerns at Preston and to take all reasonable and appropriate steps to address any odor concerns that may arise. It is also the expectation of the Central Valley Water Board that the City of Lone and ARSA provide the following information on a weekly basis while the Board is exercising its enforcement discretion:

1. Freeboard levels of Preston and Henderson Reservoirs;
2. Flow into Preston and Henderson Reservoirs;
3. Flow in gallons per day from Preston to the Tertiary Plant;
4. A description of any polymer added by added as pre-treatment to address the nuisance conditions.
5. All previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity. This shall be reported to Kari.Holmes@waterboards.ca.gov; and
6. A weekly summary of any nuisance complaints received by the City and the golf course, along with an explanation of how the complaint(s) were resolved. This summary will include details of coordination efforts made between all dischargers to address areas of concern.

The Board is also committed to working with ARSA to resolve issues related to the operation of their facilities, which may include enhanced maintenance requirements such as the dredging of both Henderson and Preston on a regular basis to ensure that these concerns are adequately addressed in the future.

ARSA, Castle Oaks Golf Course, City of Ione

Amador County

- 3 -

9 September 2022

If you have questions, please contact me directly at John.Baum@waterboards.ca.gov or (916) 464-4839.

A handwritten signature in black ink, appearing to read 'J. Baum', with a large, sweeping loop at the end.

JOHN J. BAUM,
Assistant Executive Officer

cc: list on next page.

ARSA, Castle Oaks Golf Course, City of Ione

Amador County

- 4 -

9 September 2022


cc: Stacey Rhodes, City of Ione, Ione
Diane Wratten, City of Ione, Ione
Thomas Reed, City of Ione, Ione
Dan Epperson, City of Ione, Ione
Dominic Atlan, Castle Oaks Golf Course, Ione
Robin Peters, ARSA, Sutter Creek
Amy Gedney, ARSA, Sutter Creek
Howard Hold, Central Valley Water Board, Rancho Cordova
Kenny Croyle, Central Valley Water Board, Rancho Cordova
Scott Armstrong, Central Valley Water Board, Rancho Cordova
Lixin Fu, Central Valley Water Board, Rancho Cordova
Amador County Dept. of Environmental Health, Jackson
Grant Scavello, USEPA, San Francisco
Jim Scully, Interested Person, Ione
Jim Nevin, Interested Person, Ione
Andrew Packard, Packard Law Offices, Petaluma
Will Carlon, Packard Law Offices, Petaluma
Erica Maharg, ATA Law Group, Oakland
Jack Mitchell, Ledger Dispatch, Jackson
Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, APC, Sacramento
Sally Baron, Interested Person, Rancho Cordova
Virginia Silva, Interested Person, Ione
David Anderson, Interested Person, Mokelumne Hill

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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By 

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF STEVEN COREY
STONE IN SUPPORT OF EX PARTE
APPLICATION FOR ORDER TO SHOW
CAUSE AND TEMPORARY
RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Steven Corey Stone, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. Since 2011, I have been the primary Operator of the Amador Regional Sanitation
5 Authority ("ARSA"), a joint powers agency responsible for providing wastewater conveyance and
6 disposal services to the Cities of Amador City and Sutter Creek and the County of Amador.

7 3. Wastewater from the City of Sutter Creek, Amador City, and the Martell community
8 is treated by the Sutter Creek Wastewater Treatment Plant ("Sutter Creek WTP"), which is owned
9 and operated by the City of Sutter Creek. Disinfected secondary effluent from the Sutter Creek
10 WTP is conveyed through a series of pipelines and reservoirs, known as the "Henderson/Preston
11 System," and ultimately to Preston Reservoir for discharge to the City of Ione ("Ione") for tertiary
12 treatment at its Castle Oaks Water Reclamation Plant for irrigation use at the Castle Oaks Golf
13 Course.

14 4. As ARSA's primary Operator, I am responsible for overseeing the operation and
15 maintenance of the Henderson/Preston System, which includes, but is not limited to, oversight over
16 three reservoirs (Henderson Reservoir, Preston Forebay, and Preston Reservoir) and the water
17 balances therein in order to ensure compliance with all requirements imposed by the Central Valley
18 Regional Water Quality Control Board, the California state agency who regulates wastewater
19 discharges in the area.

20 5. In 2022, Ione has accepted discharges from ARSA from Preston Reservoir as
21 follows:

Month	Acre-Feet Accepted	Gallons Accepted
January	0	0
February	0	0
March	4.9	1.6 million
April	0	0
May	5.2	1.7 million
June	15.3	5 million

Month	Acre-Feet Accepted	Gallons Accepted
July	0	0
August	1.5	500,000
September	2.8	900,000
Totals:	28.7	9.37 million

6. Preston Reservoir is currently holding approximately 115 acre feet (or 37,472,914 gallons) of wastewater.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 28th day of September 2022, at Sutter Creek, California.

Steven C. Stone

STEVEN COREY STONE

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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By [Signature]

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF MATTHEW L. GREEN
IN SUPPORT OF EX PARTE
APPLICATION FOR ORDER TO SHOW
CAUSE AND TEMPORARY
RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

[Signature]

1 I, Matthew L. Green, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

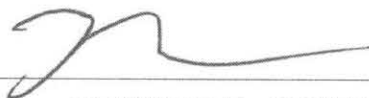
4 2. I am an attorney at law duly licensed to practice before all of the courts of the State
5 of California. I am Of Counsel at Best Best & Krieger LLP, attorneys of record for Plaintiff
6 Amador Regional Sanitation Authority ("ARSA"). As one of the attorneys for ARSA, I am familiar
7 with the proceedings in the above-entitled action.

8 3. On September 28, 2022, at 11:36 a.m., I notified Michael Rock, Defendant City of
9 Ione's ("Ione") Interim City Manager, by electronic mail at mrock@ione-ca.com, and Ione's City
10 Attorney according to the California Secretary of State's latest edition of the California Roster,
11 David Prentice, by electronic mail at david@prenticelongpc.com, that ARSA would be presenting
12 to this Court at 8:30 a.m. on October 3, 2022, in Department 1 an application for an order to show
13 cause and temporary restraining order that would (1) compel Ione to accept from ARSA 500,000
14 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days, for a total of
15 15 million gallons of secondarily treated wastewater over the 30-day period, and (2) order Ione to
16 show cause why a preliminary injunction requiring such acts should not issue pending trial in this
17 action. A copy of my electronic mail to Messrs. Rock and Prentice is attached as Exhibit "A" to
18 this declaration. Although ARSA's ex parte application does not seek any relief against Defendant
19 California Department of Corrections and Rehabilitation ("CDCR"), I also copied Patrick Covello,
20 the Warden at CDCR's Mule Creek State Prison, on my ex parte notice electronic mail.

21 4. As of the time of the execution of this declaration, no response has been received,
22 but opposition is expected.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct.

25 Executed this 28th day of September 2022, at San Diego, California.

26
27 

28 MATTHEW L. GREEN

EXHIBIT A

Lisa Atwood

From: Matthew Green
Sent: Wednesday, September 28, 2022 11:36 AM
To: 'mrock@ione-ca.com'; 'david@prenticelongpc.com'
Cc: 'Patrick.Covello@cdcr.ca.gov'; 'Amy Gedney'; Frank Splendorio
Subject: Amador Regional Sanitation Authority v. City of Ione, Case No. 22CV12824 - Ex Parte Notice for 10/3 at 8:30 a.m.

Dear Messrs. Rock and Prentice,

Pursuant to the California Rules of Court, rule 3.1204, subdivision (a), Plaintiff Amador Regional Sanitation Authority ("ARSA") will be appearing ex parte in Department 1 of the Superior Court of California, County of Amador, located at 500 Argonaut Lane in Jackson, California, on **Monday, October 3, 2022, at 8:30 a.m.**, or as soon thereafter as the matter may be heard, to apply for an order to show cause and temporary restraining order (1) compelling Defendant City of Ione ("Ione") to accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons of secondarily treated wastewater over the 30-day period, and (2) ordering Ione to show cause why a preliminary injunction requiring such acts should not issue pending trial in this action. Please advise whether Ione intends to appear to oppose the application.



Matthew Green
Of Counsel
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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

Clerk of the Superior Court

By: 

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10
11 Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
17 agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
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Case No. 22CV12824
Judge: Hon. J.S. Hermanson

[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION

Complaint Filed: September 20, 2022

1 **ORDER TO SHOW CAUSE**

2 To Defendant City of Lone ("Lone"):

3 Based upon Plaintiff Amador Regional Sanitation Authority ("ARSA") ex parte application
4 for an order to show cause and temporary restraining order, and on the documents filed therewith,
5 you are ordered to appear on Oct. 10, 2022, at 8:30 a.m. in Department 1 of this
6 Court located at 500 Argonaut Lane, Jackson, California. 95642 to show cause why a preliminary
7 injunction should not be ordered compelling you and your employees and agents, or any other
8 persons acting with you or in your behalf, to accept from ARSA 500,000 gallons of secondarily
9 treated wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons of
10 secondarily treated wastewater over the 30-day period, pending trial in this action.

11 **TEMPORARY RESTRAINING ORDER**

12 Pending hearing on the Order to Show Cause, you and your employees and agents, or any
13 other persons acting with you or in your behalf are required to immediately accept from ARSA
14 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days, for
15 a total of 15 million gallons of secondarily treated wastewater over the 30-day period, pending trial
16 in this action.

17 **IT IS FURTHER ORDERED THAT:**

18 This Order to Show Cause and Temporary Restraining Order and supporting papers shall
19 be served on Lone no later than Sept. 30, 2022, by electronic mail and overnight
20 mail. Proof of such service shall be filed at least 5 court days prior to the hearing.

21 Any opposition papers to the Order to Show Cause shall be filed and served on ARSA by
22 overnight mail no later than Oct 5, 2022. Any reply papers to the opposition
23 shall be filed and served on Lone by electronic mail and overnight mail no later than
24 Oct 7, 2022.

25
26 Dated: 9-29-22



JUDGE OF THE SUPERIOR COURT

ATTACHMENT 3

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11 Attorneys for Plaintiff EXEMPT FROM FILING FEES PURSUANT
12 AMADOR REGIONAL SANITATION AUTHORITY TO GOVERNMENT CODE SECTION 6103

13

SUPERIOR COURT OF THE STATE OF CALIFORNIA

14

COUNTY OF AMADOR

15

16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18

Plaintiff,

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v.

20

CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

23

Defendants.

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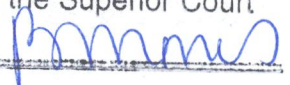
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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

Clerk of the Superior Court

By: 

Case No. 22CV12824

Judge: Hon. J.S. Hermanson

~~PROPOSED~~ TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION

Complaint Filed: September 20, 2022



1 **ORDER TO SHOW CAUSE**

2 To Defendant City of Ione ("Ione"):

3 Based upon Plaintiff Amador Regional Sanitation Authority ("ARSA") ex parte application
4 for an order to show cause and temporary restraining order, and on the documents filed therewith,
5 you are ordered to appear on Oct. 10, 2022, at 8:30 a.m. in Department 1 of this
6 Court located at 500 Argonaut Lane, Jackson, California. 95642 to show cause why a preliminary
7 injunction should not be ordered compelling you and your employees and agents, or any other
8 persons acting with you or in your behalf, to accept from ARSA 500,000 gallons of secondarily
9 treated wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons of
10 secondarily treated wastewater over the 30-day period, pending trial in this action.

11 **TEMPORARY RESTRAINING ORDER**


12 Pending hearing on the Order to Show Cause, you and your employees and agents, or any
13 other persons acting with you or in your behalf are required to immediately accept from ARSA
14 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days, for
15 a total of 15 million gallons of secondarily treated wastewater over the 30-day period, pending trial
16 in this action.

17 **IT IS FURTHER ORDERED THAT:**

18 This Order to Show Cause and Temporary Restraining Order and supporting papers shall
19 be served on Ione no later than Sept. 30, 2022, by electronic mail and overnight
20 mail. Proof of such service shall be filed at least 5 court days prior to the hearing.

21 Any opposition papers to the Order to Show Cause shall be filed and served on ARSA by
22 overnight mail no later than Oct 5, 2022. Any reply papers to the opposition
23 shall be filed and served on Ione by electronic mail and overnight mail no later than
24 Oct 7, 2022.

25
26 Dated: 9-29-22



JUDGE OF THE SUPERIOR COURT

ATTACHMENT 4

PRENTICE LONG, PC

David A. Prentice, SBN 144690

Margaret Long, SBN 227176

Carolyn Walker, SBN 262247

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Exempt from Filing

Fees Per Govt. Code § 6103

Attorneys for Respondent City of Ione

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

vs.

CITY OF IONE, a California municipal
corporation; CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION, a California
state agency; and DOES 1 through 20,
inclusive,

Defendants.

CASE NO. 22CV12824

**OPPOSITION TO EX PARTE
APPLICATION FOR ORDER TO SHOW
CAUSE AND TEMPORARY
RESTRAINING ORDER;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: October 10, 2022

Time: 8:30 a.m.

Dept.: 1

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1 Defendant City of Ione ("Ione") by and through its counsel of record, hereby submits this
2 Opposition to Amador Regional Sanitation Authority's ("ARSA") Ex Parte Application for Order
3 to Show Cause and Temporary Restraining Order, dated September 28, 2022. This Opposition is
4 based upon the complete files and records in this action, the following Memorandum of Points and
5 Authorities, Declarations of Margaret Long, Brett Moroz, and Michael Rock filed concurrently
6 herewith in support thereof, and any documentary and/or oral evidence as may be presented at the
7 time of the hearing of the Motion.
8

9
10 **I.**
INTRODUCTION

11 Ione had a contract with Amador Regional Sanitation Authority (ARSA) that terminated on
12 July 31, 2022 in accordance with its termination provisions, to process secondarily treated wastewater
13 from Preston Reservoir. Ione is unable to continue to process this water because it would endanger the
14 health and safety of its citizens, and violate existing state-issued operational permits. As a result, Ione
15 has been unwilling to continue processing while a new contract is negotiated, which requires changes
16 to the water and system to address these issues. Specifically, the permit limit on coliform bacteria
17 ("MPN") is monthly median 2.2 MPN, daily maximum 23 MPN. The last three days Ione took
18 ARSA water, the MPN results were 33 MPN, <1 MPN and 4 MPN, resulting in the daily maximum
19 be over one time, while the other results were inconsistent and could cause violations and harm the
20 public's health and safety.
21

22
23 In addition, the release of hydrogen sulfide is above the OSHA standards of ceiling
24 concentration of 20 ppm and max peak of 50 ppm. The odor can be detected at 1.5 ppm. ARSA
25 water has had hydrogen sulfide tested with a MSA combined gas detector ranging from 15 to 55
26 ppm. The odor threshold is 1.5 ppm, meaning that is where the odor is easily detected. In the
27 proper concentration it is also explosive. These high hydrogen sulfide levels will also be in
28

1 violation of California Water Code section 13050, nuisance, is injurious to health, or is indecent of
2 offensive to the senses, or an obstruction to the free use of property, so as to interfere with the
3 comfortable enjoyment of life or property. Not surprisingly, Ione has received several odor
4 complaints including one from the U.S. Environmental Protection Agency.
5

6 Making matters worse, ARSA wastewater is currently untreatable. The reason for ARSA
7 water being untreatable is that the outflow from Preston Reservoir (the location of ARSA
8 wastewater) is from the bottom, which is covered in stagnate sludge resulting from decades of use
9 without being cleaned. If ARSA had a pump with the suction line on floats hanging down into the
10 upper level of the reservoir and the discharge line connected to the reservoir discharge line, Ione
11 would most likely be able to treat their water. Unfortunately, and harmfully, ARSA has remained
12 unwilling to do this.
13

14 As matters stand now, after recent attempts to accept ARSA water, it is simply too
15 dangerous to accept said input without major modifications to ARSA's delivery of the water from
16 Preston Reservoir. Accepting the water under these current conditions would be a knowing
17 violation of the facility operational permit, a public nuisance, and a clear threat to the health and
18 safety of local residents.
19

20 ARSA requested, and was granted, an ex parte temporary restraining order, which was based
21 on inaccurate information in support of its request, particularly related to the significant danger this
22 order could cause citizens of Ione and surrounding areas. The Court ordered the temporary restraining
23 order and 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for 30
24 days. The Order allows for dangerous activity to occur and results in untenable risk of serious harm, or
25 worse, to the health and safety of public in and around Ione. As a result, the Temporary Restraining
26 Order and Order to Show Cause should be immediately vacated, as it is entirely contrary to the
27
28

1 purpose of such relief by actually exacerbating the very risk of severe and irreparable harm that Ione is
2 seeking to prevent by not processing the secondarily treated wastewater from Preston Reservoir until
3 such time ARSA takes the necessary remedial steps to make the wastewater treatable. Further, the
4 Temporary Restraining Order and Order to Show Cause should be immediately vacated on grounds
5 that ARSA blatantly failed to follow applicable notice and service of paper requirements in furtherance
6 of it obtaining the temporary restraining order, which was issued solely on the basis of its moving
7 papers, and, upon review of this Court's Order, apparently without any appearances by ARSA or its
8 counsel.
9

10 II.

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 A. THE EX PARTE APPLICATION FOR TEMPORARY RESTRAINING 13 ORDER IS FACIALLY DEFICIENT AND MUST BE VACATED

14 Parties appearing at the ex parte hearing must serve the application, and all other required
15 documents, on all other appearing parties "at the first reasonable opportunity." *Absent exceptional*
16 *circumstances, no hearing will be conducted unless such service has been made.* (CRC 3.1206,
17 emphasis added; see *Newsom v. Sup.Ct. (Gallagher)* (2020) 51 CA5th 1093, 1098, – all ex parte
18 papers required under CRC 3.1201 must be served, including proposed order.)
19

20 A court's authority to enjoin or restrain a party requires that it first have jurisdiction
21 over them. (See *Moffett v. Barclay* (1995) 32 Cal.App.4th 980, 983 ["It requires no citation of
22 authority to state that judgment may be taken only as to parties over whom the court has
23 acquired jurisdiction."]) The jurisdiction of any California court over a party begins on the
24 date the party is properly served with a summons. (Code Civ. Proc., § 410.50.) A plaintiff's
25 failure to properly serve a summons defeats a court's jurisdiction over that party. (See *Moffett*
26
27
28

1 v. *Barclay*, *supra*, 32 Cal.App.4th at p. 983 – "A person is not subjected to the jurisdiction of
2 the court until a summons has been served or they have made a general appearance.”.)

3 The superior court lacked jurisdiction over Ione at the time it issued the Order
4 because, as of September 29, 2022, ARSA had not yet effectuated service on Ione.
5 Counsel for ARSA emailed to Ione copies of the ex parte action. (Declaration of Margaret
6 Long.) While the law permits service of process by mail, such service must include a copy
7 of "the summons and complaint to the person to be served, together with two copies of the
8 notice and acknowledgment ... and a return envelope, postage prepaid. (Code Civ. Proc., §
9 415.30, subd. (a).) Service by mail is only deemed complete "on the date a written
10 acknowledgement of receipt of summons is executed, if such acknowledgment thereafter is
11 returned to the sender." (*Id.* at subd. (c).) ARSA failed to perfect service. (See *Dill v.*
12 *Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1439, 1443 – granting motion to quash
13 service upon finding plaintiff failed to strictly comply with California's service requirements;
14 see also *American Express Centurion Bank v. Zara* (2011) 199 Cal.App.4th 383, 392 – "No
15 California appellate court has gone so far as to uphold a service of process solely on the
16 ground the defendant received actual notice when there has been a complete failure to
17 comply with the statutory requirements for service.)

18 Since applications for ex parte restraining orders are governed by ex parte rules, these
19 requirements apply with equal force to the ex parte TRO application. (Cal. Rules of Court,
20 rule 3.1150(g).) Further, since ARSA had yet appeared in court, it was required to serve the
21 ex parte TRO application in the same manner as a summons and complaint. (Cal. Rules of
22 Court, rule 3.1150(a).) It did not.

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1 Absent any showing of service on Ione, the Court acted without jurisdiction when it
2 entertained the ex parte TRO application, and moreover did so without any party present. (Cal.
3 Rule of Court, rules 3.1150(d), 3.1206(c) – "Absent exceptional circumstances, no hearing may
4 be conducted unless such service has been made.") Accordingly, the Order is invalid because
5 ARSA failed to effect service before it was entered by the Court. The superior court therefore
6 lacked jurisdiction over Ione at the time the Order was issued. These substantial procedural
7 irregularities render the Order invalid, and it should be promptly vacated.
8

9 **B. ARSA HAS NOT, AND CANNOT, MEET ITS BURDEN TO OBTAIN THE**
10 **INJUNCTIVE RELIEF IT SEEKS.**

11 For reasons entirely unclear, ARSA appears to be seeking a preliminary injunction on grounds
12 that it will prevail on a breach of contract cause of action. However, a breach of contract has not been
13 pled, nor is there a valid contract between ARSA and Ione upon which a breach of contract claim may
14 be brought, as the City of Ione complied with the mandatory five-year notice of termination required in
15 the 2007 agreement at issue, resulting in an effective termination date of July 31, 2022. (See
16 Declaration of Michael Rock in Support of Opposition.)
17

18 The standard for granting a temporary restraining order is the same as that for granting a
19 preliminary injunction. (See *Church of Christ in Hollywood v. Superior Court* (2002) 99
20 Cal.App.4th 1244, 1251–52.) "In determining whether to issue a preliminary injunction, the trial
21 court considers two related factors: (1 the likelihood that the plaintiff will prevail on the merits of its
22 case at trial; and (2 the interim harm that the plaintiff is likely to sustain if the injunction is denied as
23 compared to the harm that the defendant is likely to suffer if the court grants a preliminary injunction."
24 (*Donahue Schriber Realty Group, Inc. v. Nu Creation Outreach* (2014) 232 Cal.App.4th 1171, 1177,
25 quoting 14859 *Moorpark Homeowner's Assn. v. VRT Corp.* (1998) 63 Cal.App.4th 1396, 1402; see
26 also Code Civ. Proc., § 526, subd. (a).)
27
28

1 The court's determination as to whether there is a reasonable probability that plaintiffs will
2 prevail on the merits must be guided by a "mix" of the potential-merit and interim-harm factors; the
3 greater plaintiff's showing on one, the less must be shown on the other to support an injunction.
4 (*Butt v. State of Calif.* (1992) 4 C4th 668, 678; citing *King v. Meese* (1987) 43 C3d 1217, 1226-
5 1228.) An irreparable injury is one that, "cannot be adequately compensated in damages." (*Intel*
6 *Corp. v. Hamidi* (2003) 30 Cal.4th 1342, 1352.)

8 **1. ARSA is not Likely to Succeed on the Merits of its Claims**

9 A trial court may not issue an injunction, regardless of the amount of interim harm, "unless
10 there is some possibility" that plaintiff will ultimately prevail on the merits of the claim. (*Jamison*
11 *v. Department of Transp.* (2016) 4 CA5th 356, 362, 208 CR3d 610, 614.)

13 For reasons entirely unclear, ARSA appears to be seeking a preliminary injunction on grounds
14 that it will prevail on a breach of contract cause of action. However, a breach of contract has not been
15 pled, nor is there a valid contract between ARSA and Ione upon which a breach of contract claim may
16 be brought. (See Long Declaration.) In fact, ARSA's two cause of action against Ione pertain solely to
17 requests for injunctive and declaratory relief, respectively, which seek to compel and declare Ione to
18 accept ARSA's secondarily treated wastewater on the false contention that a valid contract exists
19 between ARSA and Ione mandating such action. (Complaint, pp. 9, 11.) Similarly, ARSA's Prayer for
20 Relief is silent as to demanding a trial on the issue of a breach of any contract, nor does it seek any
21 actual contract damages for that matter. Even ignoring the fact that a contract does not exist between
22 the parties, breach of contract is not actionable without damage, which the plaintiff must show to
23 recover for the breach; this requires a showing of appreciable and actual damage. (see, generally,
24 *Emerald Bay Community Ass'n v. Golden Eagle Ins. Corp.* (2005) 130 Cal.App.4th 1078, 1088-
25 1089.) Even assuming solely for purposes of argument that a contract exists between the parties,
26
27
28

1 which one does not, ARSA has not alleged actual damages, rather it relies on entirely speculative
2 harm in support of its request for injunctive relief on the possibility the Preston Reservoir being
3 “unable to withstand the higher flows *that may* occur during the upcoming rainy season... .”
4 (Complaint, p.9, ¶ 37.)
5

6 In summary, ARSA cannot assert that it is likely to succeed at trial on the merits of its claims
7 when there is no contract, and therefore no cause of action or controversy for which the relief is
8 intended to preserve the status quo pending trial. A ruling on an application for preliminary
9 injunction is *not* an adjudication of the ultimate rights in controversy. It merely represents the trial
10 court's discretionary decision whether defendant should be restrained from exercising a claimed
11 right pending trial. (*Cohen v. Board of Supervisors* (1985) 40 C3d 277, 286.)
12

13 **2. ARSA has not Demonstrated Requisite Imminent Irreparable Harm**

14 In order to obtain injunctive relief, the threat of “irreparable harm” must be *imminent* as
15 opposed to a mere possibility of harm sometime in the future: “An injunction cannot issue in a
16 vacuum based on the proponents' fears about something that may happen in the future.” (*Korean*
17 *Philadelphia Presbyterian Church v. California Presbytery* (2000) 77 CA4th 1069, 1084.)
18

19 A moving party's failure to provide evidence demonstrating imminent irreparable harm alone
20 is fatal. (*Newsom v. Superior Court*, supra, 51 Cal.App.5th at 1097 – “[a]n applicant must make an
21 affirmative factual showing in a declaration containing competent evidence based on personal
22 knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex
23 parte,” citing Cal. Rules of Court, rule 3.1202(c).) Absent such a requisite showing, a trial court
24 should deny an ex parte application. (*Ibid.*) Such is the case.
25

26 ARSA has failed to demonstrate actual, or even imminent, irreparable harm. Rather, it relies
27 on speculative concerns and untenable conclusions regarding high flows *that may* occur this rainy
28

1 season, and the potential harm that could occur in such a case. (Complaint, p.9, ¶37.) The
2 declarations in support of ARSA’s request for injunctive relief, upon which such relief is to be
3 based, are also lacking in requisite evidentiary support. The Declaration of Don Brown does not
4 address any actual harm suffered by ARSA. The Declaration of Amy Gedney, ARSA’s General
5 Manager, consists of legal conclusions concerning alleged breach of contract by Ione, and references
6 to correspondence requesting Ione accept wastewater in order to reduce the risk of Preston Reservoir
7 spilling over during the upcoming rainy season.” (See Gedney Declaration, p. 4, ¶12.)¹ The
8 Declaration of Gary Ghio, an Engineer with ARSA, also provides speculative and entirely conclusory
9 contentions as to the potential for the Preston Reservoir reaching its permitted capacity some six
10 months from now should there be a substantial rainy season that includes a 100-year storm event,
11 thereby posing “significant” public health and water quality issues. (Ghio Declaration, p. 4, ¶¶ 10 – 1
12 1.) Further, Mr. Ghio’s education, training, and experience supporting his qualifications to provide
13 such opinions as to significant public health risks that may result are absent, thereby leaving the
14 utility of his declaration highly questionable. The Declaration of Steven Corey, the “Primary
15 Operator of ARSA, is of no utility with regard to demonstrating the requisite immediate harm to
16 ARSA, as it simply addresses operational issues and discharge rates from the Preston Reservoir.
17 (Declaration, ¶¶2 – 6.)

21 In conclusion, the declarations supporting ARSA’s request for injunctive relief are based
22 on self-serving speculative contentions and conclusions, which fail to demonstrate any actual or
23 imminent harm, thereby justifying dismissal of this action for injunctive and declaratory relief in its
24 entirety.

28 ¹ Declarant Gedney confirms at ¶14 that the within Complaint is a “Complaint for Injunctive and Declaratory Relief.”

1 3. **The Interim Harm Suffered by Ione Should the Injunctive Relief be Granted is**
2 **Significantly Greater than any Harm to ARSA should its Requested Injunctive**
3 **Relief not be Granted.**

4 As stated more fully above, ARSA seeks injunctive relief based on a contract that is no longer
5 in effect, and speculative assertions of harm that may occur some six months from now in the event of
6 a 100-year storm event. ARSA has not, and cannot, articulate immediate harm. Further, ARSA
7 entirely minimizes the actual and present harm their actions have caused, and will continue to cause by
8 way of their negligent operations.

9 If the preliminary injunction is granted, the health and safety of the citizens of Amador
10 County will be in jeopardy. As determined by Brett Moroz, certified operator of the City of Ione
11 Tertiary and WWTP Plant ("Plant") with over 25 years of experience operating tertiary wastewater
12 treatment plants, the wastewater facility subject to this action, the Plant is not capable of accepting
13 current wastewater deliveries from ARSA, as the acceptance of said water would violate the Plant's
14 permit of operation issued by the Regional Water Quality Board in Sacramento, California. (Moroz
15 Declaration, p. 2, No. 3.) More specifically, the Nephelometric Turbidity Units ("NTU") permit
16 limits are 2.0 for monthly median, and daily maximum of 5.0. (*Ibid.*) The ARSA water cannot
17 reliably meet these limits even at low flows dosing polymer coagulant as high as 69.2 mg/L at
18 flows as low as 250 gpm. CDCR water polymer dose is usually under 20 mg/L. (*Ibid.*)

19 Further, the permit limit on coliform bacteria ("MPN") is a monthly median 2.2 MPN, daily
20 maximum 23 MPN. (*Id.* at No. 4.) The last three days of September 2022, ARSA water samples
21 returned MPN of results of 33 MPN, <1 MPN and 4 MPN. These results were over the daily
22 maximum one time, and the other results were inconsistent and could cause violations and harm the
23 public's health and safety. (*Ibid.*)

1 Still yet, the ARSA water currently includes hydrogen sulfide levels that result in the release
2 hydrogen sulfide above the OSHA standards of ceiling concentration of 20 ppm and max peak of
3 50 ppm. (*Id.* at No. 5.) As a result, these hydrogen sulfide levels create an odor that can be
4 detected at 1.5 ppm. (*Ibid.*) ARSA water has had hydrogen sulfide tested with a MSA combined
5 gas detector ranging from 15 to 55 ppm. The hydrogen sulfide odor threshold is 1.5 ppm, meaning
6 that the odor is easily detected. (*Ibid.*) In the proper concentration, the hydrogen sulfide is also
7 explosive. (*Ibid.*) These high hydrogen sulfide levels also fall squarely within California Water
8 Code section 13050 – nuisance, is injurious to health, or is indecent or offensive to the senses, or
9 an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life
10 or property. (*Ibid.*) According to Plant Operator Moroz, they have had several odor complaints
11 including one from the U.S. Environmental Protection Agency. (*Ibid.*)
12

14 Even more concerning is the determination that ARSA’s wastewater is currently untreatable.
15 (*Id.* at p. 5, No. 6). The outflow from Preston Reservoir (the location of ARSA wastewater) is from
16 the bottom, which is covered in stagnate sludge from decades of use without being cleaned. (*Ibid.*)
17 Plant Operator Munoz reported that if ARSA had a pump with a suction line on floats that reached
18 down to the upper level of the reservoir, and the discharge line connected to the reservoir discharge
19 line, it is likely they would be able to effectively treat ARSA’s water. (*Ibid.*) However, as the
20 situation stands now, Plant Operator Munoz has determined that after recent attempts to accept
21 ARSA’s wastewater, “it is simply too dangerous to accept said input without major modifications to
22 ARSA’s delivery of the water from Preston Reservoir. Accepting the water as it now would be a
23 knowing violation of the facility operational permit, a public nuisance, and a threat to the health and
24 safety of local residents.” (*Id.* at No. 7.)
25
26
27
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1 City of Ione Manager, Michael Rock, provides further evidence in support of the immediate
2 risk of harm should Ione be required to accept ARSA's wastewater under current conditions. As City
3 Manager. Mr. Rock works closely with the operator of the City's Tertiary and WWTP Plant, and is
4 fully aware of the issues involving the acceptance of water from ARSA, including the "extremely
5 unhealthy nature of the offered water from ARSA." (Declaration of Michael Rock, p. 2, ¶¶ 1-3.) More
6 specifically, the acceptance of ARSA's wastewater would violate the City's permit issued by Regional
7 Water Quality and subject the public to severe exposure to danger associated with pollutants in
8 wastewater. (*Id.* at No. 4.) As an example, the Nephelometric turbidity units (NTU) in Ione's permit
9 has limits of 2.0 for monthly median and daily maximum of 5.0. The ARSA water cannot reliably
10 meet these limits even at low flows dosing polymer coagulant as high as 69.2 mg/L at flows as low
11 as 250 gpm. (*Ibid.*) CDCR water which is accepted into the system has a polymer dose under 20
12 mg/L as compared to ARSA's 69.2 mg/L. From a public safety standpoint, the coliform level
13 detected in ARSA's water during the last attempt to introduce it into the Ione system was 33 MPN
14 (Coliform). The daily maximum under the permit is a monthly median 2.2 MPN, daily maximum
15 23 MPN. (*Ibid.*)

16
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18
19 Accordingly, the harm Ione will suffer by the issuance of a preliminary injunction forcing it to
20 currently accept water from ARSA would be immediate, be it the obvious threat to the health and
21 safety of the public, the resulting mandate that it accept the wastewater when not contractually
22 obligated to do so, violations of its operating permits, and the obvious perpetuation of a public
23 nuisance. Such irreparable harm substantially outweighs the entirely speculative harm asserted by
24 ARSA, which must be viewed in terms of its own making by failing to take the necessary steps to
25 ensure the water it seeks to supply to Ione for treatment meets permitting and minimum health and
26 safety requirements. In sum, ARSA comes to this Court with unclean hands soiled by their very
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28

1 negligence, which they now are attempting to pass, literally and figuratively, onto Ione, thereby
2 leaving it to Ione to deal with the very harm ARSA has created on false grounds that Ione is
3 contractually bound to do so. However, even if the terminated agreement ARSA contends still exists
4 between the parties were it at issue, ARSA ignores the glaring fact that the very agreement they are
5 attempting to revive specifically requires that “[t]he effluent discharged to Preston Reservoir must be
6 in compliance with the Waste Discharge Requirements established by the Regional Water Quality
7 Board. (See Exhibit B to Declaration of Amy Gedney in support ARSA’s Application for Injunctive
8 Relief, p. 3, No. 4.) Certainly, in light of ARSA’s awareness of the quality of its wastewater that
9 violate Ione’s operating permits, it would be responsible for taking the steps necessary to avoid being
10 in breach of the contract, were it still in effect, by delivering wastewater to Ione in a manner that
11 complies with Ione’s operating permits. (*Id.* at p. 6, No. 14 – in the event of a breach, “...the parties
12 will meet and confer in an attempt to bring the violating party into compliance with this
13 agreement.”.)

14
15
16 Accordingly, as matters stand now, after recent attempts to accept ARSA water, it is simply
17 too dangerous to accept said input without major modifications to ARSA’s delivery of the water
18 from Preston Reservoir, nor is Ione under any contractual obligation to do so. Accepting the water
19 as it now would be a knowing violation of the facility operational permit, a public nuisance, and a
20 threat to the health and safety of local residents. It is ARSA that must remedy these issues, such that
21 Ione will be in a position to accept their wastewater in a manner that is not harmful to the public and
22 complies with Ione’s operational permits when and if a new agreement is entered between the parties.
23 Even accepting ARSA’s speculative timeline for avoiding the potential flooding should it not have a
24 mechanism to release its wastewater from Preston Reservoir, which is reported to be some six months
25 from now, ARSA would appear to have sufficient time to mitigate the current unhealthy quality of its
26
27
28

1 water and allow Ione to safely, and lawfully, resume acceptance of the water in manner that does not
2 place public health and safety at risk.

3 It is for these reasons that any relief issued by this Court should be in the form of mandating
4 and overseeing ARSA's remediation of these issues.
5

6 **III.**

7 **CONCLUSION**

8 For all of the aforementioned reasons, ARSA's request for a preliminary injunction, let alone
9 any relief, should be denied by this Court. Alternatively, this Court should compel ARSA to take all
10 necessary steps to mitigate the issues that have resulted in the untenable risk to the health and safety
11 of the general public, and enabling Ione to accept its wastewater that meets minimum state-issued
12 permit requirements.
13

14
15 Dated: October 5, 2022

16 PRENTICE LONG, PC

17 
18 _____
19 David A. Prentice
20 Margaret Long
21 Attorneys for Respondent City of Ione
22
23
24
25
26
27
28

1 RE: *Amador Regional Sanitation Authority v. City of Ione*
2 Alpine County Superior Court Case No.: 22CV12824

3 PROOF OF SERVICE

4 I am employed in the County of Shasta, State of California, I am over the age of eighteen years and
5 not a party to the foregoing action, my business address is 2240 Court Street, Redding, California 96001. I am
6 familiar with this company's practice of placing its daily mail, with postage prepaid thereon, in a designated
7 area for deposit in a U.S. mailbox in the City of Redding, California, after the close of the day's business. On
8 the date shown below, I served,

9 **OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND**
10 **TEMPORARY RESTRAINING ORDER; MEMORANDUM OF POINTS AND**
11 **AUTHORITIES**

12 X Via electronic/email service, the document(s) listed above were served via email to the email
13 address as set forth below on this date.

14 _____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully
15 prepaid thereon, and placing said envelope in the area designated for outgoing daily mail, addressed as
16 follows:

17 Shawn D. Hagerty, Esq.
18 Matthew Green, Esq.
19 Best Best & Krieger, LLP
20 655 West Broadway, 15th Floor
21 San Diego, CA 92101
22 Tel: (619) 525-1370
23 Fax: (619) 233-6118
24 Email: shawn.hagerty@bbklaw.com
25 matthew.green@bbklaw.com

Attorneys for Plaintiff

26 Frank A. Splendorio, Esq.
27 Best & Krieger, LLP
28 500 Capitol Mall, Suite 1700
Sacramento, CA 95814
Tel: (916) 325-4000
Fax: (916) 325-4010
Email: frank.splendorio@bbklaw.com

Attorneys for Plaintiff

29 X **BY FEDERAL EXPRESS:** I am readily familiar with my employer's practice for the collection and
30 processing of FedEx packages. Under that practice, packages would be deposited with FedEx that
31 same day, with overnight delivery charges thereon fully prepaid, in the ordinary course of business.

32 I declare under penalty of perjury that the foregoing is true and correct. Executed on
33 October 5, 2022, at Redding, California.

34 
35 Caren Miller

PRENTICE LONG, PC

David A. Prentice, SBN 144690

Margaret Long, SBN 227176

Carolyn Walker, SBN 262247

2240 Court Street

Redding, California 96001

Telephone: (530) 691-0800

Facsimile: (530) 691-0700

E-Mail: david@prenticelongpc.com

margaret@prenticelongpc.com

carolyn@prenticelongpc.com

Exempt from Filing

Fees Per Govt. Code § 6103

Attorneys for Defendant City of Ione

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

vs.

CITY OF IONE, a California municipal
corporation; CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION, a California
state agency; and DOES 1 through 20,
inclusive,

Defendants.

CASE NO. 22CV12824

**DECLARATION OF BRETT MOROZ
IN SUPPORT OF OPPOSITION TO EX
PARTE APPLICATION FOR ORDER
TO SHOW CAUSE AND TEMPORARY
RESTRAINING ORDER**

Date: October 10, 2022

Time: 8:30 a.m.

Dept.: 1

I, BRETT MOROZ, DO HEREBY DECLARE:

1. I am the operator of the City of Ione Tertiary and WWTP Plant which is the subject of this action. I am employed by PERC Water which is a water infrastructure company that contracts with the City of Ione to operate the wastewater system into which Plaintiff Amador Regional

1 Sanitation Authority ("ARSA") is attempting to force its wastewater discharges pursuant to this action.
2 I make this declaration in support of the City of Ione's Opposition to Ex Parte Application for Order to
3 Show Cause and Temporary Restraining Order. I am over the age of 18 years, have personal
4 knowledge of the matters stated herein, except those matters set forth on information and belief, and
5 if called upon to testify concerning the same, could do so competently.
6

7 2. I have been a certified wastewater operator in the state of California since 1977, and
8 have had my Grade IV operator license since 1988. During that time, I have operated different
9 types of tertiary wastewater treatment plants for over 25 years.
10

11 3. The system I operate on behalf of the City of Ione is not capable of accepting current
12 wastewater deliveries from ARSA, in that acceptance of said water would violate our permit of
13 operation issued by the Regional Water Quality Board in Sacramento, California. The Nephelometric
14 Turbidity Units ("NTU") in our permit has limits of 2.0 for monthly median, and daily maximum of
15 5.0. The ARSA water cannot reliably meet these limits even at low flows dosing polymer
16 coagulant as high as 69.2 mg/L at flows as low as 250 gpm. CDCR water polymer dose is usually
17 under 20 mg/L.
18

19 4. The permit limit on coliform bacteria ("MPN") is monthly median 2.2 MPN, daily
20 maximum 23 MPN. The last three days we took ARSA water the MPN results were 33 MPN, <1
21 MPN and 4 MPN. We were over the daily maximum one time, and the other results were
22 inconsistent and could cause violations.
23

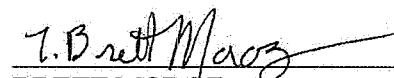
24 5. In addition, the release of hydrogen sulfide is above the OSHA standards of ceiling
25 concentration of 20 ppm and max peak of 50 ppm. The odor can be detected at 1.5 ppm. ARSA
26 water has had hydrogen sulfide tested with a MSA combined gas detector ranging from 15 to 55
27 ppm. The odor threshold is 1.5 ppm, meaning that is where the odor is easily detected. In the
28

1 proper concentration it is also explosive. These high hydrogen sulfide levels will also be a violation
2 of California Water Code section 13050, nuisance, is injurious to health, or is indecent or offensive
3 to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable
4 enjoyment of life or property. We have had several odor complaints including one from the U.S.
5 Environmental Protection Agency.
6

7 6. Making matter worse, ARSA water is untreatable. The reason for ARSA water
8 being untreatable is that the outflow from Preston Reservoir (the location of ARSA wastewater) is
9 from the bottom which is covered in stagnate sludge from decades of use without being cleaned. If
10 ARSA had a pump with the suction line on floats hanging down into the upper level of the reservoir
11 and the discharge line connected to the reservoir discharge line, we would most likely be able to
12 treat their water.
13

14 7. As matters stand now, after recent attempts to accept ARSA water, it is simply too
15 dangerous to accept said input without major modifications to ARSA's delivery of the water from
16 Preston Reservoir.
17

18 I declare under penalty of perjury under the laws of the State of California that the foregoing
19 is true and correct to the best of my knowledge. Executed this 5th day of October, 2022, in Ione,
20 California.
21

22 
23 BRETT MOROZ
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1 RE: *Amador Regional Sanitation Authority v. City of Ione*
2 Alpine County Superior Court Case No.: 22CV12824

3 PROOF OF SERVICE

4 I am employed in the County of Shasta, State of California, I am over the age of eighteen years and
5 not a party to the foregoing action, my business address is 2240 Court Street, Redding, California 96001. I am
6 familiar with this company's practice of placing its daily mail, with postage prepaid thereon, in a designated
7 area for deposit in a U.S. mailbox in the City of Redding, California, after the close of the day's business. On
8 the date shown below, I served,

9 **DECLARATION OF BRETT MOROZ IN SUPPORT OF OPPOSITION**
10 **TO EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE**
11 **AND TEMPORARY RESTRAINING ORDER**

12 X Via electronic/email service, the document(s) listed above were served via email to the email
13 address as set forth below on this date.

14 _____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully
15 prepaid thereon, and placing said envelope in the area designated for outgoing daily mail, addressed as
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17 Shawn D. Hagerty, Esq.
18 Matthew Green, Esq.
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22 Tel: (619) 525-1370
23 Fax: (619) 233-6118
24 Email: shawn.hagerty@bbklaw.com
25 matthew.green@bbklaw.com


Attorneys for Plaintiff

26 Frank A. Splendorio, Esq.
27 Best Best & Krieger, LLP
28 500 Capitol Mall, Suite 1700
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David A. Prentice, SBN 144690

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Telephone: (530) 691-0800

Facsimile: (530) 691-0700

E-Mail: david@prenticelongpc.com

margaret@prenticelongpc.com

carolyn@prenticelongpc.com

Exempt from Filing

Fees Per Govt. Code § 6103

Attorneys for Respondent City of Ione

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
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Plaintiff,

vs.

CITY OF IONE, a California municipal
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DEPARTMENT OF CORRECTIONS
AND REHABILITATION, a California
state agency; and DOES 1 through 20,
inclusive,

Defendants.

CASE NO. 22CV12824

**DECLARATION OF MARGARET
LONG IN SUPPORT OF OPPOSITION
TO EX PARTE APPLICATION FOR
ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER**

Date: October 10, 2022

Time: 8:30 a.m.

Dept.: 1

I, Margaret Long, declare as follows:

1. I am an attorney at law, duly licensed to practice before all courts of the State of California, and am a partner in the law firm of Prentice Long, PC, attorney of record for Defendant City of Ione in this action. This declaration is based on my own personal knowledge except as to

1 those matters stated upon information and belief, and as to those matters, I believe them to be true.

2 If called as a witness to testify to the matters asserted herein, I would do so completely.

3 2. On September 29, 2022, Counsel for the Amador Regional Sanitation Authority
4 (ARSA) emailed to the City of Ione copies of this ex-parte action. As of this date, ARSA had not
5 effectuated service of their ex parte pleadings on counsel for the City of Ione.
6

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct. Executed this 5th day of October, 2022 in Ione, California.

9
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11 _____
12 MARGARET LONG
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1 RE: *Amador Regional Sanitation Authority v. City of Ione*
2 Alpine County Superior Court Case No.: 22CV12824

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10 **TO EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE**
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22 Tel: (619) 525-1370
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25 matthew.green@bbklaw.com


Attorneys for Plaintiff

17 Frank A. Splendorio, Esq.
18 Best & Krieger, LLP
19 500 Capitol Mall, Suite 1700
20 Sacramento, CA 958114
21 Tel: (916) 325-4000
22 Fax: (916) 325-4010
23 Email: frank.splendorio@bbklaw.com

Attorneys for Plaintiff

24 X **BY FEDERAL EXPRESS:** I am readily familiar with my employer's practice for the collection and
25 processing of FedEx packages. Under that practice, packages would be deposited with FedEx that
26 same day, with overnight delivery charges thereon fully prepaid, in the ordinary course of business.

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on
28 October 5, 2022, at Redding, California.

29 
30 Caren Miller

1 **PRENTICE LONG, PC**
2 David A. Prentice, SBN 144690
3 Margaret Long, SBN 227176
4 Carolyn Walker, SBN 262247
5 2240 Court Street
6 Redding, California 96001
7 Telephone: (530) 691-0800
8 Facsimile: (530) 691-0700
9 E-Mail: david@prenticelongpc.com
10 margaret@prenticelongpc.com
11 carolyn@prenticelongpc.com

Exempt from Filing
Fees Per Govt. Code § 6103

Attorneys for Respondent City of Ione

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 IN AND FOR THE COUNTY OF AMADOR

14 AMADOR REGIONAL SANITATION
15 AUTHORITY, a California joint powers
16 agency,

Plaintiff,

17 vs.

18 CITY OF IONE, a California municipal
19 corporation; CALIFORNIA
20 DEPARTMENT OF CORRECTIONS
21 AND REHABILITATION, a California
22 state agency; and DOES 1 through 20,
23 inclusive,

Defendants.

CASE NO. 22CV12824

**DECLARATION OF MICHAEL ROCK
IN SUPPORT OF OPPOSITION TO EX
PARTE APPLICATION FOR ORDER
TO SHOW CAUSE AND TEMPORARY
RESTRAINING ORDER**

Date: October 10, 2022

Time: 8:30 a.m.

Dept.: 1

24 I, MICHAEL ROCK, DO HEREBY DECLARE:

25 1. I am the City Manager for the City of Ione, Defendant in the above-entitled action. I
26 am over the age of 18 years, have personal knowledge of the matters stated herein, except those
27 matters set forth on information and belief, and if called upon to testify concerning the same,
28

1 could do so competently.

2 2. I make this declaration in support of the City of Ione's Opposition to Temporary
3 Restraining Order issued against the City of Ione with opportunity of the City to be heard.

4 3. As City Manager I work closely with the operator of the City's Tertiary and WWTP
5 Plant. I am fully aware of all the issues with the acceptance of water from the Amador Regional
6 Sanitation Authority (ARSA). The main issue is the extremely unhealthy nature of the offered water
7 from ARSA.
8

9 4. ARSA water, if added to the Ione system, would violate the City's permit issued by
10 Regional Water Quality and subject the public to severe exposure to danger associated with pollutants
11 in wastewater. For instance, the Nephelometric turbidity units (NTU) in our permit has limits of 2.0
12 for monthly median and daily maximum of 5.0. The ARSA water cannot reliably meet these limits
13 even at low flows dosing polymer coagulant as high as 69.2 mg/L at flows as low as 250 gpm.
14 CDCR water which is accepted into the system has a polymer dose under 20 mg/L as compared to
15 ARSA's 69.2 mg/L. More importantly of public safety is that coliform with ARSA water during
16 the last attempt to introduce that water into the Ione system was 33 MPN (Coliform). The daily
17 maximum under the permit is a monthly median 2.2 MPN, daily maximum 23 MPN.
18
19

20 5. Moreover, the release of hydrogen sulfide in ARSA water is above the OSHA
21 standards of ceiling concentration of 20 ppm and max peak of 50 ppm. The odor can be detected at
22 1.5 ppm. ARSA water has had hydrogen sulfide tested with a MSA combined gas detector ranging
23 from 15 to 55 ppm. The odor threshold is 1.5 ppm meaning that is where the odor is easily
24 detected. In the proper concentration it is also explosive. These high hydrogen sulfide levels will
25 also be a violation of the California Water Code § 13050, nuisance, is injurious to health, or is
26 indecent of offensive to the senses, or an obstruction to the free use of property. The City has had
27
28

1 many order complaints when accepting ARSA water, including a complaint from the
2 Environmental Protection Agency (EPA).

3 6. Regardless of the ARSA water being unacceptable and untreatable, the City of Ione
4 would take water from ARSA if they took steps to correct the issues above. I have personally
5 advised ARSA of steps that could be taken with little time or expense which would lead to our
6 ability to accept their water. They have ignored these suggestions which are attached hereto as
7 **Exhibit A.**

8
9 7. Contrary to the ARSA's contention that the City of Ione is contractually obligated
10 under a 2007 agreement to accept ARSA's wastewater, the 2007 agreement was terminated by the
11 City of Ione by way of a notice of termination, dated July 19, 2017, with a set termination date of
12 July 31, 2022, in accordance with its termination provisions that required a minimum of five years
13 notice. Attached as **Exhibit B** are the minutes of the August 30, 2017, meeting of the ARCA Board
14 of Directors, directing staff to acknowledge receipt of the Ione's termination letter.

15
16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct. Executed this 5th day of October, 2022 in Ione, California.

18
19
20 
21 MICHAEL ROCK

EXHIBIT A



CITY OF IONE

1 E. MAIN STREET
P.O. BOX 398
IONE, CA 95640
(209) 274-2412

July 20, 2022

Amy Gedney, General Manager
Amador Regional Sanitation Authority
18 Main Street
Sutter Creek, CA 95685

Dear Amy:

Per your request on July 11, 2022, and our ongoing discussions about a long-term agreement between the City of Ione and ARSA I submit this letter with key points that are a basis for beginning formal negotiations on a long-term agreement with ARSA to accept wastewater effluent from Preston Reservoir to the City of Ione Tertiary Plant.

1. The new term will be 5 years with an option for both parties to extend for two additional 5-year terms for a total of 15 years
2. ARSA must have retention ponds to deal with years where water must be stored. Heavy rainfall years should not result in releasing too much water but rather controlling the balance through storage ponds.
3. Strongly recommend ARSA divert water from the creek. This will give ARSA more options and flexibility in balancing the water throughout the year for all parties.
4. Strongly recommended ARSA dredge the bottom of Preston Reservoir as soon as practically possible and no longer than two years from the approval date of this new agreement
5. The City of Ione will take the following range of acre feet per year from ARSA: 100-400
6. If the City rejects water from ARSA because of discharge violations that liability and cost is on ARSA to cure the problem
7. If ARSA cannot send the minimum 100 ac/ft per/year the financial penalty will be _____ for every acre foot not delivered

8. If the City of Lone does not take the minimum 100-acre ft/year the City is fined ____ foot every acre foot not taken if and only if the City can release the water to COGC without causing a violation of the City's WDR permit.
9. A flow meter must be installed at Preston Reservoir so that ARSA knows how much water it is discharging. This is required in ARSAs current WDR Permit
10. City strongly recommends ARSA cure the CDO currently on their WDR Permit

If the City and ARSA immediately embark on negotiating a new agreement then the five-year notice to eliminate all flows to the lower Henderson/Preston system as per Section 8a of the 2007 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal will be suspended until such time the new agreement is approved by the City and ARSA. If no agreement is achieved within eighteen months of August 1, 2022, then the five-year notice to eliminate flows will take full force and effect on February 1, 2024.

This letter is meant to be a strong starting point to negotiate a very detailed and long-term agreement that is intended to be beneficial to all parties affected by the outcome of this hopefully very successful partnership with ARSA. All the items listed above are negotiable and nothing is set in concrete.

I look forward to beginning the process of negotiating a new agreement that will benefit the City of Lone, City of Sutter Creek, ARSA, COGC, CDCR and other affected parties.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Rock', is written over a horizontal line.

Michael Rock
Interim City Manager
City of Lone, CA

EXHIBIT B

Amador Regional Sanitation Authority

"Servicing Amador City, Martell, & Sutter Creek"

MINUTES OF THE BOARD OF DIRECTORS MEETING August 30, 2017

Present:

Robin Peters, Chairman
Richard Forster, Vice Chairman
Jim Swift, Board Member
Frank Axe, Board Member
Susan Bragstad, Board Member

Staff Present:

Amy Gedney, Interim General Manager
Harriet Steiner, ARSA Attorney
Karen Darrow, Secretary

1. **CALL TO ORDER AND ESTABLISH A QUORUM**
Meeting called to order by Chairman Peters at 10:05 A.M.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
Chairman Peters led the Pledge of Allegiance.
3. **PUBLIC FORUM- None.**
4. **INFORMATION/CORRESPONDENCE**
 - A. 2017 July Monthly Monitoring Report
So noted.
 - B. System status update
So noted.

Mike Kirkley of Sutter Creek asked if the new spray guns were more automated or more labor intensive.

Chairman Peters responded that they would require at least as much work and noted that this was a short term solution.

5. **CONSENT AGENDA – *Items listed on the consent agenda are considered routine and may be enacted in one motion. Any item may be removed for discussion at the request of the Board or the Public.***
 - A. Approval of Minutes of July 26, 2017
 - B. Warrants
 - C. July Financial Statements

M/S Forster/Bragstad to Approve the Consent Agenda Items A, B and C.

AYES: Axe, Bragstad, Forster, Swift and Peters
NOES: None
ABSTAIN: None
ABSENT: None
MOTION CARRIED

- D. Adopt Resolution 17-18-* Extending the loan term with the City of Sutter Creek for the Noble Ranch spray easement.

Board member Bragstad noted that she believes that ARSA needs to start getting repaid.

ARSA Attorney Steiner noted that all payments have been deferred and that ARSA and the City of Sutter Creek will be looking at the Master Plan to evaluate how to move forward.

The Board directed staff to bring back a summary of the loan agreement terms from the original loan that originated in 2002 and to look into options for a repayment plan.

Mike Kirkley of Sutter Creek commented.

M/S Forster/Swift to Adopt Resolution 17-18-03 Extending the loan term with the City of Sutter Creek for the Noble Ranch spray easement.

AYES: Forster, Swift and Peters

NOES: Bragstad

ABSTAIN: Axe

ABSENT: None

MOTION CARRIED

6. ADMINISTRATIVE MATTERS

- A. Direct staff to acknowledge receipt and understanding of Ione's letter terminating the 2007 Agreement.

ARSA Interim General Manager Gedney noted that HydroScience is aware of the five year notice.

Chairman Peters noted that the termination notice seems to lead to the discussion of whether ARSA is really needed and recommended that Interim General Manager Gedney work with ARSA Attorney Steiner to determine the necessity of ARSA and the possibility of dissolving it.

Dan Epperson, Mayor of the City of Ione noted that the letter was not sent to antagonize and that they are willing to work together to part ways.

The Board directed staff to move forward with a letter acknowledging receipt of Ione's termination letter.

Open Session Adjourned at 10:55 a.m.

7. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION – Litigation pursuant to paragraph (1) of subdivision (d) of Section 59456.9: CDCR v. ARSA et. al. Case No. 17-CV-10084

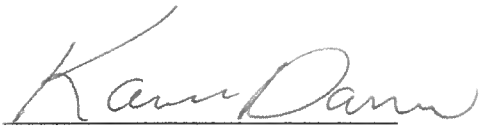
8. REPORT OUT OF CLOSED SESSION

Chairman Peters noted that in regards to Item 7A there was no reportable action.

Closed Session Adjourned at 11:40 p.m

9. ADJOURNMENT

The meeting was adjourned at 11:40 p.m.



Karen Darrow, Secretary



Robin Peters, Chairman

Date Approved: September 27, 2017

1 RE: *Amador Regional Sanitation Authority v. City of Ione*
2 Alpine County Superior Court Case No.: 22CV12824

3 PROOF OF SERVICE

4 I am employed in the County of Shasta, State of California, I am over the age of eighteen years and
5 not a party to the foregoing action, my business address is 2240 Court Street, Redding, California 96001. I am
6 familiar with this company's practice of placing its daily mail, with postage prepaid thereon, in a designated
7 area for deposit in a U.S. mailbox in the City of Redding, California, after the close of the day's business. On
8 the date shown below, I served,

9 **DECLARATION OF MICHAEL ROCK IN SUPPORT OF OPPOSITION**
10 **TO EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE**
11 **AND TEMPORARY RESTRAINING ORDER**

12 X Via electronic/email service, the document(s) listed above were served via email to the email
13 address as set forth below on this date.

14 _____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully
15 prepaid thereon, and placing said envelope in the area designated for outgoing daily mail, addressed as
16 follows:

17 Shawn D. Hagerty, Esq.
18 Matthew Green, Esq.
19 Best Best & Krieger, LLP
20 655 West Broadway, 15th Floor
21 San Diego, CA 92101
22 Tel: (619) 525-1370
23 Fax: (619) 233-6118
24 Email: shawn.hagerty@bbklaw.com
25 matthew.green@bbklaw.com


Attorneys for Plaintiff

17 Frank A. Splendorio, Esq.
18 Best & Krieger, LLP
19 500 Capitol Mall, Suite 1700
20 Sacramento, CA 958114
21 Tel: (916) 325-4000
22 Fax: (916) 325-4010
23 Email: frank.splendorio@bbklaw.com

Attorneys for Plaintiff

24 X **BY FEDERAL EXPRESS:** I am readily familiar with my employer's practice for the collection and
25 processing of FedEx packages. Under that practice, packages would be deposited with FedEx that
26 same day, with overnight delivery charges thereon fully prepaid, in the ordinary course of business.

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on
28 October 5, 2022, at Redding, California.


Caren Miller

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: Margaret Long FIRM NAME: Prentice Long, PC STREET ADDRESS: 2240 Court Street CITY: Redding TELEPHONE NO.: (530) 691-0800 EMAIL ADDRESS: margaret@prenticelongpc.com ATTORNEY FOR (name): Defendant City of Ione	STATE BAR NUMBER: (SBN: 227176) STATE: CA ZIP CODE: 96001 FAX NO.: (530) 691-0700
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Amador STREET ADDRESS: 500 Argonaut Lane MAILING ADDRESS: CITY AND ZIP CODE: Jackson, CA 95642 BRANCH NAME:	
PLAINTIFF/PETITIONER: Amador Regional Sanitation Authority DEFENDANT/RESPONDENT: City of Ione OTHER CASE NAME: ARSA v. City of Ione	
NOTICE OF REMOTE APPEARANCE	
CASE NUMBER: 22CV12824	

Exempt from Filing Fees
Per Govt. Code § 6103

You must use this form to tell the court you intend to appear remotely in a civil case, unless the court's website describes an online process for giving notice. You may also use it to give the required notice to all other parties in the case. (Do not use this form in a juvenile dependency proceeding.)

Check the court's website for information about how to appear remotely, including the departments and types of cases or proceedings that allow remote appearances and ways to appear remotely in their departments for such appearances.

See page 3 of this form for more information, including deadlines for giving notice and for opposing a remote appearance if this notice is for an evidentiary hearing or trial.

A person appearing remotely should conduct themselves as though appearing in court in person.

1. The person who intends to appear remotely is (*check and complete all that apply*):
 - ☐ Plaintiff/Petitioner (*name*):
 - ☐ Attorney for Plaintiff/Petitioner (*name*):
 - ☐ Defendant/Respondent (*name*):
 - ☒ Attorney for Defendant/Respondent (*name*): **Margaret Long and/or David Prentice**
 - ☐ Other (*name and role in case*):

2. The person or persons in 1 intends to appear remotely (*check one*):
 - a. ☐ Throughout the case.
 - b. ☒ At the proceeding described below, including on any later dates if the proceeding is continued (*describe*):
 Type of proceeding: **Ex Parte Hearing re Order to Show Cause and Temporary Restraining Order**
 Set on (*date*): **October 10, 2022** at (*time*): **8:30 a.m.** in (*department*): **1**
 Before (*name of judicial officer, if known*):

3. The person intends to appear by (*check court's website for method that may be used*):
 - ☒ Videoconference ☐ Audio only (including telephone)

4. ☐ For evidentiary hearing or trial only (where testimony may be given): the party requests the following additional aspects of the proceeding be conducted remotely (*describe what the party wants to be done remotely and why; attach form MC-025 if more space is needed*):

PLAINTIFF: Amador Regional Sanitation Authority
 DEFENDANT: City of Ione

CASE NUMBER:
 22CV12824

5. ☒ I agree to keep the proceeding confidential to the same extent as would be required if I were appearing in person.

Date: October 5, 2022

Margaret Long

(TYPE OR PRINT NAME)

(SIGNATURE)

Notice to Other Parties

Anyone intending to appear remotely must provide notice to all other parties by the deadlines stated in Cal. Rules of Court, rule 3.672, and described on the next page. Notice may be provided orally, electronically, or by giving the other parties this form in a way to ensure it is received by the applicable deadline. The party must tell the court this was done either by filing a proof of service (this may be done on forms POS-040 or POS-050 for electronic service) or by completing and signing the declaration below.

Declaration of Notice

I gave notice that I intend to appear remotely to the other parties or persons entitled to receive notice in this case as stated below.

Complete one item below for each person notice was given to, and enter one of the following options for "Method of notice" in c.

- **Mail:** By mailing them a copy of this form (write the mailing address in d.)
- **Overnight delivery:** By having a copy of this form delivered overnight (write the delivery address in d.)
- **Electronic notice:** By e-mail or text message (write the e-mail or phone number in d.)
- **Phone:** By telling them over the telephone or leaving them voice mail (write the phone number in d.), or
- **In person:** By giving them a copy of this form in person, or by telling them orally in person (write the address in d.)

1. ☐ Plaintiff/Petitioner

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

2. ☒ Attorney for: Plaintiff

- a. Name: Shawn D. Hagerty and Matthew Green
- b. Date of notice: October 5, 2022
- c. Method of notice: Overnight Mail
- d. Address (mailing, in-person, or email) or phone number:
 655 W. Broadway, 15th Flr., San Diego, CA 92101

3. ☐ Defendant/Respondent

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

4. ☒ Attorney for: Plaintiff

- a. Name: Frank A. Splendorio, Esq.
- b. Date of notice: October 5, 2022
- c. Method of notice: Overnight Mail
- d. Address (mailing, in-person, or email) or phone number:
 500 Capitol Mall, Ste. 1700, Sacramento, CA 95814

5. ☐ Other (specify):

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

6. ☐ Attorney for:

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

7. ☐ Other (specify):

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

8. ☐ Other (specify):

- a. Name:
- b. Date of notice:
- c. Method of notice:
- d. Address (mailing, in-person, or email) or phone number:

☐ If more people were given notice, check here, attach form MC-025, titled as Attachment Notice, and add the information about how and when notice was given to each person.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 5, 2022

Caren Miller

(TYPE OR PRINT NAME)

(SIGNATURE)

ATTACHMENT 5

1 SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
2 MATTHEW L. GREEN, Bar No. 227904
matthew.green@bbklaw.com
3 BEST BEST & KRIEGER LLP
655 West Broadway, 15th Floor
4 San Diego, California 92101
Telephone: (619) 525-1300
5 Facsimile: (619) 233-6118

6 FRANK A. SPLENDORIO, Bar No. 272601
frank.splendorio@bbklaw.com
7 BEST BEST & KRIEGER LLP
500 Capitol Mall, Suite 1700
8 Sacramento, California 95814
Telephone: (916) 325-4000
9 Facsimile: (916) 325-4010

11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

FILED
AMADOR SUPERIOR COURT
OCT 7 2022
Clerk of the Superior Court
By: B. MORRIS

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF AMADOR

16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

REPLY MEMORANDUM IN SUPPORT OF
ISSUANCE OF PRELIMINARY
INJUNCTION

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

By *Fay*

Pursuant to the Court’s September, 29, 2022, Order to Show Cause (“OSC”), Plaintiff Amador Regional Sanitation Authority (“ARSA”) respectfully submits the following reply memorandum in support of issuance of a preliminary injunction against Defendant City of Ione (“Ione”).

I.

REPLY

Due to Ione’s ongoing failure to comply with its contractual obligations under the parties’ Wastewater Agreement, Preston Reservoir is at serious risk of overflowing during the upcoming rainy season and exposing the public, including the residential community surrounding the Castle Oaks Golf Course (“Gold Course”) in Ione, to harmful wastewater containing pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites. (Ghio Decl., ¶¶ 10-12.) In order to prevent the public health and water quality contamination crises that will occur in the event Preston Reservoir spills over, and based on modeling performed by ARSA’s engineer, ARSA applied ex parte for a temporary restraining order (“TRO”) compelling Ione to immediately accept 500,000 gallons of wastewater from Preston Reservoir for a 30-day period, as well as an order to show cause (“OSC”) why a preliminary injunction should not issue.

Recognizing the urgency that exists, the Court issued the requested TRO and OSC on September 29, 2022, set a shortened briefing schedule, and scheduled the OSC hearing for October 10, 2022. Rather than wait for the Court to receive full briefing and hear the OSC on an expedited schedule, or seek other relief sooner in this Court, Ione filed a petition for writ of mandate asking the Court of Appeal to vacate the TRO and to stay the TRO during the pendency of the writ petition. While the Court of Appeal agreed to stay the TRO pending the OSC hearing in this Court, the Court of Appeal stated that “[the] stay does not deprive [this Court] of its authority to issue injunctive relief at [the OSC] hearing.” (Supp. Green Decl., Ex. C [10/4/22 Ct. App. Order].)

Ione’s opposition to the OSC raises both substantive and procedural arguments against injunctive relief. Regarding the former, Ione claims that the irreparable harm to ARSA and the public is not imminent because Preston Reservoir spilling over is not a certainty. (Opp’n, at pp. 10:13-11:25.) Ione also contends the harm that it would suffer if an injunction is issued, i.e., the

1 violation of its operating permit and associated public health concerns, outweighs the harm to
2 ARSA in the absence of an injunction. (*Id.*, at pp. 12:1-16:2.) Ione also argues ARSA is unlikely
3 to prevail on the merits because ARSA has not asserted a breach of contract cause of action, and
4 ARSA's injunctive and declaratory relief claims nevertheless fail because Ione purportedly
5 terminated the Wastewater Agreement. (*Id.*, at pp. 9:8-10:12.) As to its procedural argument, Ione
6 claims it was not personally served with ARSA's ex parte papers. (*Id.*, at pp. 6:13-8:8.)

7 Ione's arguments are unavailing. As Ione notes in its own opposition, injunctive relief
8 merely requires the threat of irreparable injury, (Opp'n, at p. 10:14); proof of inevitable or certain
9 injury is not required. If an injunction is not issued, there is a serious and real threat of Preston
10 Reservoir overflowing and causing public health and water quality contamination crises. (Ghio
11 Decl., ¶¶ 10-11, Ex. C; Supp. Ghio Decl., ¶ 5, Ex. E.) When balanced against the permit violations
12 claimed by Ione, such harm is far outweighed by the risk of wastewater spilling out of Preston
13 Reservoir and flooding a residential neighborhood.

14 Although ignored by Ione, the Central Valley Regional Water Quality Control Board
15 ("Regional Board"), the agency responsible for regulating wastewater discharges in the area, has
16 said as much. (Ghio Decl., Ex. D.) Indeed, as recent as October 3, 2022, the Regional Board again
17 confirmed that Ione's permit violation concerns are not a reason for Ione to refuse to accept
18 wastewater from Preston Reservoir. (Supp. Ghio Decl., ¶ 7.)

19 The simple reality is that Ione does not like the deal it negotiated in the Wastewater
20 Agreement because it does not want to pay the costs to treat the wastewater that it is contractually
21 obligated to accept from ARSA. (See Gedney Decl., Ex. D [Compl.], Ex. E thereto.) Incredibly,
22 Ione instead wishes to put its residents at risk of being exposed to harmful wastewater if Preston
23 Reservoir overflows, and the resulting public health and water quality contamination crises that
24 will occur. Such harm to Ione's residents clearly outweighs Ione's financial concerns.

25 Ione's arguments regarding the merits of ARSA's claims fare no better. As is evident from
26 ARSA's complaint, injunctive relief is the remedy sought against Ione, but the underlying cause of
27 action supporting such relief is breach of contract. (Gedney Decl., Ex. D [Compl.], ¶¶ 39-41.)
28 Contrary to Ione's assertion, the Wastewater Agreement remains in effect and is thus the proper

1 basis of ARSA's injunctive and declaratory relief claims. Ione cannot terminate the Wastewater
2 Agreement unless it has resolved how to provide adequate water for the Golf Course, which
3 expressly includes procuring the necessary water quality permits or permit modifications from the
4 Regional Board. (Ghio Decl., Ex. A, Ex. B thereto [Wastewater Agreement], at p. 4, ¶ 8.a.)

5 It is uncontroverted that Ione has received no water quality permits or permit modifications
6 from the Regional Board that allow Ione to provide reclaimed water to the Golf Course in any
7 manner other than from Preston Reservoir. (Ghio Decl., ¶ 8.) Any purported notice of termination
8 of the Wastewater Agreement given by Ione therefore lacks any force and effect. (See Gedney
9 Decl., Ex. D [Compl.], ¶ 26.) Ione's failure to accept wastewater from ARSA from Preston
10 Reservoir amply demonstrates more than "some possibility" that ARSA will ultimately prevail on
11 the merits of its injunctive and declaratory relief claims. (*Jamison v. Dept. of Transp.* (2016)
12 4 Cal.App.5th 356, 362.)

13 Finally, Ione's contention that it was not personally served with ARSA's ex parte papers is
14 wholly without merit. The proof of service on file with the Court clearly shows Ione was personally
15 served with the ex parte papers on September 29, 2022. (Supp. Green Decl., Ex. B.)

16 For the reasons set forth herein, and in the ex parte application, the Court should issue a
17 preliminary injunction requiring Ione to accept from ARSA 500,000 gallons of secondarily treated
18 wastewater per day from Preston Reservoir for the next 30 days, for a total of 15 million gallons of
19 secondarily treated wastewater over the 30-day period.

20 II.

21 ARGUMENT

22 A. THE BALANCING OF HARDSHIPS MILITATES IN FAVOR OF ISSUING 23 A PRELIMINARY INJUNCTION

24 1. ARSA Has Amply Demonstrated Irreparable Injury In The Absence Of A 25 Preliminary Injunction.

26 Beginning with the balancing of hardships prong, Ione argues ARSA has failed to
27 demonstrate irreparable injury that is imminent. (Opp'n, at pp. 10:13-11:25.) According to Ione,
28 "[ARSA] relies on speculative concerns and untenable conclusions regarding high flows that may
occur this rainy season, and the potential harm that could occur in such a case." (*Id.*, at pp. 10:26-

11:1.) Ione overstates the showing required to support a preliminary injunction.

While Ione correctly notes that a mere possibility of harm is insufficient to justify a preliminary injunction, the irreparable injury need not be imminent to warrant injunctive relief. Rather, a preliminary injunction is warranted where there is a threat of irreparable injury. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1292; *Costa Mesa City Employee'' Assn. v. City of Costa Mesa* (2012) 209 Cal.App.4th 298, 305-306; *Choice-in-Education League v. Los Angeles Unified School Dist.* (1993) 17 Cal.App.4th 415, 431; *City of Torrance v. Transitional Living Centers for Los Angeles, Inc.* (1982) 30 Cal.3d 516, 526; *7978 Corporation v. Pitchess* (1974) 41 Cal.App.3d 42, 46; see also *Lezama v. Justice Court* (1987) 190 Cal.App.3d 15, 21 [describing prerequisite of injunctive relief as “a serious risk of irreparable harm”].) As Ione itself notes, it is “the threat of ‘irreparable injury’” that must be imminent. (Opp’n, at p. 10:14 [emphasis added].)

There clearly exists a serious risk and real threat of irreparable injury if Ione is not ordered to immediately accept wastewater from ARSA from Preston Reservoir. As detailed in ARSA’s engineer, Gary Ghio, P.E.’s, declarations, in the event of a 100-year storm during the upcoming rainy season, Preston Reservoir will reach its permitted capacity in early March 2023, and will spill over in April 2023. (Ghio Decl., ¶ 11; Supp. Ghio Decl., ¶ 5, Ex. E.) The threat of a 100-year storm is also not some abstract proposition; the Regional Board requires ARSA’s system to account and plan for flows under a 1 in 100 year scenario each year. (Ghio Decl., ¶ 11.)

If Preston Reservoir spills over, the wastewater will flood the property below the dam and then run through Mule Creek and into the residential subdivision surrounding the Golf Course. (Ghio Decl., ¶ 10, Ex. C.) The flooding and discharge of disinfected secondary effluent into Mule Creek and onto residential property poses significant public health and water quality contamination issues, as disinfected secondary effluent contains harmful pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites. (Ghio Decl., ¶ 10.)

Ione’s attempt to minimize the immediate need for injunctive relief by noting that Preston Reservoir is not at risk of spilling over until “some six months from now” is specious. (See Opp’n, at p. 12:3-6.) Although ignored by Ione, there is a very small window of time that exists before the rainy season begins. Pursuant to the Wastewater Agreement, Ione provides tertiary treatment to the

1 wastewater received from Preston Reservoir for irrigation use at the Golf Course. (Gedney Decl.,
2 ¶ 3; Ghio Decl., ¶ 3; Stone Decl., ¶ 3.) Once the rainy season begins, however, limited water is
3 needed for irrigation, and Ione no longer has anywhere to send the treated wastewater. (Ghio Decl.,
4 ¶ 7.) Given the rainy season is expected to arrive by November, and a discharge of at least 500,000
5 gallons per day for 30 days is needed to reduce the risk of Preston Reservoir spilling over during
6 the upcoming rainy season, (Ghio Decl., ¶¶ 7, 11-12), the need for Ione to accept wastewater from
7 Preston Reservoir is immediate.

8 Ione's attack on Mr. Ghio's purported lack of qualifications is also without merit. (See
9 Opp'n, at p. 11:8-17.) Mr. Ghio has a B.S. in Civil Engineering from the University of Pacific and
10 a M.S. in Structural Engineering from Stanford University, and has been a licensed engineer in the
11 State of California for 41 years with extensive experience in managing wastewater disposal
12 systems. (Supp. Ghio, ¶¶ 3-4.) Indeed, during his distinguished career, he has been the City
13 Engineer for no less than five cities, and the District Engineer for no less than nine water, public
14 utility, and sanitation districts, in the region. (Supp. Ghio, ¶ 4.)

15 Mr. Ghio accordingly has the expertise to opine on the water balance of Preston Reservoir
16 and the serious consequences that will result if Preston Reservoir overflows. (See Ghio Decl., ¶¶
17 10-11.) Mr. Ghio's conclusions are also supported by the Preston Dam Break Inundation Map,
18 which depicts the areas that will be flooded with wastewater in the event Preston Reservoir spills
19 over. (Ghio Decl., ¶ 10, Ex. C.) Regarding the public health and water contamination issues that
20 secondarily treated wastewater poses, ARSA's water quality consultant, Donald Brown, also
21 concurs with Mr. Ghio's opinions on the matter. (Supp. Brown Decl., ¶ 12.) Even absent Messrs.
22 Ghio's and Brown's declarations, Brett Moroz's declaration underscores the hazardous nature of
23 the wastewater from Preston Reservoir.¹ (Moroz Decl., ¶¶ 3-5.) The public health and water
24 contamination hazards associated with wastewater containing pathogens (protozoa, bacteria, and
25 viruses), inorganic compounds, and parasites should also be self-evident.

26 ///

27
28 ¹ While Michael Rock's declaration duplicates the bulk of Mr. Moroz's declaration, Mr. Rock
is a City Manager with no apparent qualifications or expertise on such topics.

2. The Harm To ARSA In The Absence Of An Injunction Greatly Outweighs The Harm To Ione If An Injunction Is Issued.

The gist of the interim harm claimed by Ione is that the treatment of wastewater from Preston Reservoir will violate its operating permit from the Regional Board because the turbidity and coliform bacteria in the water exceed the permit limits. (Moroz Decl., ¶¶ 3-4.) Ione also claims that Preston Reservoir's wastewater poses public health issues because it contains odor-causing hydrogen sulfide, and that the water is difficult to treat because of sedimentation caused by the water being delivered from the bottom of Preston Reservoir. (Moroz Decl., ¶¶ 5-7.)

Curiously, Ione fails to address the fact that Ione raised these exact same issues to the Regional Board to justify Ione's refusal to accept water from Preston Reservoir before ARSA was forced to file the instant action. (Ghio Decl., Ex. D.) Although ignored by Ione, the Regional Board's September 9, 2022, letter confirmed that "the capacity issues at Preston [Reservoir] are presenting an even greater risk to water quality and public health than potential nuisance concerns related to the treatment of wastewater from Preston [Reservoir] at Ione's [water reclamation plant]." (Ghio Decl., Ex. D.) At a recent meeting on October 3, 2022, between Ione, ARSA, and the Regional Board, among other parties, the Regional Board's Executive Officer also stated in no uncertain terms that Ione's concern regarding Regional Board permit violations is not a reason for Ione to refuse to accept wastewater from ARSA from Preston Reservoir. (Supp. Ghio Decl., ¶ 7.)

Not only does the risk of flooding of hazardous wastewater exceed Ione's concerns, but Ione's issues are of their own doing. As detailed in Mr. Brown's supplemental declaration, Ione's issues are the responsibility of Ione to address through the tertiary treatment process, they are issues that Ione can in fact address, and its issues are inconsequential, particularly compared with the public health and water contamination issues that would result from Preston Reservoir spilling over. (Supp. Brown Decl., ¶¶ 5-11.)

The simple reality is that Ione does not want to pay the costs to accept and treat wastewater from Preston Reservoir despite its unconditional contractual obligation to do so. (See Gedney Decl., Ex. D [Compl.], Ex. E thereto [noting the cost to Ione to perform under the Wastewater Agreement].) Astoundingly, Ione instead wishes to put its residents at risk of exposure to harmful

1 wastewater in the event Preston Reservoir spills over, and the public health and water quality
2 contamination crises that will ensue. Such irreparable injury to the people of Ione far outweighs
3 Ione's financial concerns.

4 3. The Installation Of A Surface Pump Is Not A Feasible Solution To Prevent
5 Preston Reservoir From Overflowing.

6 Ione also attempts to defeat the issuance of the preliminary injunction sought by ARSA by
7 suggesting that Ione could treat the water from Preston Reservoir if the outflow came from the
8 surface of the Reservoir through the installation of a surface pump, rather than from the bottom of
9 the Reservoir under the current distribution system. (Opp'n, at p. 5:6-13; Moroz Decl., ¶¶ 6-7.) In
10 addition to being speculative, the installation of a surface pump at this juncture, with the rainy
11 season likely to begin within the next three (3) weeks, is not a feasible solution because there is not
12 enough time to remove the amount of water necessary to avert the risk of the Reservoir overflowing.
13 (Supp. Brown Decl., ¶ 4.)

14 The procurement and installation of the necessary infrastructure to pump water from the
15 surface of Preston Reservoir would take at least two (2) weeks. (Supp. Brown Decl., ¶ 4.) The
16 amount of water that can be pumped from the surface and delivered to Ione through such a system
17 would also be half the amount that can be delivered to Ione through the current discharge line
18 located at the bottom of Preston Reservoir. (Supp. Brown Decl., ¶ 4.) In other words, it would take
19 roughly two and one half months from now, i.e., until late December, to discharge the same amount
20 of water that can be delivered to Ione over the next 30 days through the current discharge line if
21 500,000 gallons are delivered per day. (Supp. Brown Decl., ¶ 4.)

22 **B. ARSA HAS ESTABLISHED MORE THAN "SOME POSSIBILITY" THAT**
23 **IT WILL PREVAIL ON THE MERITS OF ITS CLAIMS**

24 It is uncontroverted that ARSA need only show "some possibility" that it will ultimately
25 prevail on the merits of its claims. (*Jamison, supra*, 4 Cal.App.5th at p. 362.) As detailed in the ex
26 parte application, ARSA's complaint seeks injunctive relief arising from Ione's breach of the
27 Wastewater Agreement, as well as declaratory relief regarding ARSA's and Ione's respective rights
28 and obligations thereunder. (Gedney Decl., Ex. D [Compl.], ¶¶ 39-41, 47-50.) Ione contends ARSA

1 is unlikely to prevail on the injunctive relief claim because no breach of contract claim is pled, and
2 unlikely to prevail on the injunctive relief and declaratory relief claims because Ione purports to
3 have terminated the Wastewater Agreement. (Opp’n., at pp. 9:8-10:12.) Ione’s contentions miss the
4 mark.

5 1. ARSA’s First Cause Of Action Seeks Injunctive Relief Based On Ione’s
6 Breach Of The Wastewater Agreement.

7 Regarding ARSA’s first cause of action, injunctive relief is the remedy sought, not the cause
8 of action; as should be evident from ARSA’s complaint, the underlying cause of action is breach
9 of contract. (Gedney Decl., Ex. D [Compl.], ¶¶ 39-41; *Shell Oil Co. v. Richter* (1942) 52 Cal.App.2d
10 164, 168 [“[i]njunctive relief is a remedy and not, in itself, a cause of action, and a cause of action
11 must exist before injunctive relief may be granted”]; Civ. Code., § 3422 [permitting injunctive
12 relief to prevent breach of a contract where damages would not afford adequate relief or it would
13 be extremely difficult to ascertain the amount of damages that would be adequate].)

14 2. The Wastewater Agreement Has Not Been Terminated And Is Thus The
15 Proper Basis Of ARSA’s Injunctive And Declaratory Relief Claims.

16 Setting aside its pleading concerns, Ione’s injunctive and declaratory relief claims are both
17 predicated on the existence of a contract, i.e., the Wastewater Agreement. (Gedney Decl., Ex. D
18 [Compl.], ¶¶ 39, 48-49.) While Ione purports to have terminated the Wastewater Agreement
19 pursuant to a July 19, 2017, letter, any such termination is void and of no force and effect under the
20 Agreement’s plain language. (Gedney Decl., Ex. D [Compl.], ¶¶ 15, 21-26, Ex. B thereto.)

21 The Wastewater Agreement contains a termination provision that allows Ione to terminate
22 flows to the lower Henderson/Preston System upon five-years’ written notice, but such right cannot
23 be exercised unless Ione has resolved how to provide adequate reclaimed water for the Golf Course,
24 which expressly includes obtaining any necessary water quality permits or permit modifications
25 required by state law. (Ghio Decl., Ex. A, Ex. B thereto [Wastewater Agreement], at p. 4, ¶ 8.a.)
26 Ione provides water to the Golf Course from the Castle Oaks Water Reclamation Plant, which Ione
27 operates pursuant to the Regional Board’s Water Reclamation Requirements (“WRRs”) Order No.
28 93-240. (Ghio Decl., ¶ 8, Ex. B.) WRRs Order No. 93-240 only permits wastewater treatment and

1 reuse based on the flows to Preston Reservoir from ARSA through the Henderson/Preston System.
2 (Ghio Decl., ¶ 8.) WRRs Order No. 93-240 also names only ARSA, Ione, and the Golf Course as
3 the dischargers. (Ghio Decl., ¶ 8.)

4 Ione has received no other water quality permits or permit modifications from the Regional
5 Board that allow Ione to provide reclaimed water to the Golf Course in any manner other than
6 through the Henderson/Preston System from Preston Reservoir. (Ghio Decl., ¶ 8.) Due to Ione's
7 failure to provide adequate reclaimed water for the Golf Course, namely its failure to procure the
8 water quality permits or permit modifications required by state law necessary to allow for the
9 provision of adequate reclaimed water to the Golf Course without use of the Henderson/Preston
10 System, Ione's July 19, 2017, letter, is void and of no force and effect. (See Gedney Decl., Ex. D
11 [Compl.], ¶ 26.) The Wastewater Agreement thus remains a valid contract enforceable via ARSA's
12 injunctive and declaratory relief claims.²

13 **C. IONE WAS PERSONALLY SERVED WITH ARSA'S EX PARTE**
14 **APPLICATION**

15 Finally, Ione erroneously suggests the Court lacks jurisdiction over Ione because ARSA
16 failed to personally serve the ex parte papers on Ione. (Opp'n, at pp. 6:13-8:8.) ARSA's proof of
17 service on file with the Court clearly demonstrates otherwise. ARSA's ex parte papers were
18 personally served on Ione at 1:22 p.m. on September 29, 2022, via its City Clerk, Janice Traverso.
19 (Supp. Green Decl., Ex. B.)

20 **III.**

21 **CONCLUSION**

22 For the reasons set forth above, and in ARSA's ex parte papers, the Court should issue a
23 preliminary injunction compelling Ione to accept from ARSA 500,000 gallons of secondarily
24 treated wastewater per day from Preston Reservoir for the next 30 days, for a total of 15 million
25 gallons of secondarily treated wastewater over the 30-day period.

26 _____
27 ² Ione's purported termination of the Wastewater Agreement has become nothing more than
28 a negotiation tactic used by Ione to try to leverage a new agreement because Ione does not like the
deal it negotiated in 2007. (Gedney Decl., Ex. D [Compl.], Ex. E thereto [complaining about the
costs to perform under the Wastewater Agreement, but offering to extend the Agreement if there is
"a new agreement with a new fee structure"].)

Dated: October 7, 2022

BEST BEST & KRIEGER LLP

By:



SHAWN D. HAGERTY
MATTHEW L. GREEN
FRANK A. SPLENDORIO
Attorneys for Plaintiff
AMADOR REGIONAL SANITATION
AUTHORITY

PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 7, 2022, I served a copy of the within document(s):

REPLY MEMORANDUM IN SUPPORT OF ISSUANCE OF PRELIMINARY INJUNCTION;

SUPPLEMENTAL DECLARATION OF MATTHEW L. GREEN IN SUPPORT OF ISSUANCE OF PRELIMINARY INJUNCTION;

SUPPLEMENTAL DECLARATION OF DONALD BROWN IN SUPPORT OF ISSUANCE OF PRELIMINARY INJUNCTION;

SUPPLEMENTAL DECLARATION OF GARY GHIO, P.E. IN SUPPORT OF ISSUANCE OF PRELIMINARY INJUNCTION

☐ **By personal service.** At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.

☒ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.



2 **By e-mail or electronic transmission.** Based on a court order or an agreement of
3 the parties to accept service by e-mail or electronic transmission, I caused the
4 documents to be sent to the persons at the e-mail addresses listed below. I did not
5 receive, within a reasonable time after the transmission, any electronic message or
6 other indication that the transmission was unsuccessful.

7 Margaret Long, Esq.
8 David Prentice, Esq.
9 Prentice Long, PC
10 2240 Court Street
11 Redding, CA 96001

ATTORNEYS FOR DEFENDANT CITY
OF IONE

Tel.: (530) 691-0800

Email: margaret@prenticelongpc.com
David@prenticelongpc.com
Caren@prenticelongpc.com
Carolyn@prenticelongpc.com

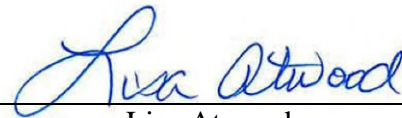
12 California Department of Corrections and
13 Rehabilitation
14 1515 S Street, Suite 314 South
15 Sacramento, CA 95811

Attn: Patrick Covello

Email: Patrick.Covello@cdcr.ca.gov

16 I declare under penalty of perjury under the laws of the State of California that the above
17 is true and correct.

18 Executed on October 7, 2022, at San Diego, California.

19 

20 Lisa Atwood

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FILED
AMADOR SUPERIOR COURT

OCT 7 2022

Clerk of the Superior Court

By: B. MORRIS

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

SUPPLEMENTAL DECLARATION OF
DONALD BROWN IN SUPPORT OF
ISSUANCE OF PRELIMINARY
INJUNCTION

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

By Fax

1 I, Donald Brown, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am submitting this declaration to supplement my prior declaration of September
5 28, 2022, in order to respond to recent assertions made by the City of Ione ("Ione").

6 3. In his declaration, Brett Moroz alleges that Ione cannot treat wastewater received
7 from Amador Regional Sanitation Authority ("ARSA") from Preston Reservoir because the
8 discharge line is located at the bottom of the Reservoir, which has led to sedimentation in the
9 discharge line. Mr. Moroz nevertheless suggests that Ione could treat the water from Preston
10 Reservoir if the outflow came from the surface of the Reservoir through the installation of a surface
11 pump. (Moroz Decl., ¶¶ 6-7.)

12 4. The installation of a surface pump at this juncture, with the rainy season likely to
13 begin within the next three (3) weeks, is not a feasible solution because there is not enough time to
14 remove the amount of water necessary to avert the risk of the Reservoir spilling over before the end
15 of the rainy season. The procurement and installation of the necessary infrastructure to pump water
16 from the surface of Preston Reservoir would take at least two (2) weeks. The amount of water that
17 can be pumped from the surface and delivered to Ione through such a system would also be half
18 the amount that can be delivered to Ione through the current discharge line located at the bottom of
19 Preston Reservoir. In other words, it would take roughly two and one half months from now, i.e.,
20 until late December, to discharge the same amount of water that can be delivered to Ione over the
21 next 30 days through the current discharge line if 500,000 gallons are delivered per day.

22 5. While Mr. Moroz's declaration complains about sedimentation due to the
23 wastewater being discharged from the bottom of Preston Reservoir, Ione's intermittent acceptance
24 of water from Preston Reservoir is a primary cause of any increased sedimentation. By accepting
25 wastewater in fits and starts, and stopping discharges for long periods of time, Ione has contributed
26 to any alleged sedimentation building up in the system. Once the water from Preston Reservoir is
27 allowed to flow continuously, such flows should break up any existing sedimentation, and
28 sedimentation should no longer be an issue.

1 6. While I have not inspected Ione's tertiary treatment plant and am not privy to its
2 maintenance records, I also suspect that Ione's concerns regarding sedimentation stem from the
3 condition of its own tertiary filters, not the condition of the water from Preston Reservoir. Over
4 time, the filter media in the system diminishes due to the abrasion that occurs during the backwash
5 cycle. As the media gets smaller, it compacts tighter, and the smaller particles that are not flushed
6 out of the filter settle onto the media surface. This further restricts the flow through the filter and
7 increases the backwash frequency, which further reduces the treatment volume. The overuse of
8 polymers is also known to cause clumping of the media which also reduces the flow. Regardless,
9 these are issues that can only be resolved by Ione and have nothing to do with the quality of the
10 water delivered from Preston Reservoir.

11 7. Mr. Moroz's declaration, along with the declaration of Michael Rock, also
12 complains about the amounts of coliform bacteria and hydrogen sulfide in the wastewater received
13 from ARSA, which they claim exceed the requirements in Ione's permit from the Central Valley
14 Regional Water Quality Control Board. (Moroz Decl., ¶¶ 4-5; Rock Decl., ¶¶ 4-5.) Although it is
15 not clear where and how Ione tested the water received from ARSA, the highest level of coliform
16 bacteria detected was 33 MPN on one day, with the levels well below the permit limit on the other
17 days of testing. (Moroz Decl., ¶ 4; Rock Decl., ¶ 4.) Regardless of the permit limit on coliform
18 bacteria, 33 MPN is insignificant because a standard tertiary treatment plants can receive
19 undisinfected secondary effluent of >2400 MPN.

20 8. That the water only tested above the permit limit one time also suggests that the
21 result was either an anomaly or was due to Ione's failure to use a sufficient dose of disinfectant to
22 treat the coliform bacteria.

23 9. As to Messrs. Moroz's and Rock's concerns regarding hydrogen sulfide, hydrogen
24 sulfide occurs as a result of anaerobic decomposition of sulfur in organic wastewater and can create
25 odor issues. Ione, however, can treat hydrogen sulfide by adding an oxidant, such as chlorine or
26 hydrogen peroxide, into the line ahead of the filter feed.

27 10. The likely cause of hydrogen sulfide once again stems from Ione's decision to stop
28 deliveries of wastewater from Preston Reservoir. By doing so, stagnant water remained in the

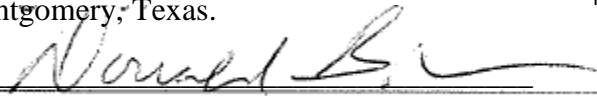
1 closed pipeline between the reservoir discharge valve and the tertiary treatment plant, which likely
2 allowed the remaining oxygen to be consumed, anaerobic bacteria to be formed, and hydrogen
3 sulfide to generate.

4 11. The bacteria, hydrogen sulfide, and turbidity issues identified in Messrs. Moroz's
5 and Rock's declarations all relate to tertiary effluent requirements. They are part of the costs of
6 providing tertiary treatment and therefore must be resolved by Ione as the operator of the tertiary
7 treatment plant.

8 12. Finally, I have reviewed the declaration of Gary Ghio, ARSA's engineer, prepared
9 in support of ARSA's ex parte application. Based on my water quality expertise, I agree entirely
10 with Mr. Ghio's statement that the flooding and discharge of disinfected secondary effluent into
11 Mule Creek and onto residential property poses significant public health and water quality
12 contamination issues. As noted by Mr. Ghio, disinfected secondary effluent contains harmful
13 pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct.

16 Executed this 6th day of October 2022, at Montgomery, Texas.

17 

18 DONALD BROWN

1 SHAWN D. HAGERTY, Bar No. 182435
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9 Facsimile: (916) 325-4010

10
11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
17 agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

SUPPLEMENTAL DECLARATION OF
MATTHEW L. GREEN IN SUPPORT OF
ISSUANCE OF PRELIMINARY
INJUNCTION

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

FILED
AMADOR SUPERIOR COURT

OCT 7 2022

Clerk of the Superior Court

By: B. MORRIS

By: *[Signature]*

1 I, Matthew L. Green, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

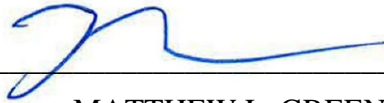
4 2. I am submitting this declaration to supplement my prior declaration of September
5 28, 2022, in light of certain arguments made by the City of Ione ("Ione").

6 3. Attached as Exhibit "B" hereto is a true and correct copy of the proof of service
7 reflecting personal service of ARSA's ex parte papers on Ione at 1:22 p.m. on September 29, 2022,
8 via its City Clerk, Janice Traverso.

9 4. Attached as Exhibit "C" hereto is a true and correct copy of the stay order issued by
10 the California Court of Appeal, Third Appellate District, on October 4, 2022.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct.

13 Executed this 7th day of October 2022, at San Diego, California.

14 
15 _____


16 MATTHEW L. GREEN
17
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28

EXHIBIT B

Attorney or Party without Attorney: Shawn D. Hagerty, Esq. (SBN 182435) BEST BEST & KRIEGER LLP 655 West Broadway, 15th Floor San Diego, CA 92101 Telephone No: 619-525-1300 Attorney For: Plaintiff			For Court Use Only FILED AMADOR SUPERIOR COURT OCT 04 2022 CLERK OF THE SUPERIOR COURT By <u>T. MOYER</u>	
Ref. No. or File No.: 82456.000002/MLG				
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF AMADOR				
Plaintiff: AMADOR REGIONAL SANITATION AUTHORITY, a California joint powers agency Defendant: CITY OF IONE, a California municipal corporation; et al.				
PROOF OF SERVICE	Hearing Date:	Time:	Dept/Div:	Case Number: 22-cv-12824

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of the EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; SEE ATTACHED LIST OF ADDITIONAL DOCUMENTS SERVED
- Party served: City of Ione, a California municipal corporation
 - Person served: Janice Raverso, City Clerk (Caucasian, Female, 60s, Blonde Hair, 5'4", 190 Pounds)
- Address where the party was served: 1 E Main Street, Ione, CA 95640
- I served the party:
 - by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: ~~Fri~~, Sep 29 2022 (2) at: 01:22 PM
- Person Who Served Papers:
 - Peter Campbell (#19-006, Amador County)
 - c/o FIRST LEGAL
530 B Street, Suite 1050
SAN DIEGO, CA 92101
 - (619) 231-9111
 - The Fee for Service was: \$299.77
 - I am: A Registered California Process Server
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10-3-22
 (Date)


 (Signature)



Judicial Council Form
 Rule 2.150.(a)&(b) Rev January 1, 2007

PROOF OF
 SERVICE

7738740
 (15058048)

By PC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF AMADOR

CASE NO.: 22CV12824

CASE NAME: AMADOR REGIONAL SANITATION AUTHORITY, a California joint powers agency v. CITY OF IONE, a California municipal corporation, et al.

ADDITIONAL DOCUMENTS SERVED:

- **DECLARATION OF DONALD BROWN IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **DECLARATION OF AMY GEDNEY IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **DECLARATION OF GARY GHIO IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **DECLARATION OF MATTHEW L. GREEN IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **DECLARATION OF STEVEN COREY STONE IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **MEMORANDUM IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER**
- **[PROPOSED] TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

EXHIBIT C

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

CITY OF IONE,
Petitioner,
v.
THE SUPERIOR COURT
OF AMADOR COUNTY,
Respondent;
AMADOR REGIONAL
SANITATION AUTHORITY,
Real Party in Interest.

C097044
Amador County
No. 22CV12824

BY THE COURT:

The temporary restraining order issued September 29, 2022, requiring petitioner "to immediately accept from [Amador Regional Sanitation Authority] 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for 30 days" is stayed pending the hearing on the order to show cause, currently set for October 10, 2022, and further order of this court. This stay does not deprive the superior court of its authority to issue injunctive relief at that hearing. The court is considering dismissing the petition as moot depending on the outcome of that hearing. Petitioner is directed to provide this court with a status update following that hearing accompanied by a supplemental letter brief addressing whether the matter is moot on or before October 12, 2022.


ROBIE, Acting P.J.

cc: See Mailing List

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

MAILING LIST

Re: City of Ione v. The Superior Court of Amador County
C097044
Amador County Super. Ct. No. 22CV12824

Copies of this document have been sent by mail to the parties checked below unless they were noticed electronically. If a party does not appear on the TrueFiling Servicing Notification and is not checked below, service was not required.

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Prentice Long, PC
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Redding, CA 96001

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Best Best & Krieger, LLP
655 West Broadway, 15th Floor
San Diego, CA 92101

Matthew Lawrence Green
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Sacramento, CA 95814

✓ Amador Superior Court
500 Argonaut Lane
Jackson, CA 95642

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9 Facsimile: (916) 325-4010

10

11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13

SUPERIOR COURT OF THE STATE OF CALIFORNIA

14

COUNTY OF AMADOR

15

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AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

17

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Plaintiff,

19

v.

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CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23

24

Defendants.

25

26

27

28

29

FILED
AMADOR SUPERIOR COURT

OCT 7 2022

Clerk of the Superior Court

By: B. MORRIS

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

SUPPLEMENTAL DECLARATION OF
GARY GHIO, P.E. IN SUPPORT OF
ISSUANCE OF PRELIMINARY
INJUNCTION

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

By *[Signature]*

1 I, Gary Ghio, P.E., declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am submitting this declaration to supplement my prior declaration of September
5 28, 2022, in light of certain arguments made by the City of Ione (“Ione”).

6 3. I obtained a B.S. in Civil Engineering from the University of Pacific in 1979, and a
7 M.S. in Structural Engineering from Stanford University in 1980.

8 4. As previously noted, I have been a licensed engineer in the State of California for
9 41 years with extensive experience in managing wastewater disposal systems. Following various
10 civil engineering work in the 1980s, I was a civil engineer at Weber Associates from 1990 until
11 1993, at which time I became a principal of Weber, Ghio, & Associates, Inc. (“WGA”). During my
12 time at WGA, I have served as the City Engineer for multiple cities, including the Cities of Angels,
13 Amador City, Jackson, Plymouth, and Sutter Creek. I have also served as the District Engineer for
14 numerous water, public utility, and sanitation districts during my time at WGA, including Union
15 Public Utility District, Valley Springs Public Utility District, Murphys Sanitary District, Bear
16 Valley Water District, Linden County Water District, Drytown Water District, Mokelumne Hill
17 Sanitary District, and Calaveras Public Utility District. As stated in my prior declaration, I have
18 been the Engineer for the Amador Regional Sanitation Authority (“ARSA”) since 2011.

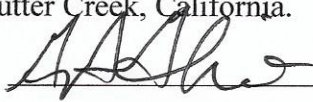
19 5. As stated in my prior declaration, in the event of a substantial, upcoming rainy
20 season in the region, namely one that includes a 100-year storm event like that experienced in 2017,
21 Preston Reservoir will reach its permitted capacity in early March 2023, and will spill over in April
22 2023, before the end of the anticipated rainy season. This projection is reflected in the water balance
23 spreadsheet attached as Exhibit “E” hereto.

24 6. The manner in which wastewater from Preston Reservoir is currently delivered to
25 Ione, i.e., through a discharge line located at the bottom of the Reservoir, is the same delivery
26 system that existed in 2007, when Ione entered into the Agreement to Regulate Use of
27 Henderson/Preston Wastewater Disposal System with ARSA and the California Department of
28 Corrections and Rehabilitation.

1 7. On October 3, 2022, representatives from ARSA, which included myself, and
2 representatives from Ione, which included Michael Rock, among other parties, met with Patrick
3 Pulupa, Executive Officer of the Central Valley Regional Water Quality Control Board, to discuss
4 the outstanding issues between the parties, including the urgent need to discharge wastewater from
5 Preston Reservoir before the arrival of the rainy season. During that meeting, and consistent with
6 the Regional Board's September 9, 2022, letter, Mr. Pulupa stated in no uncertain terms that Ione's
7 concern regarding Regional Board permit violations is not a reason for Ione to refuse to accept
8 wastewater from ARSA from Preston Reservoir.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct.

11 Executed this 6th day of October 2022, at Sutter Creek, California.



12
13 GARY GHIO, P.E.

EXHIBIT E

1 in 100 Year Water Balance - Sutter Creek Facilities (Bowers Ranch, Henderson, Preston and Hoskins Ranch)

Preston Reservoir Average Water Balance															
Assumptions: <i>Bowers Ranch has 24 Acres in use and 40 Acres in total available.</i> <i>Hoskins Ranch has 24 Acres in use and 60 Acres in total available.</i> <i>The Preston Forebay has 2 Acres of Surface Area.</i> <i>Preston Reservoir ranges from 0 Acres when empty to 18 when full with 14 acres of watershed area and Capacity of 235 ac-ft.</i> <i>The assumed Percolation rate is 100 Gallons per Day or 0.01 Acre-Feet per Month.</i>															
Month			October	November	December	January	February	March	April	May	June	July	August	September	Total
Rainfall Average Year	<div><input type="radio"/> <input checked="" type="radio"/></div>	In	1.20	2.57	3.45	3.97	3.58	3.35	1.86	0.85	0.26	0.04	0.06	0.29	21.48
Rainfall 100 Year		In	3.32	5.40	8.79	7.65	4.00	3.40	6.47	2.05	0.04	0.00	0.00	0.00	41.11
Pan Evaporation		In	3.14	1.12	0.91	0.92	1.00	1.63	3.18	4.67	6.23	7.53	6.76	5.30	42.40
Month			October	November	December	January	February	March	April	May	June	July	August	September	Total
Henderson Reservoir															
Effluent		AF	10	10	10	10	10	10	80	80	80	80	80	30	490
Hoskins Ranch															
Hoskins Ranch Available Disposal		AF	10	0	0	0	0	0	0	0	7	16	10	7	50
Preston Forebay															
Preston Forebay Influent		AF	0	10	10	10	10	10	80	80	73	64	70	23	440
Precipitation		AF	1	1	1	1	1	1	1	0	0	0	0	0	7
Evaporation		AF	0	0	0	0	0	0	0	0	1	1	1	0	4
Percolation		AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Preston Forebay Effluent		AF	0	11	11	11	11	10	81	80	73	63	69	23	444
CDCR															
CDCR Effluent to Preston Reservoir		AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Preston Reservoir															
Preston Reservoir Maximum Available Storage		AF	235	235	235	235	235	235	235	235	235	235	235	235	
Water in Storage at Beginning of Month		AF	114	121	145	179	210	231	249	345	426	495	552	616	
Influent		AF	0	11	11	11	11	10	81	80	73	63	69	23	444
Precipitation		AF	9	14	23	20	11	9	17	5	0	0	0	0	110
Evaporation		AF	2	1	1	1	1	1	2	4	5	6	5	4	32
Percolation		AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Water sent to lone		AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Water Applied(+)/Removed(-) from Storage		AF	7	24	34	31	20	18	96	82	68	57	64	19	
Estimated End of Month Storage		AF	121	145	179	210	231	249	345	426	495	552	616	635	

ATTACHMENT 6

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11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state agency;
and DOES 1 through 20, inclusive,

23 Defendants.
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Case No. 22-CV-12824
Judge: Hon. Renee C. Day

**ORDER AND
PRELIMINARY INJUNCTION**

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 2

Action Filed: September 20, 2022
Trial Date: Not Set

By *FLY*

FILED
Superior Court of California,
County of Amador
10/10/2022 at 03:40:55 PM
By: B. MORRIS, Deputy Clerk

OCT 10 2022

CLERK OF THE SUPERIOR COURT

1 The order to show cause why a preliminary injunction should not ~~issue in favor of Plaintiff~~
2 Amador Regional Sanitation Authority ("ARSA") came on for hearing in Department 2 of this
3 Court on October 10, 2022. Matthew L. Green and Frank A. Splendorio of Best Best & Krieger
4 LLP appeared on behalf of ARSA. Margaret Long and Carolyn Walker of Prentice Long, PC and
5 Theresa C. Barfield of Somach Simmons & Dunn appeared on behalf of Defendant City of Ione
6 ("Ione"). Having read ARSA's ex parte application for a temporary restraining order and for an
7 order to show cause why a preliminary injunction should not issue, the memoranda and declarations
8 filed by the parties, and having heard argument of counsel, and satisfactory evidence having been
9 presented,

10 IT IS ORDERED THAT a preliminary injunction shall issue in favor of ARSA. Ione and
11 its employees and agents, and any other persons acting with or on behalf of Ione, are required to
12 accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston
13 Reservoir for the next 30 days, for a total of 15 million gallons of secondarily treated wastewater
14 over the 30-day period, pending the trial of this action or further order of this Court.

15
16 Dated: October FE, 2022

By: 

JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 10, 2022, I served a copy of the within document(s):

[PROPOSED] ORDER AND PRELIMINARY INJUNCTION

- ☐ **By personal service.** At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.
- ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- ☒ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☒ **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

1 Margaret Long, Esq.
2 David Prentice, Esq.
3 Prentice Long, PC
4 2240 Court Street
5 Redding, CA 96001

ATTORNEYS FOR DEFENDANT CITY
OF IONE

Tel.: (530) 691-0800

Email: margaret@prenticelongpc.com
David@prenticelongpc.com
Caren@prenticelongpc.com
Carolyn@prenticelongpc.com

6 Theresa C. Barfield, Esq.
7 Michele E. Chester, Esq.
8 Somach Simmons & Dunn
9 500 Capitol Mall, Suite 1000
10 Sacramento, CA 95814

SPECIAL COUNSEL TO THE CITY
ATTORNEY OF IONE

Tel: (916) 446-7979

Email: tbarfield@somachlaw.com
mchester@somachlaw.com

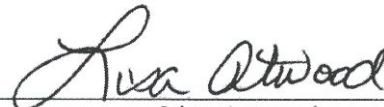
11 California Department of Corrections and
12 Rehabilitation
13 1515 S Street, Suite 314 South
14 Sacramento, CA 95811

Attn: Patrick Covello

Email: Patrick.Covello@cdcr.ca.gov

15 I declare under penalty of perjury under the laws of the State of California that the above
16 is true and correct.

17 Executed on October 10, 2022, at San Diego, California.

18 

19 Lisa Atwood
20
21
22
23
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28

ATTACHMENT 7

Central Valley Regional Water Quality Control Board

9 September 2022

Robin Peters
ARSA, Board Chairman
18 Main Street
Sutter Creek, CA 95685
RPeters@cityofsuttercreek.org
Sent via email

Dominic Atlan
Castle Oaks Golf Course, Manager
1000 Castle Oaks Drive
Ione, CA 95640
datlan@ione-ca.com
Sent via email

Dan Epperson
City of Ione, Mayor
1 East Main Street
Ione, CA 95640
depperson@ione-ca.com
Sent via email

PRESTON RESERVOIR CAPACITY AND TERTIARY PLANT NUISANCE CONDITIONS, CITY OF IONE, AMADOR COUNTY REGIONAL OUTFALL AND CASTLE OAKS GOLF COURSE AND DEVELOPMENT, AMADOR COUNTY

On 3 December 1993, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Water Reclamation Requirement (WRRs) 93-240, which regulate the conveyance, storage, tertiary treatment, and land application of secondary treated domestic wastewater from the City of Sutter Creek Wastewater Treatment Plant.

The Amador Regional Sanitation Authority (ARSA) operates the conveyance, storage, and disposal system between the Sutter Creek wastewater treatment plant and Preston Reservoir (Preston). The system moves effluent from the Sutter Creek wastewater treatment plant to several land application areas and storage reservoirs (which includes Henderson Reservoir), eventually discharging to Preston, which is in Ione. ARSA and the City of Ione are both named in the WRRs 93-240 and have entered into a formal agreement¹ to send effluent from Preston to the City of Ione Tertiary Treatment Plant (Tertiary Plant) for further treatment and reuse on Castle Oaks Golf Course (golf course).

It is Central Valley Water Board staff's understanding that the City is concerned the water coming out of Preston may be high in hydrogen sulfide, which could cause odor issues at the Tertiary Plant and on the golf course. In addition, the intake of Preston

¹ The Board understands that the status of this agreement is in dispute.

water for delivery to the Tertiary Plant occurs at the bottom of the reservoir and has high turbidity which may be causing treatment difficulties. However, the Board has also been made aware that Preston and Henderson Reservoirs are at or near capacity, limiting the ability of the system to withstand higher flows that may occur during the upcoming rainy season. It is of utmost importance for these capacity issues to be resolved promptly to avert potential public health and water quality contamination issues that may occur if the system becomes unable to handle additional inflows.

One way to help alleviate the current situation is for the Board to allow the City to accept water from Preston, even though that may result in the creation of nuisance conditions, which would ordinarily be considered a violation of WRRs 93-240. With the understanding that the capacity issues at Preston are presenting an even greater risk to water quality and public health than potential nuisance concerns related to the treatment of wastewater from Preston at Lone's tertiary facility, the Central Valley Water Board's Compliance and Enforcement Unit will exercise its prosecutorial discretion to not pursue enforcement of odor nuisance conditions that may occur as a result of the City's acceptance of treated wastewater from Preston at the Tertiary Plant or golf course between 9 September 2022 and 1 January 2023.

The Board expects that all dischargers named in WRRs 93-240 will continue to work cooperatively to address both the capacity concerns at Preston and to take all reasonable and appropriate steps to address any odor concerns that may arise. It is also the expectation of the Central Valley Water Board that the City of Lone and ARSA provide the following information on a weekly basis while the Board is exercising its enforcement discretion:

1. Freeboard levels of Preston and Henderson Reservoirs;
2. Flow into Preston and Henderson Reservoirs;
3. Flow in gallons per day from Preston to the Tertiary Plant;
4. A description of any polymer added by added as pre-treatment to address the nuisance conditions.
5. All previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity. This shall be reported to Kari.Holmes@waterboards.ca.gov; and
6. A weekly summary of any nuisance complaints received by the City and the golf course, along with an explanation of how the complaint(s) were resolved. This summary will include details of coordination efforts made between all dischargers to address areas of concern.

The Board is also committed to working with ARSA to resolve issues related to the operation of their facilities, which may include enhanced maintenance requirements such as the dredging of both Henderson and Preston on a regular basis to ensure that these concerns are adequately addressed in the future.


ARSA, Castle Oaks Golf Course, City of Lone

Amador County

- 3 -

9 September 2022

If you have questions, please contact me directly at John.Baum@waterboards.ca.gov or (916) 464-4839.

 **John J.
Baum**
JOHN J. BAUM,
Assistant Executive Officer

Digitally signed by
John J. Baum
Date: 2022.09.09
17:38:20 -07'00'

Water Boards

cc: list on next page.

cc: Stacey Rhodes, City of Ione, Ione
Diane Wratten, City of Ione, Ione
Thomas Reed, City of Ione, Ione
Dan Epperson, City of Ione, Ione
Dominic Atlan, Castle Oaks Golf Course, Ione
Robin Peters, ARSA, Sutter Creek
Amy Gedney, ARSA, Sutter Creek
Howard Hold, Central Valley Water Board, Rancho Cordova
Kenny Croyle, Central Valley Water Board, Rancho Cordova
Scott Armstrong, Central Valley Water Board, Rancho Cordova
Lixin Fu, Central Valley Water Board, Rancho Cordova
Amador County Dept. of Environmental Health, Jackson
Grant Scavello, USEPA, San Francisco
Jim Scully, Interested Person, Ione
Jim Nevin, Interested Person, Ione
Andrew Packard, Packard Law Offices, Petaluma
Will Carlon, Packard Law Offices, Petaluma
Erica Maharg, ATA Law Group, Oakland
Jack Mitchell, Ledger Dispatch, Jackson
Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, APC, Sacramento
Sally Baron, Interested Person, Rancho Cordova
Virginia Silva, Interested Person, Ione
David Anderson, Interested Person, Mokelumne Hill

ATTACHMENT 8

SOMACH SIMMONS & DUNN
A Professional Corporation
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MICHELLE E. CHESTER (SBN 300632)
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carolyn@prenticelongpc.com

Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
EX PARTE APPLICATION FOR AN
ORDER TO MODIFY THE OCTOBER 10,
2022 ORDER AND PRELIMINARY
INJUNCTION

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

Defendant City of Ione (Ione) respectfully submits the following memorandum of points and authorities in support of Ex Parte Application for an order modifying the Court's October 10, 2022 Order and Preliminary Injunction (PI Order), attached to the Ex Parte Application as Exhibit A.

I. INTRODUCTION

Ione comes before this Court *ex parte* seeking modification of the PI Order, which puts Ione in the immediate position of violating the Central Valley Regional Water Quality Control Board's (Regional Board) Waste Discharge Requirement Order 93-240 (WDR Order 93-240). Ione cannot comply with both the PI Order and the Regional Board's WDR Order 93-240. To provide immediate and necessary relief from Ione's impossibility of complying with two conflicting orders, Ione respectfully requests this Court to modify the PI Order to serve the ends of justice. (Code Civ. Proc., § 533.) Ione seeks that the PI Order be modified to reduce the requirement of 500,000 gallons per day for 30 days to a requirement of 200,000 gallons per day. Alternatively, Ione requests that the Court permit installation of a surface pump at Preston Reservoir, a necessary modification to the system for Ione to have the capacity to take 500,000 gallons per day without permit violations.

II. BACKGROUND

A. Pertinent History

Ione owns and operates the Castle Oaks Water Reclamation Plant, a tertiary treatment facility. (Declaration of Michael Rock (Rock Decl.), ¶ 2; Declaration of Brett Moroz (Moroz Decl.), ¶ 1.)¹ This facility operates under WDR Order 93-240, issued by the Regional Board. (Rock Decl., ¶ 2; Moroz Decl., ¶ 3.) WDR Order 93-240 includes and incorporates, in part, limits on coliform bacteria, hydrogen sulfide, and turbidity. (Rock Decl., ¶¶ 7-8; Moroz Decl., ¶ 4.)

Under a 2007 contract, Amador Regional Sanitation Authority (ARSA) transported secondarily treated wastewater to Preston Reservoir for discharge to Ione for tertiary treatment at Castle Oaks Water Reclamation Plant. (Rock Decl., ¶ 4.) Ione terminated the agreement with the

¹ Declaration of Michael Rock and Declaration of Bret Moroz in Support of Ex Parte Application to Modify the Temporary Restraining Order, filed concurrently with Ex Parte Application and Supporting Documents.

1 requisite five-year notice and the agreement expired on July 31, 2022. (*Ibid.*) Ione and ARSA
2 disagree as to whether that contractual arrangement is still in effect. (*Ibid.*) It is Ione's position
3 that there is no agreement in place. (*Ibid.*) Ione has taken steps to negotiate a new agreement
4 with ARSA, which has not yet been successful. (*Ibid.*)

5 Ione attempted to voluntarily take ARSA water while Ione and ARSA work toward
6 executing a new agreement. (Rock Decl., ¶ 4.) However, the quality of water delivered from
7 ARSA was so poor that the water was untreatable at Ione's wastewater facility. (Rock Decl.
8 ¶¶ 7-9, 13; Moroz Decl., ¶¶ 4-6.) Efforts on behalf of ARSA to address the water quality issues
9 to a level that could be treated by Ione's system were unsuccessful. (Rock Decl., ¶ 3.)

10 On October 10, 2022, following a hearing on ARSA's application for preliminary
11 injunction, the Court issued the PI Order, which mandates that "Ione and its employees, agents,
12 and any other persons acting with or on behalf of Ione, are required to accept from ARSA
13 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for the next 30
14 days, for a total of 15 million gallons of secondarily treated wastewater over the 30-day period,
15 pending the trial of this action or further order of this Court." (PI Order, p. 2; Rock Decl., ¶ 5.)

16 **B. The Current Problems Impeding Ione's Ability to Comply with the Order**

17 Since the PI Order was issued, Ione's City Manager Michael Rock and the system
18 operator Brett Moroz have worked together to address the logistics of operating the system to
19 comply with the Court's PI Order. (Rock Decl., ¶ 2.) However, the water quality issues
20 discussed at the October 10, 2022 hearing prevent Ione from taking the 500,000 gallons of water
21 per day that the PI Order mandates. (Rock Decl., ¶¶ 3-9; Moroz Decl., ¶¶ 4-8.) The quality
22 issues are a result of the fact that ARSA wastewater is delivered from the bottom of Preston
23 Reservoir, which is covered in a thick sludge of material that has settled out of the water over
24 time. (Rock Decl., ¶ 7; Moroz Decl., ¶ 9.) The wastewater has high turbidity and must be treated
25 with a polymer. (Rock Decl., ¶ 7; Moroz Decl., ¶ 4.) The polymer is added to the wastewater to
26 bind together dissolved organic matter. (*Ibid.*) The amount of polymer required to treat the high
27 turbidity and the amount of organic material that must be filtered out of ARSA wastewater
28 effectively limits the total amount of water that can be accepted and treated by Ione's tertiary

1 treatment system. (Rock Decl., ¶ 7; Moroz Decl., ¶ 6.)

2 ARSA's wastewater must also be treated with chlorine, which is a widely used
3 disinfectant for municipal wastewater because it destroys harmful bacteria and other contaminants
4 in municipal wastewater. (Rock Decl., ¶ 8; Moroz Decl., ¶ 4.) The cost of chlorine disinfection
5 system is dependent on the characteristics of the wastewater to be disinfected. (Rock Decl., ¶ 8.)
6 Coliform bacteria is present in ARSA's water at a high level that requires treatment with
7 significantly high volumes of chlorine at Ione's expense. (Rock Decl., ¶ 8; Moroz Decl., ¶ 6.)
8 Additionally, Ione's tertiary treatment plant has experienced ongoing issues with its chlorine
9 disinfection system. (Rock Decl., ¶ 8; Moroz Decl., ¶ 5.) Ione has sought needed repairs, but
10 currently, issues with a chlorine tank limit the amount of water that can be treated through the
11 chlorine disinfection system. (*Ibid.*) The limitation of the chlorine disinfection system prevents
12 Ione from effectively treating ARSA wastewater. (Rock Decl., ¶¶ 8-9; Moroz Decl., ¶ 6.)

13 Ione has reached out to the Regional Board on multiple occasions to seek assurances that
14 the Regional Board will exercise its prosecutorial discretion not to pursue an enforcement action
15 against Ione for permit violations while Ione and ARSA are trying to address and resolve these
16 issues. (Rock Decl., ¶¶ 9-12.) On October 10, 2022, following this Court's issuance of the PI
17 Order, Ione sent Regional Board staff a letter notifying the Regional Board of the PI Order and,
18 again, reiterating its request for assurances that the Regional Board not exercise its prosecutorial
19 discretion for permit violations resulting from Ione's treatment of ARSA water. (Rock Decl.,
20 ¶ 12.) To date, no response has been received from the Regional Board. (*Ibid.*)

21 Thus, as it currently stands, to comply with the Court's PI Order, Ione and Ione's system
22 operator are forced to violate WDR Order 93-240 permit limitations. (Rock Decl., ¶ 6; Moroz
23 Decl., ¶ 7.) Civil administrative penalties enforced by the Regional Board for permit violations
24 can be charged per gallon and can total millions of dollars. (Rock Decl., ¶ 6.)

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1 **C. Ione’s Requested Modification to the PI Order**

2 To avoid violating the permits, Ione must take and treat less than 500,000 gallons per day.
3 (Rock Decl., ¶ 9; Moroz Decl., ¶ 6.) Based on the system operator’s professional opinion of the
4 capacity of Ione’s plant and the past and current quality of ARSA water, Ione cannot safely
5 accept and treat more than 200,000 gallons of ARSA water per day for the remainder of the
6 30-day term of the PI Order, which was issued on October 10, 2022. (Moroz Decl., ¶ 8.) The
7 amount of water that Ione can treat is highly dependent on the day-to-day quality of ARSA water.
8 (*Ibid.*)

9 Alternatively, there are steps available that would require relatively little time and expense
10 on behalf of both ARSA and Ione staff that would allow Ione to accept and treat larger daily
11 quantities of ARSA water. (Rock Decl., ¶ 13; Moroz Decl., ¶ 9.) This includes installing a pump
12 with the suction line on floats hanging down into the upper level of Preston Reservoir and the
13 discharge line connected to the reservoir discharge line, which would deliver significantly cleaner
14 surface water to Ione. (*Ibid.*) It is the opinion of Ione’s tertiary treatment system operator that if
15 the surface water pump were installed, Ione could accept up to 500,000 gallons per day without
16 violating its permit limitations. (*Ibid.*) However, this is highly dependent on the amount of water
17 that can be discharged to and accepted by Castle Oaks Golf Course. (*Ibid.*) The amount of
18 recycled water that the golf course accepts decreases in October and November through the rainy
19 season. (*Ibid.*) Thus, to the extent that the Court determines that the installation of the surface
20 water pump at Preston Reservoir is the appropriate alternative remedy to address the issue, Ione
21 respectfully requests that the Court craft a modified order that grants some flexibility to Ione in
22 the event that the golf course is unable to accept the full 500,000 gallons a day of water.

23 **III. LEGAL STANDARD**

24 Code of Civil Procedure section 533 allows a court to modify an injunction or temporary
25 restraining order upon a showing that “the ends of justice would be served by the
26 modification . . . of the injunction or temporary restraining order.” The Supreme Court has
27 further held that a court has inherent power, “determined by the facts and circumstances of each
28 particular case, with a view to administering justice between the litigants,” that it has “the power

1 to modify or vacate its decree when the ends of justice will be served.” (*Sontag Chain Stores Co.*
2 *v. Superior Court* (1941) 18 Cal.2d 92, 94-95.) A court may modify or dissolve an injunction
3 where its initial issuance was “contrary to statutory law.” (*New Tech Developments v. Bank of*
4 *Nova Scotia* (1987) 191 Cal.App.3d 1065, 1073.) “The ends of justice are not served if the
5 aggrieved part[y] cannot obtain relief from an improperly issued preliminary injunction.” (*Id.* at
6 p. 1073.)

7 IV. ARGUMENT

8 A. IONE CANNOT SIMULTANEOUSLY COMPLY WITH THE PI ORDER AND 9 THE REGIONAL BOARD PERMIT

10 “[C]oncurrent jurisdiction does not make the jurisdiction coequal.” (*In re William*
11 *T.* (1985) 172 Cal.App.3d 790, 800.) Although this Court has jurisdiction to review and issue the
12 PI Order, the Regional Board also has existing and ongoing jurisdiction over the discharges from
13 Ione’s tertiary treatment plant. Ione cannot comply with both the PI Order and its permit
14 obligations simultaneously. In effect, this Court’s grant the PI Order conflicts with the Regional
15 Board’s exclusive authority to permit the operation of Ione’s treatment system under the Porter-
16 Cologne Act.

17 The Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) authorized
18 the State Water Resources Control Board (State Water Board) to develop a statewide policy for
19 water quality control. (Wat. Code, § 13000 [declaring that “the health, safety and welfare of the
20 people of the state requires that there be a statewide program for the control of the quality of all
21 the waters of the state”].) Accordingly, the State Water Board required the nine regional water
22 quality control boards to establish regional-specific water quality standards and issue permits for
23 the discharge of treated wastewater that specify permitted levels of pollutants and monitor
24 discharges. (Wat. Code, § 13260 et seq.) Each publicly owned wastewater treatment plant must
25 have an individual permit issued by the appropriate regional board with a detailed and complex
26 set of operating conditions to discharge treated wastewater. (See *ibid.*) These operating
27 conditions include maximum limitations on emissions of pollutants in treated wastewater before it
28 can be discharged. (Wat. Code, § 13263.) Treated wastewater discharged by a treatment plant

1 must meet the limitations set for wastewater contaminants, or constituents, which are removed
2 through the process of treatment. (See *ibid.*)

3 “When a regional board discovers a potential violation of Porter-Cologne or the Clean
4 Water Act, it can pursue an enforcement action.” (*Sweeney v. California Regional Water Quality*
5 *Control Bd.* (2021) 61 Cal.App.5th 1093, 1116.) The State Water Board adopted a “Water
6 Quality Enforcement Policy” to define its enforcement process. (See Cal. Code Regs., tit. 23,
7 § 2910 [summary of policy on water quality enforcement].) In pertinent part, the purpose of the
8 policy is “to protect and enhance the quality of the waters of the State” and “deter harmful
9 conduct, protect the public, and achieve maximum water quality benefits.” (*Ibid.*; see also *State*
10 *Water Resources Control Bd. v. Baldwin & Sons, Inc.* (2020) 45 Cal.App.5th 40, 53 (*Baldwin &*
11 *Sons*).) For water quality violations, “[c]ivil liability may be imposed administratively by the
12 State Board or Regional Board through the issuance of an [administrative civil liability]
13 complaint.” (*Baldwin & Sons*, supra, 45 Cal.App.5th at p. 52; see also Wat. Code, § 13323, subd.
14 (a).) Notably, under Water Code section 13223, the regional boards are prohibited from
15 delegating authority “that would result in issuing, modifying, or revoking a waste discharge
16 requirement.” (*Malaga County Water Dist. v. Central Valley Regional Water Quality Control*
17 *Bd.* (2020) 58 Cal.App.5th 396, 414.) The regional boards are, however, permitted to seek the
18 support of the superior court to enforce waste discharge requirements. (Wat. Code, § 13262.)

19 Ione has sought relief from the Regional Board’s enforcement authority in an attempt to
20 comply without conflict with the PI Order. (Rock Decl., ¶¶ 10-12.) In a series of written
21 correspondence and phone calls, Ione has requested that the Regional Board exercise its
22 prosecutorial discretion not to pursue enforcement of any violations of Ione’s WDR Order 93-240
23 directly resulting from Ione’s acceptance and treatment of ARSA water for a limited period, in
24 order to alleviate the potential of a spill at Preston Reservoir in the rainy season. (*Ibid.*) To date,
25 Ione has not received the assurances from the Regional Board that it will not pursue enforcement
26 of the coliform bacteria and turbidity permit limitations, or any other permitting requirements that
27 may be violated based on the quality of ARSA water. (Rock Decl., ¶ 12.)

28 Absent immediate relief, Ione is in a position of potentially violating the WDR Order 93-

240 every day of the 30-day period under the PI Order. The PI Order effectively usurps the Regional Board's primary responsibility for matters affecting the quality of water within its region under the Porter-Cologne Act. The ends of justice are served if the PI Order is modified to allow Ione's tertiary treatment plant to operate in compliance with its permit.

B. THE PROPOSED MODIFICATION BALANCES THE INTERESTS OF THE REGIONAL BOARD WHILE PROTECTING ARSA AGAINST THE POTENTIAL RISK OF A FUTURE SPILL

Ione is currently faced with the impossible choice of violating this court's order or violating the Regional Board's permitting limits, which are in place expressly for the protection of public health and safety. Requiring Ione to accept ARSA water from Preston Reservoir has and will continue to result in violations of Ione's permit limitations established by the Regional Board. (Rock Decl., ¶¶ 3, 6; Moroz Decl., ¶¶ 6-7.)

Ione's proposed modification to the PI Order is intended to avoid violations of WDR Order 93-240 while maintaining an appropriate balance of harms. Ione's permitted treatment of domestic wastewater in accordance with the Regional Board's adopted water reclamation requirements ensures its compliance with established limitations intended "to protect the public health, safety, or welfare" (Wat. Code, § 13523, subd. (a).) ARSA's request relied on the potential threat of a 100-year flood. (ARSA Memorandum in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order (Sept. 28, 2022), p. 7.) Ione does not dismiss the need for ARSA to address the levels of its reservoir as we enter the rainy season; however, without modification of the PI Order, Ione cannot alleviate ARSA's concerns without violating WDR Order 93-240 issued by the Regional Board and, in effect, risking the health and welfare of its citizens. (Moroz Decl., ¶ 7.) Addressing Ione's potential permit violations allows compliance with the Regional Board permit without eliminating the benefits to ARSA by lowering Preston Reservoir levels. Accordingly, by modifying the PI Order as requested by Ione, the ends of justice are served for both parties.

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V. CONCLUSION

For the reasons set forth above, Ione respectfully requests that this Court modify the PI Order and reduce the amount of water Ione must accept from ARSA to 200,000 gallons of secondarily treated wastewater per day. Alternatively, Ione requests that the Court permit installation of a surface pump at Preston Reservoir, a necessary modification to the system for Ione to have the capacity to take 500,000 gallons per day without permit violations.

Respectfully submitted,

SOMACH SIMMONS & DUNN
A Professional Corporation

DATED: October 17, 2022

By



Theresa C. Barfield
Michelle E. Chester
Attorneys for Defendant City of Ione

RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 17, 2022, I submitted a true and correct copy of the following document(s):

DECLARATION OF BRETT MOROZ IN SUPPORT OF EX PARTE APPLICATION TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

X Via Fed Ex service, the document(s) listed above were served via fed ex to the addresses as set forth in the service list.

_____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully prepaid thereon and placing said envelope in the area designated for outgoing daily mail address per the service list.

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carolyn@prenticelongpc.com

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 October 17, 2022, at Sacramento, California.

3
4 

Corene E. Rodder

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Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

DECLARATION OF BRETT MOROZ IN
SUPPORT OF EX PARTE APPLICATION
TO MODIFY OCTOBER 10, 2022 ORDER
AND PRELIMINARY INJUNCTION

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

1 I, BRETT MOROZ, DO HEREBY DECLARE:

2 1. I am the operator of the City of Ione's (Ione) Wastewater Treatment Facility and
3 Castle Oaks Water Reclamation Plant, which is the subject of this action. I am employed by PERC
4 Water which is a water infrastructure company that contracts with Ione to operate the wastewater
5 system into which Plaintiff Amador Regional Sanitation Authority (ARSA) delivers its
6 wastewater discharges pursuant to this action. I make this declaration in support of the City of
7 Ione's Ex Parte Application for Order to Modify Amador County Superior Court's October 10,
8 2022 Order and Preliminary Injunction (PI Order). I am over the age of 18 years, have personal
9 knowledge of the matters stated herein, except those matters set forth on information and belief,
10 and if called upon to testify concerning the same, could do so competently.

11 2. I have been a certified wastewater operator in the state of California since 1977,
12 and have had my Grade IV operator license since 1988. During that time, I have operated
13 different types of tertiary wastewater treatment plants for over 25 years.

14 3. Ione's Wastewater Treatment Facility operates under Waste Discharge
15 Requirements (WDRs) Order R5-2013-0022-001 and treats domestic wastewater. The Castle
16 Oaks Water Reclamation Plant also owned and operated by Ione, is a tertiary treatment plant
17 regulated under WDRs Order 93-240 for recycled water use. These permits were issued and are
18 overseen by the Central Valley Regional Water Quality Board (Regional Board).

19 4. In accordance with WDRs Order 93-240, Ione is required to treat ARSA
20 wastewater to reduce high levels of turbidity and coliform bacteria. Turbidity, which refers to the
21 amount of suspended solids in the wastewater, requires treatment with the addition of a polymer.
22 Contaminants in ARSA's wastewater, including hydrogen sulfide and coliform bacteria, must be
23 treated by adding chlorine to the wastewater.

24 5. Ione's chlorine disinfection system needs repair. Ione has attempted to obtain the
25 necessary repairs, but none have been completed to date. Ione staff at the tertiary treatment plant
26 are not able to make the repairs. Ione has sought a contractor for the work. Unless and until those
27 repairs are made, Ione's chlorine disinfection system is limited in its capacity. Attempting to treat
28 more wastewater than the chlorine disinfection system can handle could result in operational

1 violations of the tertiary treatment plant.

2 6. The high volumes of polymer and chlorine that must be used to treat turbidity,
3 hydrogen sulfide and coliform bacteria effectively limit the amount of wastewater that can be
4 accepted and treated by Ione's tertiary treatment plant. The tertiary treatment plant cannot
5 physically accept and treat 500,000 gallons of ARSA wastewater in a day. Because Ione's tertiary
6 treatment system cannot treat the wastewater to the minimum levels required by WDRs Order 93-
7 240, Ione is unable to discharge 500,000 gallons of wastewater in a day without violating the
8 permit limitations.

9 7. If we were to accept and discharge 500,000 gallons of ARSA water each day, we
10 would be in immediate violation of our permit requirements. Ione's tertiary treatment plant
11 cannot reliably treat the ARSA water to meet the turbidity limits in our permit. Discharges from
12 the are likely to exceed the permit limit on coliform bacteria daily maximum in taking ARSA
13 water. ARSA water releases hydrogen sulfide above limits established by the U.S. Occupational
14 Safety and Health Administration, which is a threat to public health and, at certain concentrations,
15 is explosive. It remains too dangerous to public health and safety, and is in direct violation of our
16 permit issued by the Regional Board, to continue to accept said input without major modifications
17 to ARSA's delivery of the water from Preston Reservoir.

18 8. Given all the current circumstances addressed herein and in the Declaration of
19 Michael Rock dated October 15, 2022, it is my opinion as the operator of the Ione tertiary
20 treatment system that the maximum amount of ARSA wastewater that can be consistently
21 accepted, treated, and discharged without violating WDRs Order 93-240 is 200,000 gallons per
22 day. Although the system may be able to take more water on some days, this is highly dependent
23 on the unpredictable day-to-day quality of ARSA water.

24 9. The reason for ARSA water's poor quality is that the outflow from Preston
25 Reservoir (the location of ARSA wastewater) is from the bottom of the reservoir, which is
26 covered in stagnate sludge that has settled out of the water over decades of use. If ARSA
27 installed a pump with the suction line on floats hanging down into the upper level of the reservoir
28 and the discharge line connected to the reservoir discharge line, it is my opinion that the Ione

1 tertiary treatment system could accept and treat up to 500,000 gallons per day. This is because the
2 water quality at the surface level is much better than at the bottom of the reservoir.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct to the best of my knowledge and belief. Executed this 17th day of
5 October 2022 in Ione, California.

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8 BRETT MOROZ
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RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 17, 2022, I submitted a true and correct copy of the following document(s):

**DECLARATION OF BRETT MOROZ IN SUPPORT OF EX PARTE APPLICATION TO
MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION**

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on
October 17, 2022, at Sacramento, California.



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Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

DECLARATION OF MICHAEL ROCK IN
SUPPORT OF EX PARTE APPLICATION
TO MODIFY OCTOBER 10, 2022 ORDER
AND PRELIMINARY INJUNCTION

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

1 I, MICHAEL ROCK, DO HEREBY DECLARE:

2 1. I am the City Manager for the City of Ione, Defendant in the above-entitled action.
3 I make this declaration in support of the City of Ione's Ex Parte Application for Order to Modify
4 the Temporary Restraining Order. I am over the age of 18 years, have personal knowledge of the
5 matters stated herein, except those matters set forth on information and belief, and if called upon
6 to testify concerning the same, could do so competently.

7 2. As City Manager, I work closely with the contract operator of Ione's Wastewater
8 Treatment Facility and Castle Oaks Water Reclamation Plant. Ione's Wastewater Treatment
9 Facility operates under Waste Discharge Requirements (WDRs) Order R5-2013-0022-001 and
10 treats domestic wastewater from Ione and secondary effluent from Preston Reservoir. The Castle
11 Oaks Water Reclamation Plant, also owned and operated by Ione, is a tertiary treatment plant
12 regulated under WDRs Order 93-240 for recycled water use. A true and correct copy of WDR 3-
13 240 is attached hereto as **Exhibit 1**. These permits were issued and are overseen by the Central
14 Valley Regional Water Quality Board (Regional Board).

15 3. I am fully aware of all the issues with the acceptance of wastewater from the
16 Amador Regional Sanitation Authority (ARSA) outflow from Preston Reservoir. There is a
17 significant issue with the quality of ARSA water, which presents difficulties for Ione to
18 effectively treat the water and discharge it without violating the permit conditions governing
19 Ione's treatment and discharge of wastewater. Any efforts or assurances by ARSA to sufficiently
20 address water quality issues for continued treatment at Ione's plant were unsuccessful.

21 4. Since 2007, Ione has accepted ARSA wastewater in certain amounts and under
22 certain conditions pursuant to a 2007 agreement. However, Ione sent a notice of termination on
23 July 19, 2017, notifying ARSA that the agreement would be terminated effective July 31, 2022.
24 Ione has taken steps to negotiate a new agreement, which has not yet been successful. Currently,
25 there is no agreement in place. We have attempted to voluntarily take ARSA water while Ione
26 and ARSA work toward executing a new agreement.

27 5. On October 11, following a hearing on ARSA's application for preliminary
28 injunction, the Court issued a preliminary injunction requiring that Ione accept 500,000 gallons of

1 secondarily treated wastewater per day from Preston Reservoir each day for the next 30 days,
2 totaling 15 million gallons. Since the order was issued, I have had various discussions with
3 Ione's system operator Brett Moroz regarding the logistics of operating the system to comply
4 with the Court's order.

5 6. The conveyance, storage, and treatment of wastewater at Castle Oaks Wastewater
6 Treatment Facility (tertiary treatment), is permitted by the Central Valley Regional Water Quality
7 Control Board (Regional Board). To comply with the court's October 11 Order, Ione and Ione's
8 system operator are forced to violate the permit limitations. In my experience, civil
9 administrative penalties enforced by the Regional Board for permit violations can be charged per
10 gallon and can total millions of dollars.

11 7. Because ARSA's wastewater is delivered from the bottom of Preston Reservoir,
12 which is covered in a thick sludge of material that has settled out of the water over time, the
13 wastewater has high turbidity and must be treated with a polymer. The polymer is added to the
14 wastewater to bind together dissolved organic matter. The amount of polymer required to treat
15 the high turbidity and the amount of organic material that must be filtered out of ARSA
16 wastewater effectively limits the total amount of water that can be accepted and treated by Ione's
17 tertiary treatment system.

18 8. ARSA's wastewater must also be treated with chlorine, which is a widely used
19 disinfectant for municipal wastewater because it destroys harmful bacteria and other contaminants
20 in municipal wastewater. The cost of chlorine disinfection system is dependent on the
21 characteristics of the wastewater to be disinfected. Coliform bacteria is present in ARSA's water
22 at a high level that requires treatment with significantly high volumes of chlorine at Ione's
23 expense. Additionally, Ione's tertiary treatment plant has experienced ongoing issues with its
24 chlorine disinfection system. Ione has sought needed repairs, but currently, issues with a chlorine
25 tank limit the amount of water that can be treated through the chlorine disinfection system. The
26 limitation of the chlorine disinfection system prevents Ione from effectively treating ARSA
27 wastewater.

28 9. Ione's tertiary treatment plant cannot accept wastewater from ARSA that cannot

1 be effectively treated and discharged. To avoid violating the permits, Ione must take and treat less
2 than 500,000 gallons per day. We have reached out to the Regional Board on multiple occasions
3 to seek assurances that the Regional Board will exercise its prosecutorial discretion not to pursue
4 an enforcement action against Ione for permit violations while Ione and ARSA are trying to
5 address and resolve these issues.

6 10. On September 22, 2022, Ione sent the Regional Board a letter with detailed
7 information regarding the issues of water quality and treatment of Preston Reservoir water and
8 requested additional assurances from the Regional Board. A true and correct copy of Ione's
9 September 22, 2022 response letter is attached hereto as **Exhibit 2**. Specifically, Ione requested
10 that the Regional Board also exercise its prosecutorial discretion to not pursue enforcement of any
11 and all permit violations directly resulting from Ione's acceptance and treatment of ARSA water,
12 including not only odor conditions, but also turbidity and organic compounds that cannot be
13 mitigated despite Ione's best efforts.


14 11. As recently as October 3, 2022, on a phone call with representatives from the
15 Regional Board, ARSA, and CDCR, Ione reiterated its request to the Regional Board for
16 assurances that it will not exercise its prosecutorial discretion on the requested scope of potential
17 permit violations resulting from Ione's temporary treatment of ARSA water under the exigent
18 circumstances. It was my impression that Regional Board Executive Officer Patrick Pulupa was
19 receptive to the option of providing assurances. To date, no such assurances have been confirmed
20 orally or in writing.

21 12. On October 11, 2022, following the issuance of this court's order granting the
22 temporary restraining order, Ione sent Regional Board staff a letter notifying the Regional Board
23 of the order and, again, reiterating its request for assurances that the Regional Board not exercise
24 its prosecutorial discretion for permit violations resulting from Ione's treatment of ARSA water.
25 A true and correct copy of that letter is attached hereto as **Exhibit 3**. To date, no response has
26 been received from the Regional Board.

27 13. When we have taken ARSA water, I have repeatedly spoken with ARSA
28 representatives about the quality of water being unacceptable and untreatable based on Ione's

1 treatment capacity. I have advised ARSA representatives that there are steps available that would
2 require relatively little time and expense on behalf of both ARSA and Ione staff that would allow
3 Ione to accept and treat ARSA water. This includes installing a pump with the suction line on
4 floats hanging down into the upper level of Preston Reservoir and the discharge line connected to
5 the reservoir discharge line, which would deliver significantly cleaner surface water to Ione. It is
6 my understanding that installation of the pump would take only a few days and, if the surface
7 water pump were installed, Ione could accept up to 500,000 gallons per day without violating its
8 permit limitations. However, this is highly dependent on the amount of water that Castle Oaks
9 Golf Course can accept, which, in past years, decreases in October and November through the
10 rainy season.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed this 15th day of October 2022 in Ione, California.

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14 

15 MICHAEL ROCK
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EXHIBIT 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

3443 Roubier Road, Suite A
Sacramento, CA 95827-3098
PHONE: (916) 255-3000
FAX: (916) 255-3015

Bob, MARTY, MARK, "ARSA"
ROBERT DISCHARGE
REQS

PETE WILSON, Governor



7 December 1993

Mr. Roderick E. Schuler
Amador Regional Sanitation Authority
108 Court Street
Jackson, CA 95642

CERTIFIED MAIL
P 430 798 037

RECEIVED
PUBLIC WORKS AGENCY
DEC 18 1993
110 COURT STREET
JACKSON, CA 95642-2338

Mr. Watson Clifford, City Engineer
City of Ione
P.O. Box 398
Ione, CA 95640

CERTIFIED MAIL
P 430 798 038

Mr. George S. Lee, Vice President
Portlock International, Ltd.
P.O. Box 1368
Ione, CA 95640

CERTIFIED MAIL
P 430 798 039

**TRANSMITTAL OF ADOPTED/AMENDED WASTE DISCHARGE REQUIREMENTS FOR
AMADOR COUNTY REGIONAL OUTFALL AND CASTLE OAKS GOLF COURSE AND
DEVELOPMENT, AMADOR REGIONAL SANITATION AUTHORITY, CITY OF IONE,
PORTLOCK INTERNATIONAL, LTD.**

Enclosed is an official copy of Order No. 93-240 as amended by the California Regional Water Quality Control Board, Central Valley Region, at its last regular meeting.

JAMES B. MAUGHAN
Area Engineer

JBW:dlk

Enclosures: Adopted Order, Standard Provisions (Discharger only)

cc+Encl: Office of Drinking Water, Department of Health Services, Sacramento
Environmental Mgmt. Branch, Department of Health Services, Sacramento
Department of Fish and Game, Rancho Cordova
Department of Water Resources, Central District, Sacramento
Mrs. Betsy Jennings, State Water Resources Control Board, Sacramento
Mr. Archie Matthews, State Water Resources Control Board, Sacramento
Amador County Health Department, Jackson
Amador County Planning Department, Jackson
Mr. Richard Stowell, Dewante & Stowell, Sacramento

1. The first part of the report

is a description of the

method used in the study.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 93-240

WATER RECLAMATION REQUIREMENTS
FOR
AMADOR COUNTY REGIONAL OUTFALL
AND
CASTLE OAKS GOLF COURSE AND DEVELOPMENT
AMADOR REGIONAL SANITATION AUTHORITY
CITY OF IONE
PORTLOCK INTERNATIONAL, LTD.
AMADOR COUNTY

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

1. Amador Regional Sanitation Authority (ARSA), the City of Ione, and Portlock International, Ltd. (hereafter Discharger) submitted a Report of Waste Discharge, dated 5 November 1993, for revised requirements for treatment and reclamation use of wastewater from the Amador County Regional Outfall.
2. ARSA is a special district which operates the Amador County Regional Outfall System. Effluent produced by the City of Sutter Creek wastewater treatment plant is stored in a series of reservoirs. ARSA provides water to a group of ranchers known as the Amador County Reclaimed Wastewater Users and to the Preston School of Industry in Ione. ARSA also augments this supply with water diverted from Sutter Creek.
3. The Board, on 24 June 1988, adopted Order No. 88-114 which prescribed requirements for Amador Regional Sanitation Authority, Amador County Regional Outfall, which included the discharge to 430 acres of State-owned and privately-owned property for pasture irrigation. This pasture area has been developed and is now the site of the Castle Oaks Golf Course and Development Project.
4. ARSA has several orders governing discharges from the Amador County Regional Outfall. Effluent from this system is delivered to the California Youth Authority, Preston School of Industry (Order No. 83-023) and Amador County Reclaimed Wastewater Users (Order No. 83-024) on a as needed basis. Preston filters and chlorinates the ARSA water and uses it for toilet flushing, landscaping irrigation, and fire protection.
5. In order to assure adequate disposal capacity for Amador County Regional Outfall effluent, ARSA has entered into a long-term agreement with the City of Ione to dispose of up to 900 acre-feet/year. The 18-hole Castle Oaks Golf Course is approximately 190 acres with 15 acres of ponds and is owned by the City of Ione.

**WATER RECLAMATION REQUIREMENTS
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6. The City of Ione is proposing to construct a reclamation plant that will treat the secondary effluent in the ARSA outfall system to meet Title 22 requirements for unrestricted use. The treatment facility is owned and will be operated by the City of Ione, with Portlock International, Ltd. managing the irrigation system at the golf course. Until this facility is completed, the discharge will operate under interim effluent limitations. Exposure to golfers or residents will not be allowed during this interim period.
7. The wastewater treatment facilities will include a PVC-lined equalization lake, sand filters and a chlorine contact basin. Effluent will be reclaimed at the Castle Oaks Golf Course. Mostly irrigation will occur from April to November with limited irrigation demand during the winter.
8. The City of Ione will discharge an average of 1.2 million gallons per day (mgd) to holding ponds at the treatment plant and golf course followed by irrigation of the Castle Oaks Golf Course. ARSA will continue operations of Henderson and Preston Reservoirs for storage and regulation.
9. The Outfall System is in Sections 9-12, 16-18, T6N, R10E, MDB&M and Sections 22 and 23, T6N, R9E, MDB&M with surface water drainage to Mule and Sutter Creeks, tributary to Dry Creek, tributary to Mokelumne River as shown on Attachment A, which is attached hereto and a part of the Order by reference.
10. The City of Ione, ARSA and Portlock International, Ltd. on 30 November 1993 entered into an agreement as to the responsibilities each has concerning the treatment, conveyance and disposal of the wastewater.
11. The Board adopted a Water Quality Control Plan, Second Edition, for the Sacramento-San Joaquin Delta Basin (5B) (hereafter Basin Plan), which contains water quality objectives for all waters of the Basin. These requirements implement the Basin Plan.
12. The beneficial uses of Sutter and Mule Creeks and downstream waters are municipal, industrial and agricultural supply; recreation; esthetic enjoyment; navigation; ground water recharge; fresh water replenishment; and preservation and enhancement of fish, wildlife, and other aquatic resources.
13. The beneficial uses of the ground water are municipal, domestic, industrial, and agricultural supply.

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14. City of Ione has certified a Final Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, et seq.) and the State CEQA Guidelines. The project as approved will not have a significant effect on water quality.
15. The Board has reviewed the EIR and concurs there are no significant impacts on water quality.
16. The Department of Health Services has established statewide reclamation criteria in Title 22, California Code of Regulations, Section 60301, et seq. (hereafter Title 22) for the use of reclaimed water.
17. The Board consulted with the Department of Health Services, Amador County Health Department and considered their recommendations regarding public health aspects for use of reclaimed water.
18. Section 2511(a), Title 23, of the California Code of Regulations (CCR), exempts this discharge from the requirements of Chapter 15.
19. The Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for this discharge and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
20. The Board, in a public meeting, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that Waste Discharge Requirements Order No. 88-114 is rescinded and the City of Ione, Amador County Regional Outfall System, Amador Regional Sanitation Authority, Portlock International, Ltd., its agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following:

A. Interim Effluent Limitations - Golf Course Irrigation (Construction and Development Phase):

1. The discharge of an effluent in excess of the following limits is prohibited:

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<u>Constituent</u>	<u>Units</u>	<u>Weekly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	23	---	240
Flow	mgd	---	1.2	---
BOD ₅	mg/l	---	40	80

B. Final Effluent Limitations:

1. The irrigation of the golf course and green space areas which are accessible to the public with reclaimed wastewater in excess of the following limits is prohibited:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	2.2	---	23
Flow	mgd	---	1.2	---
Settleable Matter	ml/l	---	0.2	0.5
BOD ₅	mg/l	---	10	30
Turbidity	NTU	2	---	5

2. The irrigation of dedicated disposal areas which are not accessible to golfer, residents or the public with reclaimed wastewater in excess of the following limits is prohibited:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Median</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	23	---	240
BOD ₅	mg/l	---	40	80

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C. Discharge Prohibitions:

1. Discharge of wastes to surface waters or surface water drainage courses is prohibited.
2. The by-pass or overflow of untreated or partially treated waste is prohibited.
3. Discharge of waste classified as 'hazardous' or 'designated,' as defined in Sections 2521(a) and 2522(a) of Chapter 15, is prohibited.

D. Discharge Specifications:

1. Neither the treatment nor the discharge shall cause a nuisance or condition of pollution as defined by the California Water Code, Section 13050.
2. The discharge shall not cause degradation of any water supply.
3. The discharge shall remain within the designated disposal area at all times.
4. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Executive Officer.
5. Wastewater shall be discharged to Castle Oaks Golf Course in accordance with a Wastewater Disposal Operations Plan which has been approved by the Executive Officer. Prior to irrigation of dedicated disposal areas pursuant to Effluent Limitation B.2., the Discharger shall submit to the Executive Officer a specific operation plan describing the irrigated area, rate of application, irrigated crops, and efforts to prevent public exposure.
6. A 2.0-foot freeboard shall be maintained in all treatment and storage ponds at all times or an operational plan shall be submitted which shows why a 2.0-foot freeboard is not needed to prevent overtopping of the berms.
7. Reclaimed wastewater shall meet the criteria contained in Title 22, Division 4, CCR (Section 60301, et seq.).
8. Reclaimed wastewater conveyance lines shall be clearly marked as such.

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9. The dissolved oxygen content of holding ponds shall not be less than 1.0 mg/l for 16 hours in any 24-hour period.
10. Areas irrigated with reclaimed water shall be managed to prevent breeding of mosquitos. More specifically,
 - a. Tail water must be returned and all applied irrigation water must infiltrate completely within a 12-hour period.
 - b. Ditches not serving as wildlife habitat should be maintained free of emergent, marginal, and floating vegetation.
 - c. Low-pressure and unpressurized pipelines and ditches accessible to mosquitos shall not be used to store reclaimed water.
11. Reclaimed water for irrigation shall be managed to minimize erosion and runoff from the disposal area.
12. Direct or windblown spray shall be confined to the designated reclamation area and prevented from contacting drinking water facilities.
13. The Discharger may not spray irrigate effluent during periods of precipitation and for at least 24 hours after cessation of precipitation, or when winds exceed 30 mph.
14. A 100-foot buffer shall be maintained between any flowing watercourse and the wetted area produced during spray disposal.
15. Signs with proper wording of sufficient size shall be placed at areas of access and around the perimeter of all areas used for effluent disposal to alert the public of the use of reclaimed water.
16. Runoff from irrigated areas, within 24 hours of the last application of reclaimed water, shall not be discharged to any surface water drainage course.
17. There shall be no irrigation or impoundment of reclaimed water within 500 feet of any domestic water well or within 100 feet of any irrigation well unless it is demonstrated to the satisfaction of the Executive Officer that less distance is justified.

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E. Provisions:

1. Reclaimed water controllers, valves, etc., shall be affixed with reclaimed water warning signs, and these and quick couplers and sprinkler heads shall be of a type, or secured in a manner, that permits operation by authorized personnel only.
2. The treatment facilities shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.
3. The Discharger may be required to submit other technical reports as directed by the Executive Officer.
4. The Discharger shall submit a report by 1 September each year which describes how the Preston Reservoir is being maintained for the up-coming winter season. This report should contain current levels in reservoir and methods planned to dispose of wastewater so that winter storage levels are reached.
5. The Discharger shall comply with the Monitoring and Reporting Program No. 93-240, which is part of this Order, and any revisions thereto as ordered by the Executive Officer.
6. The Discharger shall comply with the "Standard Provisions and Reporting Requirements for Waste Discharge Requirements", dated 1 March 1991, which are attached hereto and by reference a part of this Order. This attachment and its individual paragraphs are commonly referenced as "Standard Provision(s)."
7. The Discharger shall report promptly to the Board any material change or proposed change in the character, location, or volume of the discharge.
8. In the event of any change in control or ownership of land or waste discharge facilities presently described herein, the Discharger shall notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be forwarded to this office.
9. The Board will review this Order periodically and will revise requirements when necessary.

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I, WILLIAM H. CROOKS, 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 3 December 1993.



WILLIAM H. CROOKS, Executive Officer

Attachments

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. 93-240

FOR
AMADOR COUNTY REGIONAL OUTFALL
AND
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EFFLUENT MONITORING

Effluent samples shall be collected just prior to discharge to the irrigation system. Effluent samples should be representative of the volume and nature of the discharge. Samples collected from the outlet structure of ponds will be considered adequately composited. Time of collection of a grab sample shall be recorded. The following shall constitute the effluent monitoring program:

<u>Constituents</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Total Coliform Organisms	MPN/100 ml	Grab	Daily
Flow	mgd	Cumulative	Daily
20°C BOD ₅	mg/l	Grab	Weekly
Settleable Matter	ml/l	Grab	Weekly
Turbidity	NTU	Grab	Weekly

STORAGE PONDS MONITORING

All dissolved oxygen samples shall be taken from the surface of the storage ponds.

<u>Constituents</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Dissolved Oxygen	mg/l	Grab	Weekly
Freeboard	feet	---	Weekly

MONITORING AND REPORTING PROGRAM
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GROUND WATER MONITORING

The following shall constitute the ground water monitoring program:

<u>Constituents</u>	<u>Units</u>	<u>Sampling Frequency</u>
Specific Conductivity	μ mhos/cm	Monthly
pH	pH Units	Monthly
Nitrate	mg/l	Monthly
Well Elevation	feet, USGS Datum	Monthly

The City of Ione will install at least one upgradient and two downgradient ground water monitoring wells by 1 June 1994 around the storage ponds at the Castle Oaks Golf Course.

REPORTING

In reporting the monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly the compliance with waste discharge requirements.

Monthly monitoring reports shall be submitted to the Regional Board by the **20th day of the following month.**

The results of any monitoring done more frequently than required at the locations specified in the Monitoring and Reporting Program shall be reported to the Board.

Upon written request of the Board, the Discharger shall submit a report to the Board by **30 January** of each year. The report shall contain both tabular and graphical summaries of the monitoring data obtained during the previous year. In addition, the Discharger shall discuss the compliance record and the corrective actions taken or planned which may be needed to bring the discharge into full compliance with the waste discharge requirements.

MONITORING AND REPORTING PROGRAM
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The Discharger shall implement the above monitoring program as of the date of this Order.

Ordered by: William H. Crooks
WILLIAM H. CROOKS, Executive Officer

3 December 1993

(date)

JBM

INFORMATION SHEET

AMADOR REGIONAL COUNTY OUTFALL AND CASTLE OAKS GOLF COURSE AND DEVELOPMENT, AMADOR REGIONAL SANITATION AUTHORITY, THE CITY OF IONE, PORTLOCK INTERNATIONAL, LTD., AMADOR COUNTY

Year-round irrigation of the Castle Oaks Golf Course with tertiary treated wastewater will replace the existing April to October discharge of secondary effluent to farm land that Amador Regional Sanitation Authority has been using to dispose of its wastewater. The new treatment facility and golf course are off Highway 104, just west of the City of Ione in Amador County. The treatment plant is owned and operated by the City of Ione. Portlock International, Ltd. will manage the irrigation of the golf course.

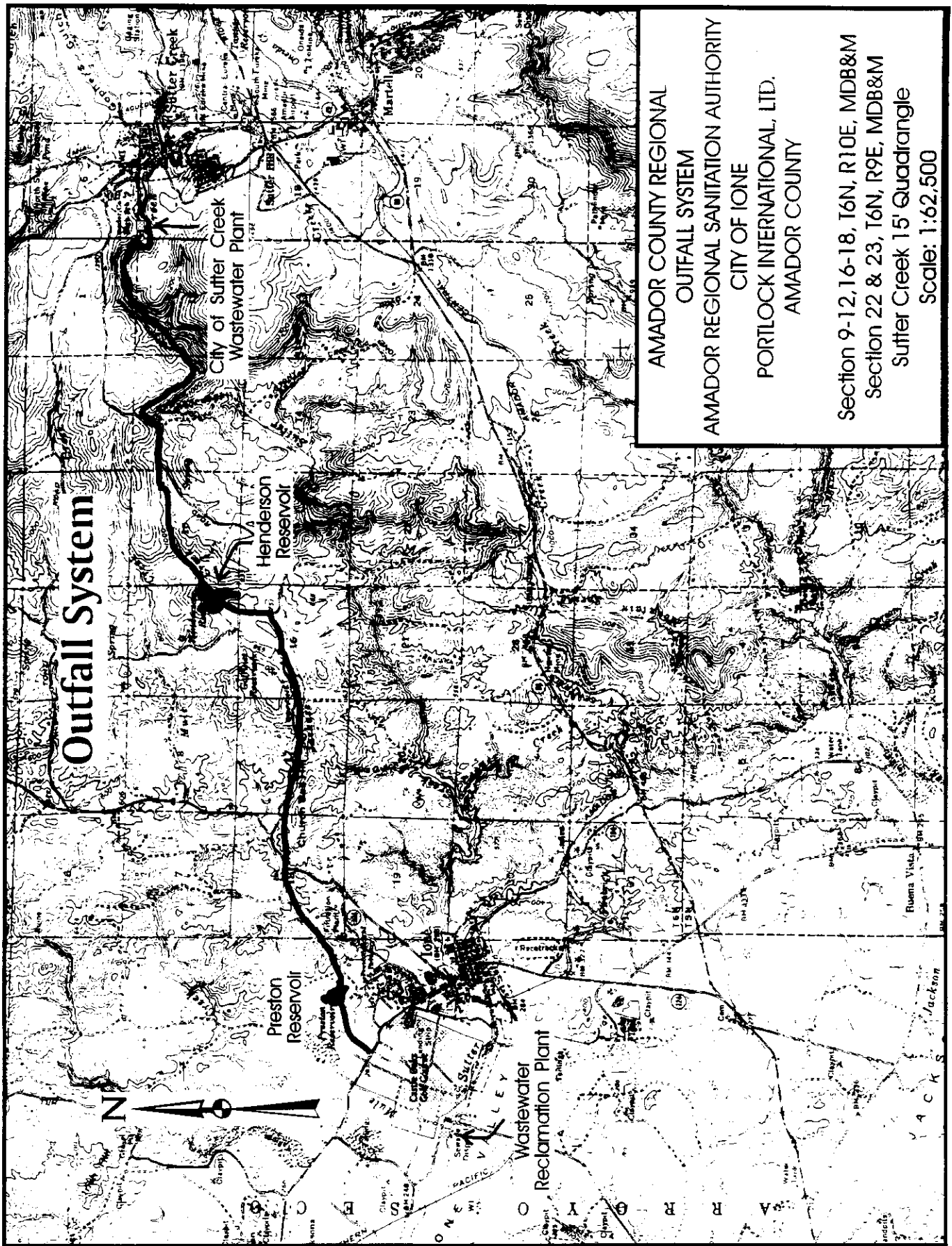
The Board, on 24 June 1988, adopted Order No. 88-114 prescribing requirements for Amador Regional Sanitation Authority, Amador County Regional Outfall System included the discharge to 430 acres of State-owned and privately-owned property for pasture irrigation. This area is now the site of the Castle Oaks Golf Course and Development Project. The City owns the golf course and ARSA has an agreement with the city to supply wastewater for irrigation purposes up to 900 acre-feet/year.

ARSA is a special district which operates the Amador County Regional Outfall System. Secondary effluent produced by the City of Sutter Creek wastewater treatment plant, mixed with water diverted from Sutter Creek is stored in Henderson and Preston reservoirs. ARSA provides water to ranchers from these reservoirs and to the Preston School of Industry in Ione. Preston filters and chlorinates the ARSA water and uses it for toilet flushing, landscaping irrigation, and fire protection.

ARSA also is under Order No. 83-024 governing discharges from the Amador County Regional Outfall to reclaimed wastewater users. Preston School, which receives wastewater from the outfall, is governed by Order No. 83-023.

The 18-hole Castle Oaks Golf Course has been constructed. However, the course is not open for use; the site will continue to use secondary treated wastewater during the construction phase of the treatment facilities. In the spring of 1994, the treatment facility is expected to be completed. The treatment facility will include a PVC-lined equalization lake, sand filters and a chlorine contact basin. Effluent will be used for irrigation and water hazards at the Castle Oaks Golf Course. The average flow of tertiary treated wastewater is expected to reach 1.2 mgd.

Golf course irrigation will occur mostly April to November. Surface water drainage is to Sutter and Mule Creeks, tributary to Dry Creek, and tributary to the Mokelumne River.



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

STANDARD PROVISIONS AND REPORTING REQUIREMENTS
FOR
WASTE DISCHARGE REQUIREMENTS

1 March 1991

A. General Provisions:

1. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, or protect the discharger from liabilities under federal, state, or local laws. This Order does not convey any property rights or exclusive privileges.
2. The provisions of this Order are severable. If any provision of this Order is held invalid, the remainder of this Order shall not be affected.
3. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
 - a. Violation of any term or condition contained in this Order;
 - b. Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts;
 - c. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge;
 - d. A material change in the character, location, or volume of discharge.
4. Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board. A material change includes, but is not limited to, the following:
 - a. An increase in area or depth to be used for solid waste disposal beyond that specified in waste discharge requirements
 - b. A significant change in disposal method, location or volume, e.g., change from land disposal to land treatment.
 - c. The addition of a major industrial, municipal or domestic waste discharge facility.
 - d. The addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.

A. General Provisions (continued)

5. Except for material determined to be confidential in accordance with California law and regulations, all reports prepared in accordance with terms of this Order shall be available for public inspection at the offices of the Board. Data on waste discharges, water quality, geology, and hydrogeology shall not be considered confidential.
6. The discharger shall take all reasonable steps to minimize any adverse impact to the waters of the state resulting from noncompliance with this Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.
7. The discharger shall maintain in good working order and operate as efficiently as possible any facility, control system, or monitoring device installed to achieve compliance with the waste discharge requirements.
8. The discharger shall permit representatives of the Regional Board (hereafter Board) and the State Water Resources Control Board, upon presentation of credentials, to:
 - a. Enter premises where wastes are treated, stored, or disposed of and facilities in which any records are kept,
 - b. Copy any records required to be kept under terms and conditions of this Order,
 - c. Inspect at reasonable hours, monitoring equipment required by this Order, and
 - d. Sample, photograph and video tape any discharge, waste, waste management unit or monitoring device.
9. For any electrically operated equipment at the site, the failure of which could cause loss of control or containment of waste materials, or violation of this Order, the discharger shall employ safeguards to prevent loss of control over wastes. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means.
10. The fact that it would have been necessary to halt or reduce the permitted activity in Order to maintain compliance with this Order shall not be a defense for the discharger's violations of the Order.
11. Neither the treatment nor the discharge shall create a condition of nuisance or pollution as defined by the California Water Code, Section 13050.

A. General Provisions (continued)

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

B. General Reporting Requirements

1. In the event the discharger does not comply or will be unable to comply with any prohibition or limitation of this Order for any reason, the discharger shall notify the Board by telephone at (916) 255-3000 as soon as it or its agents have knowledge of such noncompliance or potential for noncompliance, and shall confirm this notification in writing within two weeks. The written notification shall state the nature, time and cause of noncompliance, and shall describe the measures being taken to prevent recurrences and shall include a timetable for corrective actions.
2. The discharger shall have a plan for preventing and controlling accidental discharges, and for minimizing the effect of such events.

This plan shall:

- a. Identify the possible sources of accidental loss or leakage of wastes from each waste management, treatment, or disposal facility.
- b. Evaluate the effectiveness of present waste management/treatment units and operational procedures, and identify needed changes or contingency plans.
- c. Predict the effectiveness of the proposed changes in waste management/treatment facilities and procedures and provide an implementation schedule containing interim and final dates when changes will be implemented.

The Board, after review of the plan, may establish conditions that it deems necessary to control leakages and minimize their effects.

3. All reports shall be signed by persons identified below:
 - a. For a corporation: by a principal executive officer of at least the level of senior vice-president.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
 - c. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected or appointed official.

B. General Reporting Requirements (continued)

d. A duly authorized representative of a person designated in 3a, 3b or 3c of this requirement if;

(1) the authorization is made in writing by a person described in 3a, 3b, or 3c of this provision;

(2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a waste management unit, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(3) the written authorization is submitted to the Board

Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

4. Technical and monitoring reports specified in this Order are requested pursuant to Section 13267 of the Water Code. Failing to furnish the reports by the specified deadlines and falsifying information in the reports, are misdemeanors that may result in assessment of civil liabilities against the discharger.

5. The discharger shall mail a copy of each monitoring report and any other reports required by this Order to:

California Regional Water Quality Control Board
Central Valley Region
3443 Routier Road, Suite A
Sacramento, CA 95827-3098

or the current address if the office relocates.

C. Provisions for Monitoring

1. All analyses shall be made in accordance with the latest edition of:
(1) "Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater" (EPA 600 Series) and (2) "Test Methods for Evaluating Solid Waste" (SW 846-latest edition). The test method may be modified subject to application and approval of alternate test procedures under the Code of Federal Regulations (40 CFR 136).
2. Chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. In the event a certified laboratory is not available to the discharger, analyses performed by a noncertified laboratory will be accepted provided a Quality Assurance-Quality Control Program is instituted by the laboratory. A manual containing the steps followed in this program must be kept in the laboratory and shall be available for inspection by Board staff. The Quality Assurance-Quality Control Program must conform to EPA guidelines or to procedures approved by the Board.

Unless otherwise specified, all metals shall be reported as Total Metals.

3. The discharger shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings of continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of three years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

Record of monitoring information shall include:

- a. the date, exact place, and time of sampling or measurements,
 - b. the individual(s) who performed the sampling or measurements,
 - c. the date(s) analyses were performed,
 - d. the individual(s) who performed the analyses,
 - e. the laboratory which performed the analysis,
 - f. the analytical techniques or methods used, and
 - g. the results of such analyses.
4. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated at least yearly to ensure their continued accuracy.

C. Provisions For Monitoring (continued)

5. The discharger shall maintain a written sampling program sufficient to assure compliance with the terms of this Order. Anyone performing sampling on behalf of the discharger shall be familiar with the sampling plan.
6. The discharger shall construct all monitoring wells to meet or exceed the standards stated in the State Department of Water Resources Bulletin 74-81 and subsequent revisions, and shall comply with the reporting provisions for wells required by Water Code Sections 13750 through 13755.22

D. Standard Conditions for Facilities Subject to California Code of Regulations, Title 23, Division 3, Chapter 15 (Chapter 15)

1. All classified waste management units shall be designed under the direct supervision of a California registered civil engineer or a California certified engineering geologist. Designs shall include a Construction Quality Assurance Plan, the purpose of which is to:
 - a. demonstrate that the waste management unit has been constructed according to the specifications and plans as approved by the Board.
 - b. provide quality control on the materials and construction practices used to construct the waste management unit and prevent the use of inferior products and/or materials which do not meet the approved design plans or specifications.
2. Prior to the discharge of waste to any classified waste management unit, a California registered civil engineer or a California certified engineering geologist must certify that the waste management unit meets the construction or prescriptive standards and performance goals in Chapter 15, unless an engineered alternative has been approved by the Board. In the case of an engineered alternative, the registered civil engineer or certified engineering geologist must certify that the waste management unit has been constructed in accordance with Board-approved plans and specifications.
3. Materials used to construct liners shall have appropriate physical and chemical properties to ensure containment of discharged wastes over the operating life, closure, and post-closure maintenance period of the waste management units.
4. Closure of each waste management unit shall be performed under the direct supervision of a California registered civil engineer or California certified engineering geologist.

E. Conditions Applicable to Discharge Facilities Exempted From Chapter 15 Under Section 2511

1. If the discharger's wastewater treatment plant is publicly owned or regulated by the Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade according to California Code of Regulations, Title 23, Division 4, Chapter 14.
2. By-pass (the intentional diversion of waste streams from any portion of a treatment facility, except diversions designed to meet variable effluent limits) is prohibited. The Board may take enforcement action against the discharger for by-pass unless:
 - a. (1) By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a by-pass. Severe property damage does not mean economic loss caused by delays in production); and
 - (2) There were no feasible alternatives to by-pass, such as the use of auxiliary treatment facilities or retention of untreated waste. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a by-pass that would otherwise occur during normal periods of equipment downtime or preventive maintenance; or
 - b. (1) by-pass is required for essential maintenance to assure efficient operation; and
 - (2) neither effluent nor receiving water limitations are exceeded; and
 - (3) the discharger notifies the Board ten days in advance.

The permittee shall submit notice of an unanticipated by-pass as required in paragraph B.1. above.

3. A discharger that wishes to establish the affirmative defense of an upset (see definition in E.6 below) in an action brought for noncompliance shall demonstrate, through properly signed, contemporaneous operating logs, or other evidence, that:
 - a. an upset occurred and the cause(s) can be identified;

E. Dischargers Exempt from Chapter 15 (continued)

- b. the permitted facility was being properly operated at the time of the upset;
- c. the discharger submitted notice of the upset as required in paragraph B.1., above; and
- d. the discharger complied with any remedial measures required by waste discharge requirements.

In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

- 4. A discharger whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment, collection, and disposal facilities. The projections shall be made in January, based on the last three years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in four years, the discharger shall notify the Board by **31 January**.
- 5. Effluent samples shall be taken downstream of the last addition of wastes to the treatment or discharge works where a representative sample may be obtained prior to disposal. Samples shall be collected at such a point and in such a manner to ensure a representative sample of the discharge.
- 6. Definitions
 - a. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper action.
 - b. The monthly average discharge is the total discharge by volume during a calendar month divided by the number of days in the month that the facility was discharging. This number is to be reported in gallons per day or million gallons per day.

Where less than daily sampling is required by this Order, the monthly average shall be determined by the summation of all the measured discharges by the number of days during the month when the measurements were made.

E. Dischargers Exempt from Chapter 15 (continued)

- c. The monthly average **concentration** is the arithmetic mean of measurements made during the month.
- d. The "daily maximum" **discharge** is the total discharge by volume during any day.
- e. The "daily maximum" **concentration** is the highest measurement made on any single discrete sample or composite sample.
- f. A "grab" sample is any sample collected in less than 15 minutes.
- g. Unless otherwise specified, a composite sample is a combination of individual samples collected over the specified sampling period;
 - (1) at equal time intervals, with a maximum interval of one hour
 - (2) at varying time intervals (average interval one hour or less) so that each sample represents an equal portion of the cumulative flow.

The duration of the sampling period shall be specified in the Monitoring and Reporting Program. The method of compositing shall be reported with the results.

7. Annual Pretreatment Report Requirements:

Applies to dischargers required to have a Pretreatment Program as stated in waste discharge requirements.)

The annual report shall be submitted **by 28 February** and include, but not be limited to, the following items:

- a. A summary of analytical results from representative, flow-proportioned, 24-hour composite sampling of the influent and effluent for those pollutants EPA has identified under Section 307(a) of the Clean Water Act which are known or suspected to be discharged by industrial users.

The discharger is not required to sample and analyze for asbestos until EPA promulgates an applicable analytical technique under 40 CFR (Code of Federal Regulations) Part 136. Sludge shall be sampled during the same 24-hour period and analyzed for the same pollutants as the influent and effluent sampling and analysis. The sludge analyzed shall be a composite sample of a minimum of 12 discrete samples taken at equal time intervals over the 24-hour period. Wastewater and sludge sampling and analysis shall be

E. Dischargers Exempt from Chapter 15 (continued)

performed at least annually. The discharger shall also provide any influent, effluent or sludge monitoring data for nonpriority pollutants which may be causing or contributing to Interference, Pass Through or adversely impacting sludge quality. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto.

- b. A discussion of Upset, Interference, or Pass Through incidents, if any, at the treatment plant which the discharger knows or suspects were caused by industrial users of the system. The discussion shall include the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of the industrial user(s) responsible. The discussion shall also include a review of the applicable pollutant limitations to determine whether any additional limitations, or changes to existing requirements, may be necessary to prevent Pass Through, Interference, or noncompliance with sludge disposal requirements.
- c. The cumulative number of industrial users that the discharger has notified regarding Baseline Monitoring Reports and the cumulative number of industrial user responses.
- d. An updated list of the discharger's industrial users including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The discharger shall provide a brief explanation for each deletion. The list shall identify the industrial users subject to federal categorical standards by specifying which set(s) of standards are applicable. The list shall indicate which categorical industries, or specific pollutants from each industry, are subject to local limitations that are more stringent than the federal categorical standards. The discharger shall also list the noncategorical industrial users that are subject only to local discharge limitations. The discharger shall characterize the compliance status through the year of record of each industrial user by employing the following descriptions:
 - (1) Complied with baseline monitoring report requirements (where applicable);
 - (2) Consistently achieved compliance;
 - (3) Inconsistently achieved compliance;
 - (4) Significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii);

E. Dischargers Exempt from Chapter 15 (continued)

- (5) Complied with schedule to achieve compliance (include the date final compliance is required);
- (6) Did not achieve compliance and not on a compliance schedule;
- (7) Compliance status unknown.

A report describing the compliance status of any industrial user characterized by the descriptions in items (d)(3) through (d)(7) above shall be **submitted quarterly from the annual report date** to EPA and the Board. The report shall identify the specific compliance status of each such industrial user. This quarterly reporting requirement shall commence upon issuance of this Order.

- e. A summary of the inspection and sampling activities conducted by the discharger during the past year to gather information and data regarding the industrial users. The summary shall include but not be limited to, a tabulation of categories of dischargers that were inspected and sampled; how many and how often; and incidents of noncompliance detected.
- f. A summary of the compliance and enforcement activities during the past year. The summary shall include the names and addresses of the industrial users affected by the following actions:
 - (1) Warning letters or notices of violation regarding the industrial user's apparent noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the apparent violation concerned the federal categorical standards or local discharge limitations;
 - (2) Administrative Orders regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;
 - (3) Civil actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;

E. Dischargers Exempt from Chapter 15 (continued)

- (4) Criminal actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - (5) Assessment of monetary penalties. For each industrial user identify the amount of the penalties;
 - (6) Restriction of flow to the treatment plant; or
 - (7) Disconnection from discharge to the treatment plant.
-
- g. A description of any significant changes in operating the pretreatment program which differ from the discharger's approved Pretreatment Program, including, but not limited to, changes concerning: the program's administrative structure; local industrial discharge limitations; monitoring program or monitoring frequencies; legal authority or enforcement policy; funding mechanisms; resource requirements; and staffing levels.
 - h. A summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases.
 - i. A summary of public participation activities to involve and inform the public.
 - j. A description of any changes in sludge disposal methods and a discussion of any concerns not described elsewhere in the report.

Duplicate signed copies of these reports shall be submitted to the Board and:

Regional Administrator
U.S. Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

and

State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Revised March 1993 to update phone number of Central Valley Regional Board.

EXHIBIT 2



1001 Galaxy Way
Suite 310
Concord CA 94520

925.949.5800 phone
530.756.5991 fax
westyost.com

September 22, 2022

Project No.: 988-50-22-02
SENT VIA: EMAIL

Mr. John Baum
Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, No. 200
Rancho Cordova, CA 95670
John.Baum@waterboards.ca.gov

SUBJECT: City of Lone Acceptance of Secondary Effluent from Preston Reservoir into the City of Lone Tertiary Plant

Dear Mr. Baum:

This letter has been developed by West Yost on behalf of the City of Lone (City). The City received the Central Valley Regional Water Quality Control Board's (Regional Board's) September 9, 2022, letter, Subject: *Preston Reservoir Capacity and Tertiary Plant Nuisance Conditions, City of Lone, Amador County Regional Outfall and Castle Oaks Golf Course and Development, Amador County*. The City appreciates the Regional Board's consideration of the complex situation between the City and the Amador Regional Sanitation Authority (ARSA) that is outlined in this letter and the Regional Board's agreement to suspend any enforcement related to nuisance odors. However, the City has several concerns related to the acceptance of wastewater from the ARSA's Preston Reservoir into the City of Lone Tertiary Plant (Tertiary Plant) that are not adequately addressed by this letter¹. These issues are as follows:

- The letter understates the potential impacts to the City resulting from acceptance of ARSA flows,
- The letter does not adequately acknowledge actions that must be taken by ARSA to address the regional discharge capacity issues both in the near and long-term, and
- The letter provides reporting expectations that require additional clarification from the Regional Board to ensure the City can satisfy the Regional Board's request.

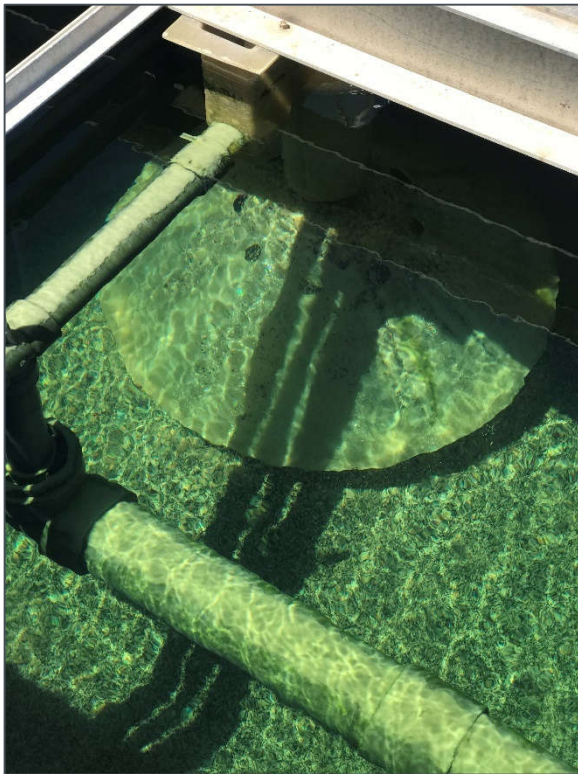
¹ This letter is not intended to address any contractual dispute between the City and ARSA. Rather, the City seeks the Board's support in addressing the immediate water quality issues arising from ARSA sending its effluent from Preston to the Tertiary Plant.

IMPACTS OF ACCEPTING ARSA FLOW

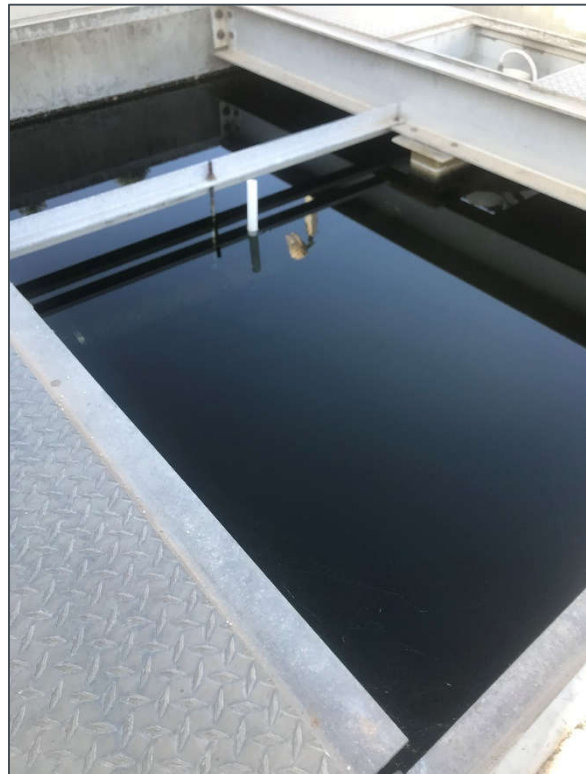
The City has identified several impacts of accepting ARSA flows that extend beyond the odor/nuisance issues addressed in the Regional Board's letter. These include potential for exceedances of the limitations outlined in Water Reclamation Requirement Order No. 93-240 (WRRs 93-240), cost implications for the City, impacts to staff and exposure to regulatory actions. These issues are discussed in detail in the following sections.

Elevated Turbidity Could Lead to Exceedances of Effluent Limitations

The City receives flows from both ARSA and the California Department of Corrections and Rehabilitation's (CDCR's) Mule Creek State Prison wastewater treatment plant. The two pictures on the following page show the quality of water received from these two sources in August 2022.



Picture 1. Flow Received at the Tertiary Plant
From CDCR



Picture 2. Flow Received at the Tertiary Plant
From ARSA

As shown in the pictures above, the turbidity of the water received from ARSA is noticeably higher than the water received from CDCR, where the flow from CDCR is typical of what would be sent to the tertiary facilities at any water recycling treatment plant. WRRs 93-240 requires that the final effluent turbidity remain between 2 NTU (monthly median) and 5 NTU (daily maximum). Based on information provided by the Tertiary Plant operations staff, the City was unable to meet these turbidity limitations when the ARSA flow treated exceed between 300,000 to 600,000 gallons per day (gpd) in June and August 2022. The exact maximum flow that can be reliably treated is unknown and is being evaluated through testing. ***At this time, the Tertiary Plant operations staff believe that the maximum flow that can be reliably treated without exceeding the turbidity limits is approximately 500,000 gpd. However, the flow that can be treated in any given day will depend on the water quality received.***

Even with limiting the flow to less than 500,000 gpd, the City is concerned that there will be violations of the recycled water turbidity limits. Moreover, because water recycling permits include turbidity limits as a measure to help to ensure reliable disinfection, exceeding the turbidity limits could also result in violation of the coliform limits – and potentially worse, result in inadequately disinfected flow being spray irrigated on a public golf course that is adjacent to homes.

Potentially Unable to Meet Golf Course Irrigation Demands when Preston Reservoir is the Source of Flow

The golf course irrigation demands typically exceed the 300,000 and 500,000 gpd of flow that can be reliably treated from Preston Reservoir without risking violation of the turbidity limitations of WRRs 93-240. Moreover, the water delivery system from CDCR and Preston Reservoir to the Tertiary Plant only allows for flow either from ARSA or from CDCR to be delivered but not both sources of flow at the same time. Because there are no water quality issues with the CDCR flow, the City can readily meet the golf course irrigation demands when irrigating with CDCR flow. However, the City may be unable to meet the golf course irrigation demands when Preston Reservoir is the source of irrigation flow.

Table 1 shows the historical average daily demands for the golf course and the historical number of days where the demands were 500,000 gpd or less and 400,000 gpd or less. As shown, the demands for the golf course typically exceed the amount of ARSA water that can be treated daily in September and can at times exceed this amount in October. Moreover, depending on the flow that can ultimately be reliably treated each day, there may be very few days remaining when the golf course demands are within the range that can match the ARSA treatment rate.

Table 1. Castle Oaks Golf Course Irrigation Demands						
Month	20117	2018	2019	2020	2021 ^(a)	2017 – 2020 Average
Average Monthly Castle Oaks Golf Course Irrigation Demands						
September	770,000	800,000	800,000	540,000	330,000	728,000
October	570,000	270,000	600,000	470,000	370,000	478,000
November	-	180,000	550,000	360,000	-	273,000
December	-	-	-	-	-	-
Number of Days Castle Oaks Golf Course Irrigation Demands Were 500,000 gpd or Less						
September	-	-	-	21	27	5
October	6	28	4	31	22	17
November	-	18	2	17	-	9
December	-	-	-	-	-	-
Total	6	46	6	69	49	32
Number of Days Castle Oaks Golf Course Irrigation Demands Were 400,000 gpd or Less						
September	-	-	-	4	21	1
October	4	28	2	-	13	9
November	-	18	1	12	-	8
December	-	-	-	4	21	-
Total	4	46	3	16	34	17
(a) In 2021, ARSA elected not to discharge to the Tertiary Plant after May citing there was no water available. This action resulted in lower-than-normal flows being directed to the golf course. Therefore, 2021 is not included in the long-term average. The City was also required to credit the golf course financially for not providing adequate supplies in 2021.						

Given the information presented in Table 1, the City has two options for treating ARSA flows over the next few months:

- a) Treat ARSA flows more than 500,000 gpd and thus risk violation of the effluent turbidity and coliform limitations (discussed in the previous section), or
- b) Supply only 500,000 gpd day (or less) to the golf course.

With the decreased temperatures and rainfall over the weekend of September 17, the City started accepting ARSA flow on September 19 at a rate of approximately 200,000 gpd and this rate has since been increased to approximately 400,000 gpd. The City plans to make every effort to maintain treatment of the ARSA flows through the end of the irrigation season. However, the City cannot guarantee that the golf course demands will not increase again in late September and/or October.

It should also be noted that the City cannot quickly switch back and forth between treating ARSA flow and CDCR flow as a means of addressing the supply issue. Because these two sources of water have such different water qualities, staff must test and change polymer dosing regimens when the water supplies are changed to ensure reliable treatment. This process typically takes 12 to 24 hours.

It is unclear why the quality of water received at the Tertiary Plant from the ARSA system is so poor. It is understood that the water being directed to the Tertiary Plant is pulled from near the bottom of Preston Reservoir. Therefore, ARSA may be able to implement a temporary pumping strategy that would eliminate the odor and turbidity issues with the current supply. For example, a temporary pumping system could potentially be used to draw water from the top of Preston Reservoir instead of the existing system that pulls water from the bottom of the reservoir. ***If ARSA is successful in implementing a temporary pumping strategy that improves water quality in the near term, the City could likely accept flows from Preston Reservoir at a higher rate. Finally, even if the water quality issues cannot be resolved within this irrigation season, ARSA must develop a strategy that improves the water quality directed to the City of Lone's WWTP prior to the City acceptance of flow in 2023.***

Added Cost of Treatment

The elevated levels of turbidity and organic compounds in the ARSA flow requires a significant amount of chemical addition (i.e., polymer and hypochlorite) to meet the WRRs 93-240 effluent limitations. The demands for polymer and hypochlorite for the ARSA flow as compared to the CDCR flow based on the two attempts the City has made to treat ARSA flow between June 13 and August 31 is shown in Table 2. As shown, the polymer dose is approximately twice what would typically be needed, and the hypochlorite dose is approximately fifty percent higher.

Table 2. Average Monthly Castle Oaks Golf Course Irrigation Demands June 12 through August 31		
Source of Flow	Polymer Dose, mg/L	Hypochlorite Dose, mg/L
ARSA	68	7.2
CDCR	32	5.0

To develop an estimate of how much these dosages will add to the total cost of treatment, an estimate of the total flow that could potentially be treated by the end of the irrigation season has been developed. Table 3 shows the total historical number of days that remain in the irrigation season and the estimated volume of water that can be applied to the golf course assuming a 400,000 gpd application rate. As shown, it is estimated that the City could be able to treat up to 22.3 million gallons of ARSA flow by the end of the irrigation season if a rate of 400,000 gpd can be maintained without causing damage to the golf course or a violation of WRR 93-240.

Table 3. Average Monthly Castle Oaks Golf Course Irrigation Demands						
Month	20117	2018	2019	2020	2021 ^(a)	2017 – 2020 Average
Total Remaining Days in Irrigation Season						
September	11	11	11	11	11	11
October	29	31	28	31	22	30
November	-	18	25	17	-	15
December	-	-	-	-	-	-
Total Flow Treated at 400,000 gpd						
September	4.4	4.4	4.4	4.4	4.4	4.4
October	11.6	12.4	11.2	12.4	8.8	11.9
November	-	7.2	10.0	6.8	-	6.0
December	-	-	-	-	-	-
Total	16.0	24.0	25.6	23.6	12.8	22.3^(b)
(a) In 2021, ARSA elected not to discharge to the Tertiary Plant after May citing there was no water available. This action resulted in lower-than-normal flows being directed to the golf course. Therefore, 2021 is not included in the long-term average. The City was also required to credit the golf course financially for not providing adequate supplies in 2021.						
(b) The average 2017 to 2020 treatment volume between September 19 and December 31 was 26.8 million gallons.						

Table 4 establishes the chemical costs associated with treatment of the remaining flow based on the average chemical dosages observed between June 13 and August 31. As shown, if the chemical doses remain the same as they have been, the City may incur costs as much as \$72,000 beyond what the costs would be for a typical secondary treated wastewater received from CDCR.

Table 4. Average Monthly Castle Oaks Golf Course Irrigation Demands							
Source of Flow	Total Estimated Flow Treated, million gallons	Polymer Requirements		Hypochlorite Requirements		Total Cost, dollars	Cost per Million Gallon Treated, dollars
		Average Dose, mg/L	Cost of Chemical, dollars ^(a)	Average Dose, mg/L	Cost of Chemical, dollars ^(a)		
ARSA	22.3	68	135,000	7.2	2,700	137,700	6,200
CDCR		32	64,000	5.0	1,900	65,900	3,000
Cost Difference						\$71,800	\$3,200
(a) Based on a cost of \$10.68 per pound delivered.							
(b) Based on a 12.5 percent solution at a cost of \$2.09 per gallon delivered.							

Under the *Agreement to Regulate Use of Henderson / Preston Wastewater Disposal System* (2007 Agreement) and the subsequent *First Implementation and Mediation Settlement Agreement* (2016 Settlement) ARSA was only required to pay the City a portion of what the estimated operating costs of the Tertiary Plant were in 2016 to cover their portion of plant operation costs. In 2021, ARSA paid total of \$68,000. As shown in Table 4, assuming payments are made by ARSA consistent with those received in 2021, ARSA would likely be approximately \$70,000 less than the City's chemical costs. The shortfall is even greater once operations staff time or other treatment facility related expenses are considered.

It should also be noted that in 2021 ARSA elected not to direct flow to the CORWP facility after May of 2021 – citing there was not any water available. This action by ARSA resulted in lower-than-normal flows being directed to the golf course. Unfortunately, this lower flow to the golf course resulted in damage to the course, which resulted in the City having to credit the golf course approximately \$21,000. Therefore, if impacts to the golf course were to occur again in 2022 due to the lower flows that can be treated by ARSA, the costs to the City associated with handling the ARSA flows could be even higher than just the operating costs.

The analysis presented above is further substantiated by the City's operating data from 2021. In this year, the City treated a total flow of approximately 132 million gallons. The expenses associated with CORWP operation were approximately \$233,000, which equates to a cost of approximately \$1,770 per gallon treated². However, the City only received an income of approximately \$165,000. Although this differential is due, in part, to the \$21,000 credit provided to the golf course, the data demonstrates that the City regularly does not receive adequate income from the parties that benefit from the operation of the Tertiary Plant to cover the cost of operations. ***Given that there is not a current agreement with ARSA and the history of underpayments as compared to operating costs, the City requests that some guarantee from ARSA be made regarding covering the cost of treatment in 2022.***

Potential for Impacts to Staff

While the WRR 93-240 nuisance conditions requirements are understood to be principally designed to protect the public from the Tertiary Plant and golf course irrigation operations, prohibition of nuisance conditions also protects the staff operating the Tertiary Plant and golf course. Foregoing enforcement does not ensure that the Tertiary Plant and golf course operations staff will be adequately protected from noxious odors while completing their work. If injury were to occur, the City would potentially be liable.

Potential for Regulatory Action

While the City appreciates that the Board would forego enforcement of the nuisance prohibition, the City may still be subject to regulatory action for permit violations. This could include liabilities from regulatory bodies such as the Amador County Air Pollution Control District. In addition, the Tertiary Plant operations staff could be subject to liability related to their individual operator licenses.

² Note that there was a 32 percent increase in polymer costs between 2021 and 2022.

ACTIONS TO BE TAKEN BY ARSA

As discussed above, the City is taking on considerable risk by agreeing to accept the poor-quality flow from ARSA's Preston Reservoir into the Tertiary Plant. The City is concerned that the Regional Board's stated commitment to working with ARSA to resolve issues related to the operation of their facilities will not be adequate to address the many issues at hand. ARSA must also take some actions to help ensure the issues faced in the near term do not persist in the future. These suggested actions are outlined in the sections below.

ARSA Must Seek Other Options for Short-Term Disposal

The City's facilities do not have the disposal capacity available to receive and/or reuse the total volume of concern from ARSA's Preston Reservoir. The City understands that ARSA would like to discharge at least about 38 million gallons from Preston Reservoir to the Tertiary Plant to lower Preston Reservoir to acceptable levels. As noted in Table 3 above, it is estimated that the total flow that can be received is, at best, about 22 million gallons (unless modifications that improve water quality are made by ARSA). This leaves a shortfall of approximately 16 million gallons that must be discharged in some other way.

The City currently treats the flow generated within the City at its Wastewater Treatment Plant (WWTP), which is a pond-based treatment system that provides for disposal via land application on agricultural properties and percolation disposal. The City can direct ARSA flows from the Tertiary Plant to the WWTP's Storage Pond 5. However, the City cannot accept this flow if it risks the City's ability to maintain adequate disposal capacity for the City's wastewater. Storage Pond 5, which is the primary storage pond at the WWTP, is currently nearly full. The farmer that manages the one of the City's land application areas (i.e., the City Field) plans to plant the field in alfalfa in the next few weeks. This will result in some water use from Pond 5. At the end of the golf course irrigation season, the City will assess the potential for Pond 5 to accept some flow from ARSA. However, it is anticipated that this flow would, at best, could be another 3 to 5 million gallons³.

Given the limitations discussed above, it is unlikely that the City can accept all the flow needed to return Preston Reservoir to safe water levels. Therefore, ARSA should begin evaluating other options for short-term disposal. ***Specifically, ARSA should be required to begin hauling flow from Preston Reservoir to a facility that can accept the flow as soon as possible.*** It is critical that the City initiate this hauling process now, as it will take time for ARSA to get a permit and contracts in place to facilitate this effort. Moreover, the City will not know until later in the year how much flow could be accepted and waiting until this is known will be too late.

³ If the City were to allow ARSA flow to be sent to Pond 5, there would be a concern with causing nuisance conditions at the WWTP. Waste Discharge Requirements Order R5-2013-0022-001, which governs WWTP operations and discharge, includes a parallel prohibition against causing nuisance (i.e., noxious odors). The City would therefore need assurance that the nuisance prohibition on the WWTP (Discharge Specification E.2) would also not be enforced during the period specified in the letter. The City would nevertheless still have the concerns with respect to third parties – both private parties and other governmental agencies – and operator safety noted above for the Tertiary Plant and golf course.

ARSA Must Commit to Improving Water Quality Directed to the Tertiary Plant

To allow for continued discharge beyond 2022, ARSA must take actions to improve the water quality directed to the Tertiary Plant. Such actions may include but are not limited to dredging/removing the accumulated solids from the reservoir and relocating the outfall structure.

ARSA Discharge to the Tertiary Plant Must Cease in the Long-Term

The City owns, and is responsible for operation of, the Tertiary Plant. The City has historically discharged the secondary effluent generated at the City's WWTP two percolation basins. However, these basins do not provide adequate capacity to meet the City's long-term disposal need.

Moreover, the City is currently operating under a Cease-and-Desist Order (CDO) from the Regional Board that includes a requirement to eliminate the percolation basins if groundwater quality does not improve. The City has recently spent over \$5 million dollars to line the treatment ponds and improve treatment at the WWTP to address the groundwater quality issues identified in the CDO. The City has demonstrated that they are good stewards of the environment, and that they want to meet their permit obligations and the requirements of the CDO. One of the final steps needed to help the City meet the compliance requirements of the CDO (as well as provide adequate disposal capacity for the City's wastewater) is connecting the WWTP to the Tertiary Plant so the City can reduce usage of the percolation basins.

The City is concerned that the position of the Regional Board in this process is leading to a situation where the City is required to accept ARSA flow indefinitely – which then will put the City's treatment facilities in danger of overflowing and/or violation. Regardless of what short-term allowances are made for the City to receive ARSA flow at the Tertiary Plant (and WWTP), the Board must acknowledge and address the long-term capacity limitations for the City to continue receiving ARSA flows.

REGIONAL BOARD REPORTING EXPECTATIONS

Finally, in addition to the issues discussed above, the City has the following concerns regarding the Regional Board reporting expectations described in the subject letter:

- The letter indicates that information should be provided on a weekly basis. However, it is not clear where or to whom this information should be submitted (absent the water quality data described below).
- The letter indicates that this data submission should address "how the complaint(s) [nuisance complaints received by the City and the golf course] were resolved". The City is unclear what resolution can be made regarding odor complaints given the Regional Board's direction regarding the City's acceptance of the ARSA flow. Additional direction from the Regional Board is needed to understand how the City is to handle any complaints received.
- The data request indicates that "all previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity" shall be provided to Kari Holmes of the Regional Board. For the most part, these samples have been collected using online monitoring equipment (filter effluent turbidity), in-house benchtop equipment (other turbidity grab samples), or handheld devices (hydrogen sulfide). The City's filter effluent turbidity meter measures data continuously, but only records daily average values in accordance with the WRR requirements. Other data collected by the City using handheld and/or benchtop devices has only been recorded to date in the daily operations logs.

It is not clear whether the Regional Board is seeking submission of the City's operations data or only data that has been analyzed by a laboratory. It is also not clear whether the Regional Board is requesting that the City implement a data collection strategy that includes water quality samples that are sent to a laboratory for analysis.

To date the City has only collected the following samples that were sent to a laboratory:

- One sample of the Tertiary Plant influent was collected when ARSA was discharging on June 17, 2022. This sample was analyzed for sulfide and tannins by Alpha laboratories.
- Two samples were collected from the Preston Reservoir effluent when ARSA was discharging on August 30, 2022. These samples were analyzed for sulfide by Alpha laboratories.
- Two samples from the Tertiary Plant influent when ARSA was discharging on August 30, 2022. These samples were analyzed for sulfide by Alpha laboratories

The City plans to submit this sampling data per the request.

- The City is concerned that the monitoring data request combines information that can only be provided by ARSA (i.e., Preston Reservoir data) and information that can only be provided by the City (i.e., Tertiary Plan operations data). By combining the reporting expectations as they are stated in the letter, it is not clear who is responsible for the submissions.

Given these concerns, the City would like an opportunity to discuss further the reporting expectations presented in the letter and work together with the Regional Board to develop a reporting plan that is practical and implementable.

PROPOSED NEXT STEPS

The City respectfully requests that the Board consider the concerns documented above and prepare a revised letter that addresses the following specific issues:

- ARSA must make immediate improvements to the Preston Reservoir withdraw system to improve water quality discharged to the Tertiary Plant, otherwise the City will be limited in the amount of flow that can be received.
- ARSA must make permanent changes to the Preston Reservoir withdraw and pumping system to improve water quality delivered to the City of Lone.
- The Board should establish a timeline for ARSA to complete the activities described above, with a final compliance date that is prior to discharging any flow to the Tertiary Plant in 2023.
- ARSA must implement a strategy to discharge some of the water stored in Preston Reservoir at an alternative location. At a minimum, this strategy should include pumping and hauling stored water to a facility that can accommodate the flow.
- ARSA must agree to pay for cost of treatment of all Preston Reservoir flow that is received.
- ARSA must agree to pay for any regulatory penalties incurred by the City related to accepting the Preston Reservoir flow.
- ARSA should agree to assume on behalf of the City any and all legal liability resulting from the poor water quality of the Preston Reservoir flow delivered to the City, including odor conditions and elevated levels of turbidity and organic compounds that cannot be fully mitigated despite the City's best efforts.

- The Regional Board should acknowledge the potential liabilities for the Tertiary Plant operators resulting from ARSA's delivery of Preston Reservoir flow that may result in a violation of WRRs 93-240. The Regional Board should also coordinate with the State Water Resources Control Board (State Water Board) to issue a letter providing assurance that the State Water Board will not pursue administrative civil liability or disciplinary action against Tertiary Plant operators who do not act willfully, negligently, or unreasonably in carrying out the Regional Board's request that the City accept water from Preston Reservoir.
- The Board should acknowledge that the City does not have the capacity to accept ARSA flow in the long-term.
- The Board should acknowledge the improvements made by the City related to groundwater quality and agree to work with the City to identify the steps necessary to rescind the CDO issued for the City's WWTP.
- The Board should rescind the reporting expectations described in the September 9 letter and provide new reporting expectations, as appropriate, following discussions with the City.

Thank you for your attention to these concerns. The City appreciates the complexity of the regional wastewater disposal capacity issues and has demonstrated they are willing to work with the Regional Board and ARSA to find mutually agreeable solutions. However, the regional partners also need to share the cost for developing these solutions based on equitable cost of service allocations, so the customers of each entity are paying their fair share of the capital and operation and maintenance costs. The City looks forward to working together with the Regional Board to address these important issues during the discussion scheduled for October 3.

Sincerely,



Kathryn Gies, P.E.
Engineering Manager

c.c. Dan Epperson, City of Lone Mayor
Michael Rock, City Manager
Carolyn Walker, City of Lone City Attorney
Robin Peters, ARSA Board Chairman
Amy Gedney, ARSA General Manager, City of Sutter Creek City Manager
Dominic Atlan, Castle Oaks Golf Course Manager

EXHIBIT 3

October 11, 2022



Ms. Kari Holmes
Supervising Water Resources Control Engineer
Compliance & Enforcement Program
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Dear Ms. Holmes:

On October 10, 2022, the City of Ione (City) was ordered by a Superior Court of the State of California to accept 500,000 gallons per day of ARSA's secondary effluent from the Preston Reservoir for the next 30 days, for a total of 15 million gallons received. The City is taking every available measure to comply with the court's order. The Court has not yet served a signed copy of the order on the parties. We will forward a copy for your records upon receipt.

Importantly, the City is now required to accept ARSA flow regardless of whether we can treat it reliably to meet the limitations of the Tertiary Plant's Permit, whether it is raining, or whether the golf course is saturated. As noted in our October 7, 2022 letter to you, the City estimates that the average total volume discharged to the Castle Oaks Golf Course from October 1 through the end of November has been, on average, approximately 20 million gallons. However, the ability for the golf course to accept this much flow is contingent on rainfall. Indeed, in 2016 and 2017 when there was some significant rainfall in October and November, the volume of water taken by the golf course was closer to 10 to 15 million gallons.

Compliance with the court order puts the City and our operations staff at great risk for noncompliance with the applicable permitting conditions. Because the City will likely need to direct some of the ARSA flow to the City's secondary Wastewater Treatment Plant (WWTP) – particularly if rainfall is to occur – we are now very concerned that we will be at risk of violation of the permit for the secondary facility.

Due to the evolving situation, it is critical that the City have the assurances that we will be protected from penalty associated with the acceptance of ARSA flow at either of our facilities. We respectfully reiterate our request that the Regional Board issue a letter as soon as possible that addresses the four issues summarized in our October 7, 2022 letter. For reference, we specifically request that the letter address the following:

1. The City needs reassurance that the Regional Board will exercise its prosecutorial discretion not to pursue enforcement of any violations of our permit conditions that result from the City's continued acceptance and treatment of ARSA flows from Preston Reservoir in the Tertiary Plant.
2. With the injunction now in place and the increased likelihood that the City will need to accept some ARSA flows at the secondary WWTP, the City also needs reassurance that the Regional Board will exercise its prosecutorial discretion not to pursue

enforcement of violations of any permit requirements that result from the City's acceptance and treatment of ARSA flows from Preston Reservoir in the secondary WWTP.

3. The City needs reassurance that the Regional Board will coordinate with the State Water Resources Control Board not pursue administrative civil liability or disciplinary action against the City's contract plant operators.
4. The City requests that the Regional Board require, or at least acknowledge, ARSA's agreement to pay the City's costs of treatment of flows from Preston Reservoir.

With such a letter in place, the Tertiary Plant operations staff will have increased comfort to direct as much flow to the Castle Oaks golf course as possible – thus preserving the storage and disposal capacity provided at the secondary WWTP for the City's flows to the extent feasible and supporting the City's efforts to comply with the court order.

We appreciate your timely consideration of this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "MRock", is written over a horizontal line.

Michael Rock, City Manager

RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 17, 2022, I submitted a true and correct copy of the following document(s):

**DECLARATION OF MICHAEL ROCK IN SUPPORT OF EX PARTE APPLICATION
TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION**

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

X Via Fed Ex service, the document(s) listed above were served via fed ex to the addresses as set forth in the service list.

_____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully prepaid thereon and placing said envelope in the area designated for outgoing daily mail address per the service list.

SERVICE LIST

Via Fed Ex and Via Email

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Attorneys for Plaintiff

Via Email

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MARGARET LONG (SBN 227176)
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Facsimile: (530) 691-0700
david@prenticelongpc.com
margaret@prenticelongpc.com
carolyn@prenticelongpc.com

I declare under penalty of perjury that the foregoing is true and correct. Executed on
October 17, 2022, at Sacramento, California.



Corene E. Rodder

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Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

SUPPLEMENTAL DECLARATION OF
MICHELLE E. CHESTER IN SUPPORT
OF EX PARTE APPLICATION FOR
ORDER TO MODIFY OCTOBER 10, 2022
ORDER AND PRELIMINARY
INJUNCTION

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

1 I, Michelle E. Chester, hereby declare:

2 1. I am an attorney licensed to practice in the State of California. I am counsel for
3 Defendant City of Ione (Ione) in the above-referenced titled matter. I submit this declaration in
4 support of the Ex Parte Application for Order to Modify October 10, 2022 Order and Preliminary
5 Injunction. I have personal knowledge of the facts contained herein, and if called upon to do so,
6 could and would testify competently thereto.

7 2. On the afternoon of October 18, 2022, my client informed me that the Castle Oaks
8 Water Reclamation Plant (Plant), owned and operated by Ione, had temporarily shut down
9 because of high levels of hydrogen sulfide gas in the Plant. Attached hereto as Exhibit 1 is a true
10 and correct copy of the report prepared by the Ione Fire Department for Incident No. 22-29880.
11 As stated in the report, two fire department crews were dispatched to the Plant to review and
12 confirm high hydrogen sulfide gas readings. Monitor alarms are activated when the hydrogen
13 sulfide gas readings exceed 10 percent, the combustible/explosive limit for the Plant. The
14 readings observed at 1:00 P.M. on October 18, 2022 were within the range of 13 to 14 percent.

15 3. As stated in Exhibit 1, employees inside the building experienced headache
16 symptoms. The employees did not require emergency medical assistance. I was informed by my
17 client that no Ione employees or system operator personnel are currently inside the Plant.

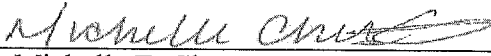
18 4. As further stated in Exhibit 1, the gas readings will be re-checked at 6:45 A.M. on
19 October 19, 2022. I do not have further information from my client at this time as to whether or
20 how soon the Plant will be operational based on the re-check of the gas readings.

21 3. System operators of the Plant were unavailable due to the emergency
22 circumstances during the afternoon of October 18, 2022 and were, therefore, unavailable to
23 provide declarations of the facts of the chemical exposure at the Plant. Ione's City Manager was
24 also unavailable during the afternoon of October 18, 2022 due to a previously scheduled medical
25 procedure.

26 4. The purpose of this declaration is to provide this Court with all current information
27 regarding Ione's immediate inability to comply with the October 10, 2022 Order and Preliminary
28 Injunction due to the above-described emergency circumstances.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed this 18th day of October 2022 in Sacramento, California.

3
4 DATED: October 18, 2022

By 
Michelle E. Chester
Attorney for Defendant City of Ione

RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 18, 2022, I submitted a true and correct copy of the following document(s):

SUPPLEMENTAL DECLARATION OF MICHELLE E. CHESTER IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

X Via Overnight mail service, the document(s) listed above were served via overnight mail to the addresses as set forth in the service list

_____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully prepaid thereon and placing said envelope in the area designated for outgoing daily mail address per the service list.

SERVICE LIST

Via Overnight Mail and Email

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carolyn@prenticelongpc.com

SUPPLEMENTAL DECLARATION OF MICHELLE E. CHESTER IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 October 18, 2022, at Sacramento, California.

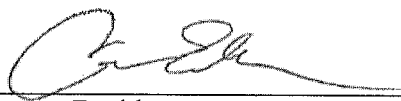
3 
4 Corene Rodder

EXHIBIT A

CITY OF IONE FIRE DEPARTMENT

Incident # 22-29880

**Incident Name
“Treatment”**

10-18-2022

1243 hrs

A FDID * <u>03010</u> State * <u>CA</u> Incident Date * <u>10</u> <u>18</u> <u>2022</u> Station <u>162</u> Incident Number * <u>22-0029880</u> Exposure * <u>000</u> <input type="checkbox"/> Delete <input type="checkbox"/> Change <input type="checkbox"/> No Activity NFIRS -1 Basic											
		MM DD YYYY									
B Location* <input type="checkbox"/> Check this box to indicate that the address for this incident is provided on the Wildland Fire Census Tract <u>0015</u> - <u>00</u> Module in Section A "Alternative Location Specification". Use only for Wildland fires. <input checked="" type="checkbox"/> Street address <u>10100</u> <u>Five Mile</u> <u>DR</u> <u>CA</u> <u>95640</u> <input type="checkbox"/> Intersection Number/Milepost Prefix Street or Highway Street Type Suffix <input type="checkbox"/> In front of <input type="checkbox"/> Rear of Apt./Suite/Room City State Zip Code <input type="checkbox"/> Adjacent to <input type="checkbox"/> Directions Cross street or directions, as applicable											
C Incident Type * <u>400</u> Hazardous condition, Other: Incident Type			E1 Date & Times Midnight is 0000 Check boxes if dates are the same as Alarm Date. ALARM always required Alarm * <u>10</u> <u>18</u> <u>2022</u> <u>12:43:00</u> ARRIVAL required, unless canceled or did not arrive <input checked="" type="checkbox"/> Arrival * <u>10</u> <u>18</u> <u>2022</u> <u>12:51:00</u> CONTROLLED Optional, Except for wildland fires <input type="checkbox"/> Controlled LAST UNIT CLEARED, required except for wildland fires <input checked="" type="checkbox"/> Last Unit Cleared <u>10</u> <u>18</u> <u>2022</u> <u>13:15:00</u>				E2 Shift & Alarms Local Option <u>B</u> <u>02</u> Shift or Alarms District Platoon				
D Aid Given or Received* 1 <input type="checkbox"/> Mutual aid received 2 <input checked="" type="checkbox"/> Automatic aid recvd. Their FDID Their State 3 <input type="checkbox"/> Mutual aid given 4 <input type="checkbox"/> Automatic aid given 5 <input type="checkbox"/> Other aid given Their Incident Number N <input type="checkbox"/> None			E3 Special Studies Local Option Special Study ID# Special Study Value								
F Actions Taken * <u>86</u> Investigate Primary Action Taken (1) Additional Action Taken (2) Additional Action Taken (3)			G1 Resources * <input type="checkbox"/> Check this box and skip this section if an Apparatus or Personnel form is used. Apparatus Personnel Suppression EMS Other <u>0003</u> <u>0003</u> <input type="checkbox"/> Check box if resource counts include aid received resources.				G2 Estimated Dollar Losses & Values LOSSES: Required for all fires if known. Optional for non fires. None Property \$ <u>000</u> <u>000</u> Contents \$ <u>000</u> <u>000</u> PRE-INCIDENT VALUE: Optional Property \$ <u>000</u> <u>000</u> Contents \$ <u>000</u> <u>000</u>				
Completed Modules <input type="checkbox"/> Fire-2 <input type="checkbox"/> Structure-3 <input type="checkbox"/> Civil Fire Cas.-4 <input type="checkbox"/> Fire Serv. Cas.-5 <input type="checkbox"/> EMS-6 <input type="checkbox"/> HazMat-7 <input type="checkbox"/> Wildland Fire-8 <input checked="" type="checkbox"/> Apparatus-9 <input checked="" type="checkbox"/> Personnel-10 <input type="checkbox"/> Arson-11			H1* Casualties None Deaths Injuries Fire Service Civilian H2 Detector Required for Confined Fires. 1 <input type="checkbox"/> Detector alerted occupants 2 <input type="checkbox"/> Detector did not alert them U <input type="checkbox"/> Unknown			H3 Hazardous Materials Release N <input type="checkbox"/> None 1 <input type="checkbox"/> Natural Gas: slow leak, no evacuation or HazMat actions 2 <input type="checkbox"/> Propane gas: <21 lb. tank (as in home BBQ grill) 3 <input type="checkbox"/> Gasoline: vehicle fuel tank or portable container 4 <input type="checkbox"/> Kerosene: fuel burning equipment or portable storage 5 <input type="checkbox"/> Diesel fuel/fuel oil: vehicle fuel tank or portable 6 <input type="checkbox"/> Household solvents: home/office spill, cleanup only 7 <input type="checkbox"/> Motor oil: from engine or portable container 8 <input type="checkbox"/> Paint: from paint cans totaling < 55 gallons 0 <input type="checkbox"/> Other: Special HazMat actions required or spill > 55gal., Please complete the HazMat form			I Mixed Use Property NN <input type="checkbox"/> Not Mixed 10 <input type="checkbox"/> Assembly use 20 <input type="checkbox"/> Education use 33 <input type="checkbox"/> Medical use 40 <input type="checkbox"/> Residential use 51 <input type="checkbox"/> Row of stores 53 <input type="checkbox"/> Enclosed mall 58 <input type="checkbox"/> Bus. & Residential 59 <input type="checkbox"/> Office use 60 <input type="checkbox"/> Industrial use 63 <input type="checkbox"/> Military use 65 <input type="checkbox"/> Farm use 00 <input type="checkbox"/> Other mixed use		
J Property Use* Structures 131 <input type="checkbox"/> Church, place of worship 161 <input type="checkbox"/> Restaurant or cafeteria 162 <input type="checkbox"/> Bar/Tavern or nightclub 213 <input type="checkbox"/> Elementary school or kindergarten 215 <input type="checkbox"/> High school or junior high 241 <input type="checkbox"/> College, adult education 311 <input type="checkbox"/> Care facility for the aged 331 <input type="checkbox"/> Hospital Outside 124 <input type="checkbox"/> Playground or park 655 <input type="checkbox"/> Crops or orchard 669 <input type="checkbox"/> Forest (timberland) 807 <input type="checkbox"/> Outdoor storage area 919 <input type="checkbox"/> Dump or sanitary landfill 931 <input type="checkbox"/> Open land or field 341 <input type="checkbox"/> Clinic, clinic type infirmary 342 <input type="checkbox"/> Doctor/dentist office 361 <input type="checkbox"/> Prison or jail, not juvenile 419 <input type="checkbox"/> 1-or 2-family dwelling 429 <input type="checkbox"/> Multi-family dwelling 439 <input type="checkbox"/> Rooming/boarding house 449 <input type="checkbox"/> Commercial hotel or motel 459 <input type="checkbox"/> Residential, board and care 464 <input type="checkbox"/> Dormitory/barracks 519 <input type="checkbox"/> Food and beverage sales 936 <input type="checkbox"/> Vacant lot 938 <input type="checkbox"/> Graded/care for plot of land 946 <input type="checkbox"/> Lake, river, stream 951 <input type="checkbox"/> Railroad right of way 960 <input type="checkbox"/> Other street 961 <input type="checkbox"/> Highway/divided highway 962 <input type="checkbox"/> Residential street/driveway 539 <input type="checkbox"/> Household goods, sales, repairs 579 <input type="checkbox"/> Motor vehicle/boat sales/repair 571 <input type="checkbox"/> Gas or service station 599 <input type="checkbox"/> Business office 615 <input type="checkbox"/> Electric generating plant 629 <input type="checkbox"/> Laboratory/science lab 700 <input type="checkbox"/> Manufacturing plant 819 <input type="checkbox"/> Livestock/poultry storage (barn) 882 <input type="checkbox"/> Non-residential parking garage 891 <input type="checkbox"/> Warehouse 981 <input type="checkbox"/> Construction site 984 <input type="checkbox"/> Industrial plant yard Lookup and enter a Property Use code only if you have NOT checked a Property Use box: Property Use <u>900</u> Outside or special property, <u>900</u>											
NFIRS-1 Revision 03/11/99											

K1 Person/Entity Involved Local Option ☐ Business name (if applicable) PERC WATER Area Code Phone Number

☐ Check This Box if same address as incident location. Then skip the three duplicate address lines.

Mr., Ms., Mrs. First Name Public works MI Last Name City of Ione Suffix

Number 10100 Prefix Street or Highway Five Mile Street Type DR Suffix

Post Office Box Apt./Suite/Room Head City IONE

State CA Zip Code 95640

☐ More people involved? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary

K2 Owner Local Option ☐ Same as person involved? Then check this box and skip The rest of this section.

Business name (if Applicable) Area Code Phone Number

☐ Check this box if same address as incident location. Then skip the three duplicate address lines.

Mr., Ms., Mrs. First Name MI Last Name Suffix

Number Prefix Street or Highway Street Type Suffix

Post Office Box Apt./Suite/Room City

State Zip Code

L Remarks Local Option ☐

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

Chief 6200 contacted on duty crews and also Mule Creek Fire to respond with their monitors and double check the readings at the location.

Both Engine companies arrived and took readings from the two top vent pipes and the following readings were observed at 1300 hours

Gas Meters at the top of the head works

H2S = 1 %

Combustible/Explosive range 13-14 % our monitor alarms activated for explosive range at 10%

O2 20.8 %

The crews advised Superintendent Waklee of their findings and confirmed that the PERC employees that were inside the building did not require any medical assistance or medic unit due to their head ache symptoms, none of the employees denied assistance.

The units will return on 10-19-2022 for a re check at 0645 hrs

L Authorization

Officer in charge ID 0703 Signature Bennett, James Position or rank FAE Assignment Month 10 Day 18 Year 2022

Check Box if ☐ same as Officer in charge. Member making report ID 8101 Signature Mackey, Ken Position or rank FC Assignment Month 10 Day 18 Year 2022

03010

FDID

*

CA

State *

MM

DD

YYYY

10

18

2022

Incident Date *

162

Station

22-0029880

Incident Number *

000

Exposure *

Complete
Narrative

Narrative:

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

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The units will return on 10-19-2022 for a re check at 0645 hrs

Weather Conditions on scene: 80 degrees 33 % Humidity winds 3-6 MPH

A		FDID 03010 *		State CA *		Incident Date 10/18/2022 *		Station 162		Incident Number 22-0029880 *		Exposure 000 *		<input type="checkbox"/> Delete <input type="checkbox"/> Change		NFIRS - 9 Apparatus or Resources	
		B Apparatus or * Resource		Date and Times <small>Check if same as alarm date</small> Month Day Year Hour Min						Sent <input checked="" type="checkbox"/>		Number of * People		Use <small>Check ONE box for each apparatus to indicate its main use at the incident.</small>		Actions Taken	
1		ID E5610	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 11		Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51											
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15											
2		ID E6234	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 11		Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51											
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15											
3		ID E6235	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 11		Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51											
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15											
4		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															
5		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															
6		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															
7		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															
8		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															
9		ID 	Dispatch <input type="checkbox"/>					<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Type 		Arrival <input type="checkbox"/>															
		Clear <input type="checkbox"/>															

Type of Apparatus or Resources

<p>Ground Fire Suppression</p> <p>11 Engine</p> <p>12 Truck or aerial</p> <p>13 Quint</p> <p>14 Tanker & pumper combination</p> <p>16 Brush truck</p> <p>17 ARF (Aircraft Rescue and Firefighting)</p> <p>10 Ground fire suppression, other</p> <p>Heavy Ground Equipment</p> <p>21 Dozer or plow</p> <p>22 Tractor</p> <p>24 Tanker or tender</p> <p>20 Heavy equipment, other</p> <p>Aircraft</p> <p>41 Aircraft: fixed wing tanker</p> <p>42 Helitanker</p> <p>43 Helicopter</p> <p>40 Aircraft, other</p>	<p>Marine Equipment</p> <p>51 Fire boat with pump</p> <p>52 Boat, no pump</p> <p>50 Marine apparatus, other</p> <p>Support Equipment</p> <p>61 Breathing apparatus support</p> <p>62 Light and air unit</p> <p>60 Support apparatus, other</p> <p>Medical & Rescue</p> <p>71 Rescue unit</p> <p>72 Urban Search & rescue unit</p> <p>73 High angle rescue unit</p> <p>75 BLS unit</p> <p>76 ALS unit</p> <p>70 Medical and rescue unit, other</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>More Apparatus? Use Additional Sheets</p> </div> <p>Other</p> <p>91 Mobile command post</p> <p>92 Chief officer car</p> <p>93 HazMat unit</p> <p>94 Type 1 hand crew</p> <p>95 Type 2 hand crew</p> <p>99 Privately owned vehicle</p> <p>00 Other apparatus/resource</p> <p>NN None</p> <p>UU Undetermined</p>
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NFIRS-9 Revision 11/17/98

A <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div>FDID * 03010</div> <div>State * CA</div> <div>Incident Date * MM DD YYYY 10 18 2022</div> <div>Station 162</div> <div>Incident Number * 22-0029880</div> <div>Exposure * 000</div> <div> <input type="checkbox"/> Delete <input type="checkbox"/> Change </div> <div style="border: 1px solid black; padding: 2px;"> NFIRS - 10 Personnel </div> </div>	
---	--

B Apparatus or Resource	Date and Times	Sent	Number of People	Use	Actions Taken
Use codes listed below	Check if same as alarm date Month Day Year Hours/mins	<input checked="" type="checkbox"/>		Check ONE box for each apparatus to indicate its main use at the incident.	List up to 4 actions for each apparatus and each personnel.
1 ID E5610 Type 11	Dispatch <input checked="" type="checkbox"/> 10 18 2022 12:43 Arrival <input checked="" type="checkbox"/> 10 18 2022 12:51 Clear <input checked="" type="checkbox"/> 10 18 2022 13:15	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other	<div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div> <div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div>

Personnel ID	Name	Rank or Grade	Attend	Action Taken	Action Taken	Action Taken	Action Taken
6600A	Mule Creek Engine Crew 4, Personnel		X				

2 ID E6234 Type 11	Dispatch <input checked="" type="checkbox"/> 10 18 2022 12:43 Arrival <input checked="" type="checkbox"/> 10 18 2022 12:51 Clear <input checked="" type="checkbox"/> 10 18 2022 13:15	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other	<div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div> <div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div>
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Personnel ID	Name	Rank or Grade	Attend	Action Taken	Action Taken	Action Taken	Action Taken
8101	Mackey, Ken	FC	X				

3 ID E6235 Type 11	Dispatch <input checked="" type="checkbox"/> 10 18 2022 12:43 Arrival <input checked="" type="checkbox"/> 10 18 2022 12:51 Clear <input checked="" type="checkbox"/> 10 18 2022 13:15	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other	<div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div> <div style="display: flex; justify-content: space-between;"> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <div><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> </div>
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Personnel ID	Name	Rank or Grade	Attend	Action Taken	Action Taken	Action Taken	Action Taken
0703	Bennett, James	FAE	X				

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Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

[PROPOSED] ORDER GRANTING
DEFENDANTS' EX PARTE
APPLICATION TO MODIFY THE
TEMPORARY RESTRAINING ORDER

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

Based upon Ione's ex parte application for a modification of the temporary restraining order, and on the documents filed therewith, the October 10, 2022 Order and Preliminary Injunction is modified as follows:

Dated: _____

JUDGE OF THE SUPERIOR COURT

RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 17, 2022, I submitted a true and correct copy of the following document(s):

**PROPOSED ORDER GRANTING DEFENDANTS' EX PARTE APPLICATION TO
MODIFY THE TEMPORARY RESTRAINING ORDER**

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

X Via Fed Ex service, the document(s) listed above were served via fed ex to the addresses as set forth in the service list.

_____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully prepaid thereon and placing said envelope in the area designated for outgoing daily mail address per the service list.

SERVICE LIST

Via Fed Ex and Via Email

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Shawn.hagerty@bbklaw.com
Matthew.green@bbklaw.com

Attorneys for Plaintiff

Via Fed Ex and Via Email

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Attorneys for Plaintiff

Via Email

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margaret@prenticelongpc.com
carolyn@prenticelongpc.com

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 October 17, 2022, at Sacramento, California.

3
4 

Corene E. Rodder

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Attorneys for Defendant
City of Ione

EXEMPT FROM FILING FEES
PER GOV. CODE § 6103

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION, a
California state agency; and DOES 1 through 20,
inclusive,

Defendants,

Case No. 22-CV-12824

NOTICE OF ASSOCIATION OF
COUNSEL

Judge: Hon. J.S. Hermanson

Date:

Time:

Dept: 1

Complaint Filed: September 20, 2022

1 TO THE CLERK OF THE SUPERIOR COURT, AND TO PLAINTIFF AND COUNSEL
2 OF RECORD:

3 PLEASE TAKE NOTICE THAT Carolyn Walker, attorney of record for Defendant City
4 of Ione, hereby associates Somach Simmons & Dunn and attorneys Theresa C. Barfield and
5 Michelle E. Chester as co-counsel for the city of Ione in this matter. We respectfully request that
6 all pleadings and other documents be served to Theresa C. Barfield and Michelle E. Chester as
7 follows:


8 Theresa C. Barfield, Esq.
9 Somach Simmons & Dunn
10 500 Capitol Mall, Suite 1000
11 Sacramento, CA 95814
12 Telephone No. (916) 446-7979
13 Facsimile No. (916) 446-8199
14 Email tbarfield@somachlaw.com

12 Michelle E. Chester, Esq.
13 Somach Simmons & Dunn
14 500 Capitol Mall, Suite 1000
15 Sacramento, CA 95814
16 Telephone No. (916) 446-7979
17 Facsimile No. (916) 446-8199
18 Email: mchester@somachlaw.com

17 Attorney Carolyn Walker hereby approves in the filing of the Notice of Association of
18 Counsel.

20 Dated: October 17, 2022

Respectfully submitted,

By: 
Carolyn Walker
Attorney for Defendant City of Ione

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Somach Simmons & Dunn and attorneys Theresa C. Barfield and Michelle E. Chester
2 hereby accept the above association.

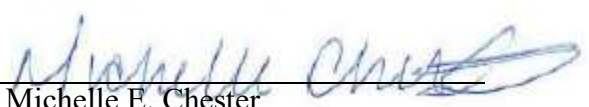
3
4 Respectfully submitted,

5 SOMACH SIMMONS & DUNN
6 A Professional Corporation

7 Dated: October 17, 2022

8 By: 
9 Theresa C. Barfield
10 Attorney for Petitioner City of Ione

11 Dated: October 17, 2022

12 By: 
13 Michelle E. Chester
14 Attorney for Petitioner City of Ione

RE: *Amador Regional Sanitation Authority v. City of Ione*
Amador County Superior Court Case No.: 22CV12824

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 500 Capitol Mall, Suite 1000, Sacramento, California; my electronic service address is: crodder@somachlaw.com; and I am over the age of 18 years and not a party to the foregoing action.

I hereby certify that on October 17, 2022, I submitted a true and correct copy of the following document(s):

NOTICE OF ASSOCIATION OF COUNSEL

X Via electronic/email service, the document(s) listed above were served via email to the email addresses as set forth in the service list.

X Via Fed Ex service, the document(s) listed above were served via fed ex to the addresses as set forth in the service list.

_____ on the parties in said action, by placing a true copy thereof in a sealed envelope with postage fully prepaid thereon and placing said envelope in the area designated for outgoing daily mail address per the service list.

SERVICE LIST

Via Fed Ex and Via Email

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margaret@prenticelongpc.com
carolyn@prenticelongpc.com

I declare under penalty of perjury that the foregoing is true and correct. Executed on
October 17, 2022, at Sacramento, California.



Corene E. Rodder

ATTACHMENT 9

1 SHAWN D. HAGERTY, Bar No. 182435
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10
11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

MEMORANDUM IN OPPOSITION TO EX
PARTE APPLICATION FOR ORDER TO
MODIFY OCTOBER 10, 2022 ORDER AND
PRELIMINARY INJUNCTION

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 Plaintiff Amador Regional Sanitation Authority (“ARSA”) respectfully submits the
2 following memorandum in opposition to Defendant City of Ione’s (“Ione”) ex parte application to
3 modify the Court’s October 10, 2022, order and preliminary injunction.

4 **I.**

5 **INTRODUCTION**

6 In order to alleviate the serious risk of wastewater overflowing from Preston Reservoir and
7 the public health and water quality contamination crises that would ensue, the Court appropriately
8 issued a preliminary injunction on October 10, 2022, requiring Ione to immediately accept 500,000
9 gallons of wastewater per day from Preston Reservoir for 30 days, a copy of which was personally
10 served on Ione on October 11, 2022, at 12:44 p.m. (Green Decl., Exs. A, B.) Since that time,
11 however, Ione has chosen a perilous path of willfully disobeying the Court’s order. (See Stone
12 Decl., ¶ 4.) Ione has instead unsuccessfully sought relief from the Court of Appeal, delayed
13 compliance in order to obtain assurances from the Central Valley Regional Water Quality Control
14 Board (“Regional Board”) that were already provided, and created excuse after excuse for why it
15 cannot accept wastewater from Preston Reservoir, the latest of which is high levels of hydrogen
16 sulfide that is the result of Ione’s own doing.

17 Now before the Court is Ione’s ex parte application to modify the preliminary injunction to
18 reduce the total gallons per day to 200,000, or to condition Ione’s acceptance of 500,000 gallons
19 per day on ARSA’s installation of a surface pump at Preston Reservoir. (Ex Parte App., at
20 p. 2:11-16.) The sole basis of Ione’s application is that compliance with the preliminary injunction
21 will result in Ione violating its permit from the Regional Board. (*Id.*, at pp. 2:17-3:14.)

22 While Ione claims modification is necessary to serve the “ends of justice,” the risk of permit
23 violations is the precise argument Ione made in its opposition to the preliminary injunction. (See
24 Opp’n to ARSA’s Ex Parte App. for TRO, at pp. 12:1-16:2.) Ione’s purported fear of violating its
25 Regional Board permit is also baseless. In early September 2022, the Regional Board specifically
26 informed Ione that, given the “capacity issues at Preston are presenting an even greater risk to water
27 quality and public health than potential nuisance concerns related to the treatment of wastewater
28 from Preston at Ione’s tertiary facility,” the Regional Board will “not pursue enforcement of odor

1 nuisance conditions that may occur as a result of the City’s acceptance of treated wastewater from
2 Preston at the Tertiary Plant or golf course” for the rest of the year. (Green Decl., Ex. G, Ex. D
3 thereto.) The Court should therefore deny Ione’s request to modify the preliminary injunction and
4 remind Ione that it remains subject to a binding court order.

5 **II.**

6 **LEGAL STANDARD**

7 Code of Civil Procedure section 533 permits courts to modify an injunction “upon a
8 showing that there has been a material change in the facts upon which the injunction ... was granted,
9 that the law upon which the injunction ... was granted has changed, or that the ends of justice would
10 be served by the modification or dissolution of the injunction” The party seeking to modify an
11 injunction bears “the burden ... to show by a preponderance of the evidence that one of the
12 circumstances set forth in Code of Civil Procedure section 533 is present and justifies a
13 [modification] of the [injunction].” (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1504.)

14 **III.**

15 **ARGUMENT**

16 **A. IONE HAS NOT MET ITS BURDEN OF JUSTIFYING MODIFICATION OF**
17 **THE PRELIMINARY INJUNCTION**

18 Cognizant of the absence of a material change in the facts or the law, Ione purports to rely
19 on the “ends of justice” prong to support modification of the preliminary injunction. Rehashing
20 prior, unsuccessful arguments made in opposition to the preliminary injunction is woefully
21 insufficient to support modification of the injunction. (See Opp’n to ARSA’s Ex Parte App. for
22 TRO, at pp. 12:1-16:2.)

23 Ione’s principal argument in opposition to the preliminary injunction was that the treatment
24 of wastewater from Preston Reservoir will violate its Regional Board permit because the turbidity
25 and coliform bacteria in the water exceed the permit limits. (Moroz Decl. in Opp’n to ARSA’s Ex
26 Parte App. for TRO, ¶¶ 3-4.) Ione also claimed that Preston Reservoir’s wastewater poses public
27 health issues because it contains odor-causing hydrogen sulfide, and that the water is difficult to
28 treat because of sedimentation caused by the water being delivered from the bottom of Preston

1 Reservoir. (*Id.*, ¶¶ 5-7.) These arguments were thus already considered and rejected by the Court
2 when the preliminary injunction was issued.

3 Ione's ongoing concerns with violating its Regional Board permit are also entirely specious.
4 To justify Ione's refusal to accept water from Preston Reservoir, Ione complained to the Regional
5 Board about hydrogen sulfide and turbidity in the wastewater from Preston Reservoir before ARSA
6 was forced to file this action. The Regional Board responded as follows:

7 With the understanding that capacity issues at Preston are presenting
8 an even greater risk to water quality and public health than potential
9 nuisance concerns related to the treatment of wastewater from
10 Preston at Ione's tertiary facility, the [Regional] Board's Compliance
11 and Enforcement Unit will exercise its prosecutorial discretion to not
pursue enforcement of odor nuisance conditions that may occur as a
result of the City's acceptance of treated wastewater from Preston at
the Tertiary Plant or golf course between 9 September 2022 and 1
January 2023. (Green Decl., Ex. G, Ex. D thereto.)

12 Ione's continuing concerns regarding compliance with its Regional Board permit are thus
13 insufficient to support modification of the preliminary injunction.

14 **B. IONE CONTINUES TO WILLFULLY DISOBEY THE COURT'S ORDER**

15 As previously noted, Ione was personally served with the preliminary injunction midday on
16 October 11, 2022. (Green Decl., Ex. B.) At that time, Ione was immediately required to accept
17 500,000 gallons of wastewater per day for 30 days, for a total of 15 million gallons. (Green Decl.,
18 Ex. A.) Rather than comply with a binding court order, (see Stone Decl., ¶ 4), Ione has requested
19 assurances from the Regional Board, sought relief in the Court of Appeal, and raised excuse after
20 excuse to justify its refusal to comply with the preliminary injunction. Each of these matters is
21 addressed in turn.

22 1. Ione's Request For Assurances That The Regional Board Already Provided.

23 On October 11, 2022, the same day it was served with the injunction, Ione wrote to the
24 Regional Board to request assurances that the Board would exercise its prosecutorial discretion not
25 to pursue enforcement of any wastewater permit violations as a result of accepting water from
26 Preston Reservoir. (Rock Decl., Ex. 3.) Ione's request is bewildering because such assurances were
27 already provided by the Regional Board. As noted above, in its September 9, 2022, correspondence,
28 the Regional Board advised Ione that, given the "capacity issues at Preston are presenting an even

1 greater risk to water quality and public health than potential nuisance concerns related to the
2 treatment of wastewater from Preston at Ione's tertiary facility," the Regional Board will "not
3 pursue enforcement of odor nuisance conditions that may occur as a result of the City's acceptance
4 of treated wastewater from Preston at the Tertiary Plant or golf course" for the rest of the year.
5 (Green Decl., Ex. G, Ex. D thereto.)

6 2. Ione's Unsuccessful Attempt To Obtain Relief From The Court of Appeal.

7 On October 11, 2022, Ione also wrote to the Court of Appeal to ask for leave to amend its
8 writ petition challenging the prior temporary restraining order so that it could redirect its attack to
9 the preliminary injunction. (Green Decl., Ex. C.) On October 13, 2022, the Court of Appeal denied
10 the writ petition as moot. (Green Decl., Ex. D.) Undeterred, Ione filed another writ petition
11 challenging the preliminary injunction on October 14, 2022, which included a request for an
12 immediate stay. (Green Decl., Ex. E.) On October 18, 2022, the Court of Appeal denied Ione's
13 second writ petition. (Green Decl., Ex. F.)

14 3. The High Hydrogen Sulfide Levels Are Ione's Own Doing And Do Not
15 Excuse Ione's Noncompliance With The Preliminary Injunction.

16 After filing its ex parte application, Ione's counsel submitted a supplemental declaration to
17 inform the Court of high levels of hydrogen sulfide at its Castle Oaks Water Reclamation Plant on
18 October 18, 2022. According to an incident report, Ione's fire department took gas readings at two
19 top vent pipes to test the amount of hydrogen sulfide (H₂S). (Supp. Chester Decl., Ex. A.) These
20 readings showed H₂S at only 1 part per million (PPM), but detected a combustible/explosive range
21 above the lower explosion limit (LEL) of 10% at 13-14%. (*Ibid.*) While Ione's fire department
22 readings showed similar results on October 19, 2022, the combustible/explosive range dropped
23 below the LEL to only 3% on October 20, 2022. (Brown Decl., Exs. A, B.) The amount of H₂S,
24 however, increased to at least 200 PPM at that time. (Brown Decl., Ex. B.) The oxygen levels from
25 October 18 to 20, 2022, nevertheless remained constant, at 20.8%, 20.2%, and 20.8%. (Brown
26 Decl., Exs. A, B.)

27 Hydrogen sulfide is a common condition that exists in sewer and wastewater systems.
28 (Brown Decl., ¶ 5.) It is a combustible and toxic gas that forms within sewer collection systems

1 when the organic matter in the raw sewage decomposes and is caused by the lack of oxygen in the
2 water over longer periods of time. (*Ibid.*) The likely cause of hydrogen sulfide at the Castle Oaks
3 Water Reclamation Plant arises from Ione's decision to stop deliveries of wastewater from Preston
4 Reservoir. (*Ibid.*) By doing so, stagnant water remained in the closed pipeline between the reservoir
5 discharge valve and the tertiary treatment plant, which likely allowed the remaining oxygen to be
6 consumed, anaerobic bacteria to be formed, and hydrogen sulfide to generate. (*Ibid.*)

7 Setting aside the cause of the hydrogen sulfide, hydrogen sulfide does not generally pose a
8 health hazard when it is properly monitored and mitigated. (*Id.*, ¶ 6.) To address the presence of
9 hydrogen sulfide, including at the levels detected by Ione's fire department between October 18
10 and 20, 2022, ventilation blowers are typically used to force air into the confined space at high
11 enough volumes to exchange the air to dilute the concentration to a nonhazardous level. (*Ibid.*)
12 Indeed, in most cases, simply ventilating the utility access hole can reduce the levels of the gas
13 present to a safe level for entry. (*Ibid.*) Hydrogen sulfide may also be treated through the use of
14 chemicals, including chlorine, sodium hypochlorite, or other products such as hydrogen peroxide-
15 based oxidants. (*Ibid.*)

16 To date, Ione has provided no evidence whatsoever reflecting any attempts to treat the
17 hydrogen sulfide. (See *id.*, ¶ 9.) Ione has instead simply shut down the system after detecting
18 conditions that are common in wastewater systems and has elected to take no steps to treat the
19 hydrogen sulfide. (See *ibid.*) ARSA has tested the area around the Preston Reservoir for H₂S, and
20 no H₂S has been detected. (*Ibid.*) The hydrogen sulfide issues identified by Ione thus relate solely
21 to tertiary effluent requirements. They are part of the costs of providing tertiary treatment and
22 therefore must be resolved by Ione as the operator of the tertiary treatment plant. (*Ibid.*)

23 The H₂S and LEL readings provided by Ione are also questionable at best. (*Id.*, ¶ 7.) The
24 H₂S level was apparently measured at a level below grade in a vent line; the gas level above the
25 confined space was not measured. (*Ibid.*) H₂S is heavier than air, which means it will collect and
26 concentrate in confined spaces below grade. (*Ibid.*) When mixed with the air outside of the confined
27 space, however, it will typically produce a decreased level of concentration. (*Ibid.*) While the odor
28 may be detectable near the vent, it could be easily mitigated through aeration. (*Ibid.*)

1 Finally, while Ione has provided no data since October 20, 2022, regarding the latest data
2 provided by Ione on that day, it does not make sense for the LEL to go down and the H2S level to
3 increase. (*Id.*, ¶ 8.) H2S is considered combustible, which means the H2S level and LEL should
4 rise and fall together. (*Ibid.*) The diverging H2S and LEL readings are also suspect given the
5 amount of oxygen remained constant from October 18 to October 20, 2020. (*Ibid.*) Indeed, without
6 calibration logs, the accuracy of the testing instruments cannot be assumed. (*Ibid.*)


7 IV.

8 **CONCLUSION**

9 For the reasons set forth above, the Court should deny Ione's ex parte application to modify
10 the preliminary injunction.

11 Dated: October 25, 2022

BEST BEST & KRIEGER LLP

12
13 By: 
14 SHAWN D. HAGERTY
15 MATTHEW L. GREEN
16 FRANK A. SPLENDORIO
17 Attorneys for Plaintiff
18 AMADOR REGIONAL SANITATION
19 AUTHORITY
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PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 25, 2022, I served a copy of the within document(s):

MEMORANDUM IN OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION;

DECLARATION OF DONALD BROWN IN OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION;

DECLARATION OF MATTHEW L. GREEN IN OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION;

DECLARATION OF STEVEN COREY STONE IN OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO MODIFY OCTOBER 10, 2022 ORDER AND PRELIMINARY INJUNCTION

☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below. I placed, or caused to be placed, the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☐ **By personal service.** At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.



By e-mail or electronic transmission. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Carolyn Walker, Esq.
Margaret Long, Esq.
David Prentice, Esq.
Prentice Long, PC
2240 Court Street
Redding, CA 96001

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OF IONE

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ATTORNEY OF IONE

Tel: (916) 446-7979

Email: tbarfield@somachlaw.com
mchester@somachlaw.com

California Department of Corrections and
Rehabilitation
1515 S Street, Suite 314 South
Sacramento, CA 95811

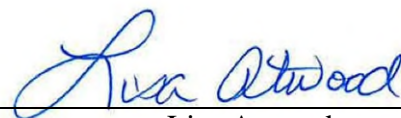
Attn: Patrick Covello

Tel: (916) 324-7308

Email: Patrick.Covello@cdcr.ca.gov

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 25, 2022, at San Diego, California.



Lisa Atwood

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Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF DONALD BROWN IN
OPPOSITION TO EX PARTE
APPLICATION FOR ORDER TO MODIFY
OCTOBER 10, 2022 ORDER AND
PRELIMINARY INJUNCTION

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Donald Brown, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am the President of Aquality Water Management (“Aquality”) and have more than
5 35 years of experience in the operations of wastewater treatment plants in California. Throughout
6 my career, my positions have ranged from wastewater treatment plant operator to wastewater
7 treatment facilities manager to operations consultant. I have been responsible for planning,
8 organizing, and directing the operation and maintenance of wastewater treatment plants up to 30
9 million gallons per day. Through Aquality, I have provided operational assistance and consulting
10 services to the Amador Regional Sanitation Authority (“ARSA”) for several years.

11 3. I have been provided and have reviewed the supplemental declaration of Michelle
12 E. Chester dated October 18, 2022, along with the City of Ione (“Ione”) Fire Department’s incident
13 report attached thereto. I have also been provided and have reviewed subsequent correspondence
14 between Ione and the Central Valley Regional Water Quality Control Board (“Regional Board”) dated
15 October 19, 2022, and October 20-21, 2022, copies of which are attached hereto as Exhibits
16 “A” and “B,” respectively.

17 4. According to the October 18, 2022, incident report, gas readings were taken at two
18 top vent pipes to test the amount of hydrogen sulfide (H₂S) . These readings showed H₂S at only
19 1 part per million (PPM), but detected a combustible/explosive range above the lower explosion
20 limit (LEL) of 10% at 13-14%. While Ione’s fire department readings showed similar results on
21 October 19, 2022, the combustible/explosive range dropped below the LEL to only 3% on October
22 20, 2022. The amount of H₂S, however, increased to at least 200 PPM at that time. The oxygen
23 levels from October 18 to 20, 2022, nevertheless remained constant, at 20.8%, 20.2%, and 20.8%.

24 5. Hydrogen sulfide is a common condition that exists in sewer and wastewater
25 systems. It is a combustible and toxic gas that forms within sewer collection systems when the
26 organic matter in the raw sewage decomposes and is caused by the lack of oxygen in the water over
27 longer periods of time. As detailed in my October 6, 2022, declaration, the likely cause of hydrogen
28 sulfide at the Castle Oaks Water Reclamation Plant arises from Ione’s decision to stop deliveries

1 of wastewater from Preston Reservoir. By doing so, stagnant water remained in the closed pipeline
2 between the reservoir discharge valve and the tertiary treatment plant, which likely allowed the
3 remaining oxygen to be consumed, anaerobic bacteria to be formed, and hydrogen sulfide to
4 generate.

5 6. When properly monitored and mitigated, hydrogen sulfide does not generally pose
6 a health hazard. To address the presence of hydrogen sulfide, including at the levels detected by
7 Ione's fire department, ventilation blowers are typically used to force air into the confined space at
8 high enough volumes to exchange the air to dilute the concentration to a nonhazardous level.
9 Indeed, in most cases, simply ventilating the utility access hole can reduce the levels of the gas
10 present to a safe level for entry. Hydrogen sulfide may also be treated through the use of chemicals,
11 including chlorine, sodium hypochlorite, or other products such as hydrogen peroxide-based
12 oxidants.

13 7. The H2S and LEL readings provided by Ione are also questionable at best. First, the
14 H2S level was apparently measured at a level below grade in a vent line; the gas level above the
15 confined space was not measured. H2S is heavier than air, which means it will collect and
16 concentrate in confined spaces below grade. When mixed with the air outside of the confined space,
17 however, it will typically produce a decreased level of concentration. While the odor may be
18 detectable near the vent, it could be easily mitigated through aeration.

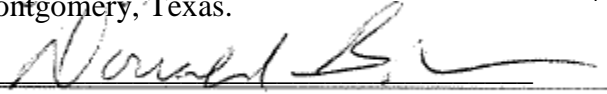
19 8. Moreover, regarding the latest data provided by Ione on October 20, 2022, it does
20 not make sense for the LEL to go down and the H2S level to increase. H2S is considered
21 combustible, which means the H2S level and LEL should rise and fall together. The diverging H2S
22 and LEL readings are also suspect given the amount of oxygen remained constant from October 18
23 to October 20, 2020. Indeed, without calibration logs, the accuracy of the testing instruments cannot
24 be assumed.

25 9. To date, I have seen no evidence from Ione reflecting any attempts to treat the
26 hydrogen sulfide. Ione has instead simply shut down the system after detecting conditions that are
27 common in wastewater systems and has apparently elected to take no steps to treat the hydrogen
28 sulfide. ARSA has tested the area around the Preston Reservoir for H2S, and no H2S has been

1 detected. The hydrogen sulfide issues identified by Ione thus relate solely to tertiary effluent
2 requirements. They are part of the costs of providing tertiary treatment and therefore must be
3 resolved by Ione as the operator of the tertiary treatment plant.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct.

6 Executed this 24th day of October 2022, at Montgomery, Texas.

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8 DONALD BROWN
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EXHIBIT A

From: Michael Rock <mrock@ione-ca.com>
Sent: Wednesday, October 19, 2022 3:46 PM
To: Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; Baum, John@Waterboards <john.baum@waterboards.ca.gov>
Cc: Dan Epperson <Depperson@ione-ca.com>; Rodney Plamondon <rplamondon@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srholdes@ione-ca.com>
Subject: Ione Tertiary Plant: Lower Explosion Limits (LEL) still in violation
Importance: High

Dear Kari:

The Ione Fire Department and Mule Creek State Prison Fire Department conducted another reading this morning regarding the Lower Explosion Limits (LEL) at the Tertiary Plant and the conditions are not better. The LEL is still over the limit of 10% at an average reading of 13.5% today. See attached report from this morning. The Fire Department has declared the site a hazardous condition for combustion/explosion.

Under these conditions it is not possible to operate the Tertiary Plant accepting influent from ARSA. The City has contacted the Amador Superior Court regarding this issue. I have also spoken with Mr. Baum and data (calcium nitrate, polymers and chlorine that is being used right now) will be sent to the Regional Board for analysis on how to lower the LEL and still be able to treat for the high turbidity and odorous conditions.

Sincerely,

Michael Rock
City Manager
City of Ione, CA
(209) 273-7712

CITY OF IONE FIRE DEPARTMENT

Incident # 22-29880

**Incident Name
“Treatment”**

10-18-2022

1243 hrs

A		MM DD YYYY		Delete		NFIRS -1	
FDID 03010 *		State CA *		Incident Date 10/18/2022 *		Station 162	
				Incident Number 22-0029880 *		Exposure 000 *	
						Change	
						No Activity	
B Location*		<input type="checkbox"/> Check this box to indicate that the address for this incident is provided on the Wildland Fire Census Tract 0015 - 00					
<input checked="" type="checkbox"/> Street address		10100		Five Mile		DR	
<input type="checkbox"/> Intersection		Number/Milepost		Prefix Street or Highway		Street Type	
<input type="checkbox"/> In front of				IONE		CA 95640	
<input type="checkbox"/> Rear of		Apt./Suite/Room		City		State Zip Code	
<input type="checkbox"/> Adjacent to							
<input type="checkbox"/> Directions							
		Cross street or directions, as applicable					
C Incident Type *		E1 Date & Times				E2 Shift & Alarms	
400 Hazardous condition, Other		Midnight is 0000				Local Option	
Incident Type		Check boxes if dates are the same as Alarm Date.				Shift or Alarms District	
D Aid Given or Received*		ALARM always required				B 02	
1 <input type="checkbox"/> Mutual aid received		Alarm * 10/18/2022 12:43:00				Platoon	
2 <input checked="" type="checkbox"/> Automatic aid recv.		ARRIVAL required, unless canceled or did not arrive					
3 <input type="checkbox"/> Mutual aid given		X Arrival * 10/18/2022 12:51:00					
4 <input type="checkbox"/> Automatic aid given		CONTROLLED Optional, Except for wildland fires				E3 Special Studies	
5 <input type="checkbox"/> Other aid given		<input type="checkbox"/> Controlled				Local Option	
N <input type="checkbox"/> None		LAST UNIT CLEARED, required except for wildland fires				Special Study ID# Special Study Value	
		<input type="checkbox"/> Last Unit					
		<input type="checkbox"/> Cleared 10/19/2022 07:30:00					
F Actions Taken *		G1 Resources *		G2 Estimated Dollar Losses & Values			
86 Investigate		<input type="checkbox"/> Check this box and skip this section if an Apparatus or Personnel form is used.		LOSSES: Required for all fires if known. Optional for non fires.			
Primary Action Taken (1)		Apparatus Personnel		Property \$ 000,000			
42 HazMat detection,		Suppression		Contents \$ 000,000			
Additional Action Taken (2)		EMS		PRE-INCIDENT VALUE: Optional			
		Other 0003 0003		Property \$ 000,000			
Additional Action Taken (3)		<input type="checkbox"/> Check box if resource counts include aid received resources.		Contents \$ 000,000			
Completed Modules		H1* Casualties		H3 Hazardous Materials Release		I Mixed Use Property	
<input type="checkbox"/> Fire-2		Deaths Injuries		N <input type="checkbox"/> None		NN <input type="checkbox"/> Not Mixed	
<input type="checkbox"/> Structure-3		Fire Service		1 <input type="checkbox"/> Natural Gas: slow leak, no evaluation or HazMat actions		10 <input type="checkbox"/> Assembly use	
<input type="checkbox"/> Civil Fire Cas.-4		Civilian		2 <input type="checkbox"/> Propane gas: <21 lb. tank (as in home BBQ grill)		20 <input type="checkbox"/> Education use	
<input type="checkbox"/> Fire Serv. Cas.-5				3 <input type="checkbox"/> Gasoline: vehicle fuel tank or portable container		33 <input type="checkbox"/> Medical use	
<input type="checkbox"/> EMS-6		H2 Detector		4 <input type="checkbox"/> Kerosene: fuel burning equipment or portable storage		40 <input type="checkbox"/> Residential use	
<input type="checkbox"/> HazMat-7		Required for Confined Fires.		5 <input type="checkbox"/> Diesel fuel/fuel oil: vehicle fuel tank or portable		51 <input type="checkbox"/> Row of stores	
<input type="checkbox"/> Wildland Fire-8		1 <input type="checkbox"/> Detector alerted occupants		6 <input type="checkbox"/> Household solvents: home/office spill, cleanup only		53 <input type="checkbox"/> Enclosed mall	
<input checked="" type="checkbox"/> Apparatus-9		2 <input type="checkbox"/> Detector did not alert them		7 <input type="checkbox"/> Motor oil: from engine or portable container		58 <input type="checkbox"/> Bus. & Residential	
<input checked="" type="checkbox"/> Personnel-10		U <input type="checkbox"/> Unknown		8 <input type="checkbox"/> Paint: from paint cans totaling < 55 gallons		59 <input type="checkbox"/> Office use	
<input type="checkbox"/> Arson-11				9 <input type="checkbox"/> Other: Special HazMat actions required or spill > 55gal., Please complete the HazMat form		60 <input type="checkbox"/> Industrial use	
J Property Use*		Structures		341 <input type="checkbox"/> Clinic, clinic type infirmary		63 <input type="checkbox"/> Military use	
131 <input type="checkbox"/> Church, place of worship		342 <input type="checkbox"/> Doctor/dentist office		539 <input type="checkbox"/> Household goods, sales, repairs		65 <input type="checkbox"/> Farm use	
161 <input type="checkbox"/> Restaurant or cafeteria		361 <input type="checkbox"/> Prison or jail, not juvenile		579 <input type="checkbox"/> Motor vehicle/boat sales/repair		00 <input type="checkbox"/> Other mixed use	
162 <input type="checkbox"/> Bar/Tavern or nightclub		419 <input type="checkbox"/> 1-or 2-family dwelling		571 <input type="checkbox"/> Gas or service station			
213 <input type="checkbox"/> Elementary school or kindergarten		429 <input type="checkbox"/> Multi-family dwelling		599 <input type="checkbox"/> Business office			
215 <input type="checkbox"/> High school or junior high		439 <input type="checkbox"/> Rooming/boarding house		615 <input type="checkbox"/> Electric generating plant			
241 <input type="checkbox"/> College, adult education		449 <input type="checkbox"/> Commercial hotel or motel		629 <input type="checkbox"/> Laboratory/science lab			
311 <input type="checkbox"/> Care facility for the aged		459 <input type="checkbox"/> Residential, board and care		700 <input type="checkbox"/> Manufacturing plant			
331 <input type="checkbox"/> Hospital		464 <input type="checkbox"/> Dormitory/barracks		819 <input type="checkbox"/> Livestock/poultry storage (barn)			
Outside		519 <input type="checkbox"/> Food and beverage sales		882 <input type="checkbox"/> Non-residential parking garage			
124 <input type="checkbox"/> Playground or park		936 <input type="checkbox"/> Vacant lot		891 <input type="checkbox"/> Warehouse			
655 <input type="checkbox"/> Crops or orchard		938 <input type="checkbox"/> Graded/care for plot of land		981 <input type="checkbox"/> Construction site			
669 <input type="checkbox"/> Forest (timberland)		946 <input type="checkbox"/> Lake, river, stream		984 <input type="checkbox"/> Industrial plant yard			
807 <input type="checkbox"/> Outdoor storage area		951 <input type="checkbox"/> Railroad right of way					
919 <input type="checkbox"/> Dump or sanitary landfill		960 <input type="checkbox"/> Other street		Lookup and enter a Property Use code only if you have NOT checked a Property Use box:			
931 <input type="checkbox"/> Open land or field		961 <input type="checkbox"/> Highway/divided highway		Property Use 900			
		962 <input type="checkbox"/> Residential street/driveway		Outside or special property,			

NFIRS-1 Revision 03/11/99

K1 Person/Entity Involved

Local Option ☐ Business name (if applicable) PERC WATER Area Code Phone Number

☐ Check This Box if same address as incident location. Then skip the three duplicate address lines.

Public works City of Ione
 Mr., Ms., Mrs. First Name MI Last Name Suffix

10100 Five Mile DR
 Number Prefix Street or Highway Street Type Suffix

Head IONE
 Post Office Box Apt./Suite/Room City

CA 95640 -
 State Zip Code

☐ More people involved? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary

K2 Owner

Local Option ☐ Same as person involved? Then check this box and skip the rest of this section.

Business name (if Applicable) Area Code Phone Number

☐ Check this box if same address as incident location. Then skip the three duplicate address lines.

 Mr., Ms., Mrs. First Name MI Last Name Suffix

 Number Prefix Street or Highway Street Type Suffix

 Post Office Box Apt./Suite/Room City

 -
 State Zip Code

L Remarks

Local Option ☐

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

Chief 6200 contacted on duty crews and also Mule Creek Fire to respond with their monitors and double check the readings at the location.

Both Engine companies arrived and took readings from the two top vent pipes and the following readings were observed at 1300 hours

Gas Meters at the top of the head works

H2S = 1 PPM

Combustible/Explosive range 13-14 % our monitor alarms activated for explosive range at 10%

O2 - 20.8 %

The crews advised Superintendent Waklee of their findings and confirmed that the PERC employees that were inside the building did not require any medical assistance or medic unit due to their head ache symptoms, none of the employees denied assistance.

The units will return on 10-19-2022 for a re check at 0645 hrs

L Authorization

0703 Bennett, James FAE 10 18 2022
 Officer in charge ID Signature Position or rank Assignment Month Day Year

☐ Check Box if same as Officer making report ID in charge. 8101 Mackey, Ken FC 10 18 2022
 as Officer making report ID Signature Position or rank Assignment Month Day Year

03010
FDID *

CA
State *

MM DD
10 18
Incident Date *

YYYY
2022

162
Station

22-0029880
Incident Number *

000
Exposure *

Complete
Narrative

Narrative:

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

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The units will return on 10-19-2022 for a re check at 0645 hrs

Weather Conditions on scene: 80 degrees 33 % Humidity winds 3-6 MPH

SUPPLEMENTAL REPORT - 10-19-2022

10-19-2022 follow up readings with Engine 6235 & Engine 5610

Time: 0652 hrs

Readings using the MSA ALTAIR 4X multi gas monitor

H2 S 20 PPM

Combustible / Explosive Level : 11 %

O2 levels 20.2 %

* Alarms activated immediately

Weather Conditions:

Temp: 61 degrees

Humidity : 43 %

Winds: SSE at 1 MPH

03010
FDID *

CA
State *

MM DD YYYY
10 18 2022
Incident Date *

162
Station

22-0029880
Incident Number *

000
Exposure *

Complete
Narrative

Narrative:

Dew Point: 39

Elevation: 270 ft

*** Per Public works Superintendent Waklee , the entire system was shut down and the supply side of the water pipe valve was completely closed , and all ignition sources removed or secured in the area, also the access was flagged off to prevent access, and employees advised to not enter.

Amador Health Department officer contacted and report made with Dr. Kerr at 1232 hrs, she will be making contact with Amador County Environmental health due to no reporting officer currently working at the county, with information.

per Dr Kerr's question it was confirmed that all PERC employees affected on site did not want medical attention and were advised of the workers comp and medical process if they do require at a later date.

Also it was confirmed with Dr Kerr that the city had contract staff from PERC operating the facility and were qualified state certified Operators Level 2- 3 -4 's and they were on site.

Received phone call from State of California Water Resource Board at 1350 hrs from Kenny Croyle (916) 464-4676 doing a follow up on today's findings, he was advised of our findings and explained that the area was secured from any employees and the water system shut down, no environmental or human risk at this time.

The facility will remain shut down until further notice until the incoming water has been stabilized by the staff or the supply source.

Attached is the copy of the Mule Creek Fire Department - Mutual Aid Incident report - 2-
pages

Photo # 1 - Head works

Photo # 2 Head works

Photo # 3 Head works

A		FDID 03010 *		State CA *		Incident Date MM 10 DD 18 YYYY 2022 *		Station 162		Incident Number 22-0029880 *		Exposure 000 *		<input type="checkbox"/> Delete <input type="checkbox"/> Change		NFIRS - 9 Apparatus or Resources	
B		Apparatus or * Resource		Date and Times <small>Check if same as alarm date</small>						Sent <input checked="" type="checkbox"/>	Number of * People	Use <small>Check ONE box for each apparatus to indicate its main use at the incident.</small>		Actions Taken			
				Month Day Year Hour Min Dispatch <input checked="" type="checkbox"/> 10 18 2022 12:43 Arrival <input checked="" type="checkbox"/> 10 18 2022 12:51 Clear <input checked="" type="checkbox"/> 10 18 2022 13:15													
1		ID E5610							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
2		ID E6234							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
3		ID E6235							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
4		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
5		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
6		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
7		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
8		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
9		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	

Type of Apparatus or Resources

Ground Fire Suppression

- 11 Engine
- 12 Truck or aerial
- 13 Quint
- 14 Tanker & pumper combination
- 16 Brush truck
- 17 ARF (Aircraft Rescue and Firefighting)
- 10 Ground fire suppression, other

Heavy Ground Equipment

- 21 Dozer or plow
- 22 Tractor
- 24 Tanker or tender
- 20 Heavy equipment, other

Aircraft

- 41 Aircraft: fixed wing tanker
- 42 Helitanker
- 43 Helicopter
- 40 Aircraft, other

Marine Equipment

- 51 Fire boat with pump
- 52 Boat, no pump
- 50 Marine apparatus, other

Support Equipment

- 61 Breathing apparatus support
- 62 Light and air unit
- 60 Support apparatus, other

Medical & Rescue

- 71 Rescue unit
- 72 Urban Search & rescue unit
- 73 High angle rescue unit
- 75 BLS unit
- 76 ALS unit
- 70 Medical and rescue unit, other

More Apparatus?
 Use Additional
 Sheets

Other

- 91 Mobile command post
- 92 Chief officer car
- 93 HazMat unit
- 94 Type 1 hand crew
- 95 Type 2 hand crew
- 99 Privately owned vehicle
- 00 Other apparatus/resource

NN None
UU Undetermined

A		FDID 03010 *		State CA *		Incident Date 10/18/2022 *		Station 162		Incident Number 22-0029880 *		Exposure 000 *		<input type="checkbox"/> Delete <input type="checkbox"/> Change		NFIRS - 10 Personnel	
B Apparatus or Resource *		Date and Times <small>Check if same as alarm date</small> Month Day Year Hours/mins						Sent <input checked="" type="checkbox"/>		Number of * People		Use <small>Check ONE box for each apparatus to indicate its main use at the incident.</small>		Actions Taken <small>List up to 4 actions for each apparatus and each personnel.</small>			
Use codes listed below 1 ID E5610 Type 11		Dispatch <input checked="" type="checkbox"/> 10/18/2022 12:43 Arrival <input checked="" type="checkbox"/> 10/18/2022 12:51 Clear <input checked="" type="checkbox"/> 10/18/2022 13:15		Sent <input checked="" type="checkbox"/>		Number of * People 1		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<div style="border: 1px solid black; width: 30px; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 30px; height: 20px;"></div>							
Personnel ID		Name		Rank or Grade		Attend <input checked="" type="checkbox"/>		Action Taken		Action Taken		Action Taken		Action Taken			
6600A		Mule Creek Engine Crew 4, Personnel				X											
2 ID E6234 Type 11		Dispatch <input checked="" type="checkbox"/> 10/18/2022 12:43 Arrival <input checked="" type="checkbox"/> 10/18/2022 12:51 Clear <input checked="" type="checkbox"/> 10/18/2022 13:15		Sent <input checked="" type="checkbox"/>		Number of * People 1		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<div style="border: 1px solid black; width: 30px; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 30px; height: 20px;"></div>							
Personnel ID		Name		Rank or Grade		Attend <input checked="" type="checkbox"/>		Action Taken		Action Taken		Action Taken		Action Taken			
8101		Mackey, Ken		FC		X											
3 ID E6235 Type 11		Dispatch <input checked="" type="checkbox"/> 10/18/2022 12:43 Arrival <input checked="" type="checkbox"/> 10/18/2022 12:51 Clear <input checked="" type="checkbox"/> 10/18/2022 13:15		Sent <input checked="" type="checkbox"/>		Number of * People 1		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<div style="border: 1px solid black; width: 30px; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 30px; height: 20px;"></div>							
Personnel ID		Name		Rank or Grade		Attend <input checked="" type="checkbox"/>		Action Taken		Action Taken		Action Taken		Action Taken			
0703		Bennett, James		FAE		X											



(CDCR) Mule Creek
State Prison

Station: **ST1**
Shifts Or Platoon: **A Shift**

Location: 10100 Five Mile DR Ione CA 95640	Incident Type: 400 - Hazardous condition, other
Lat/Long: N 38° 21' 27.44" W 120° 57' 51.87"	FDID: 03410 Incident #: 2022-362 Exposure ID: 69295537 Exposure #: 0 Incident Date: 10/18/2022 Dispatch Run #: caaeu029880
Location Type: 1 - Street address	

Report Completed by:	Deaton, Justin	ID:	Date: 10/19/2022
Report Reviewed by:	Sackett, Kevin	ID:	Date: 10/19/2022
Report Printed by:	Sackett, Kevin	ID:	Date: 10/19/2022 Time: 12:54

Structure Type:	Property Use: 647 - Water utility		
Automatic Extinguishment System Present: <input type="checkbox"/>	Detectors Present: <input type="checkbox"/>	Cause of Ignition:	
Aid Given or Received:	Mutual aid given	Primary action taken: 86 - Investigate	
Mutual AID	Their FDID: 3010	Their State: CA	Their Incident #: 029880
Losses	Pre-Incident Values		
Property:	Property:	Civilian Injuries: 0	Fire Service Injuries: 0
Contents:	Contents:	Civilian Fatalities: 0	Fire Service Fatalities: 0
Total:	Total:	Total Casualties: 0	Total Fire Service Casualties: 0
Total # of apparatus on call:	1	Total # of personnel on call:	3

Special Studies	
COVID 19 was a factor in this incident.	No, COVID 19 was not a factor.

Neighboring Agencies
Agency Name: City Of Ione Fire Department
Agency ID: ION
Agency Type: Fire

NARRATIVE (1)
Narrative Title: Haz/Gas Incident
Narrative Author: Deaton, Justin
Narrative Date: 10/19/2022 09:59:05
Narrative Apparatus ID: 5610
Narrative: <p>On October 18, 2022 @ approximately 1243 hrs. while performing my duties as, Institutional Fire Captain, I J. Deaton, was dispatched by ECC Camino for a Hazardous Condition / Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in E-5610 with staffing of Three. Upon arrival I reported to the I.C. for assignment and simultaneously had a face to face with Reporting Party. I was assigned to utilize a MSA Altair 4x multi gas detector in the affected area, (Findings: Comb/Ex 14, O2 20.4%, CO 0, H2S 1) triggering the detectors alarm. Upon completion of the investigation, findings, and communication with the RP, the I.C. released all units and terminated the incident @ approximately 1318 Hrs. I returned to quarters without incident. Upon arrival at institution I notifying ECC Camino and Main Control that E-5610 was back on grounds with three, in quarters, and available.</p> <p>Per RP, I was requested to return to the incident location the following morning @ 0645 hrs. for further investigation and to note any situation changes.</p>

NARRATIVE (2)**Narrative Title:** Follow Up**Narrative Author:** Deaton, Justin**Narrative Date:** 10/19/2022 10:04:48**Narrative Apparatus ID:** 5610**Narrative:**

On October 19, 2022 @ approximately 0645 hrs. while performing my duties as, Institutional Fire Captain, I J. Deaton, as requested by RP from yesterdays incident returned to Hazardous Condition/ Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in E-5610 with staffing of Three. Upon arrival, I had a face to face with the Reporting Party, who stated, that they had turned the affected areas equipment off yesterday after findings and recently turned the equipment back on this morning for further investigation. At this time, (weather conditions: Temp 61, Humidity 43%, Winds SSE 1, DP 39), I utilize a MSA Altair 4x multi gas detector in the affected area, (Findings: Comb/Ex 16, O2 20.8%, CO 0, H2S 18) triggering detectors alarm and showing increases from yesterdays findings. Upon completion of the investigation, findings, and communication with the RP, I exited the premises and returned to quarters without incident. Upon arrival at institution, I notified Main Control that E-5610 was back on grounds with three, returning to quarters and available.

NARRATIVE (3)**Narrative Title:** Haz/GAS Incident**Narrative Author:** Sackett, Kevin**Narrative Date:** 10/19/2022 12:52:34**Narrative Apparatus ID:** C5600**Narrative:**

On October 18, 2022 @ approximately 1243 hrs. while performing my duties as, Institutional Fire Chief, I K Sackett, was dispatched by ECC Camino for a Hazardous Condition / Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in C-5600 with staffing of one. Upon arrival I reported to the I.C. and simultaneously had a face to face with Reporting Party (Todd Waklee) that stated that he used his gas monitor and found high readings of H2S gas. Fire Captain Deaton was assigned to utilize a MSA Altair 4x multi gas detector in the affected area, When he returned he reported reading of Comb/Ex 14, O2 20.4%, CO 0, H2S 1 the reading triggered the detectors alarm for high Combustibles/ Explosives. Upon completion of the investigation, findings, and communication with the RP, the scene was turned over to Todd Waklee Public Works Manager. The I.C. released all units and terminated the incident.

APPARATUS

Unit	5610
Type:	Engine
Use:	Suppression
Response Mode:	No Lights or Sirens
# of People	3
Alarm	10 /18/2022 12:42:00
Dispatched	10 /18/2022 12:43:00
Enroute	-- / -- / -- -- : -- : --
Arrived	10 /18/2022 12:47:00
Cancelled	-- / -- / -- -- : -- : --
Cleared Scene	10 /18/2022 13:18:00
In Quarters	-- / -- / -- -- : -- : --
In Service	-- / -- / -- -- : -- : --
Number Of People not on apparatus: 0	

Member Making Report (Captain Justin Deaton): _____

Incident Reviewer (Chief Kevin Sackett): _____

Treatment
Incident
Photo # 1





Photo # 3

EXHIBIT B

From: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>
Sent: Friday, October 21, 2022 11:09 AM
To: Dan Epperson <Depperson@ione-ca.com>
Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org; Dominic Atlan <datlan@ione-ca.com>; Michael Rock <mrock@ione-ca.com>
Subject: RE: Lone Tertiary Plant - H2S over 200 ppm

Mr. Epperson, thank you for your email.

As you are aware the Regional Water Board oversees the permitting of wastewater plants throughout the region. As part of our responsibility, we inspect various facilities for compliance. One area we look at if there are compliance concerns, like the City of Lone is facing today, are the Standard Operating Procedures that a plant follows when there is an upset. Those SOPs provide a step-by-step procedures the facility can follow during times of upset. Yesterday I sent Mr. Rock two requests for those documents. The operator should have those available at moment's notice. If the Regional Board had those SOPs, we could easily review and understand the city's process to resolve the issue.

The design of Preston Reservoir and the CDCR reservoirs piping are identical. The inlet to the draft pipe is at the bottom of the reservoirs. Both reservoirs store secondary treated effluent. Where in the process is hydrogen sulfide produced? Is the high hydrogen sulfide event the result of delayed extraction from Preston? Would this same condition occurred if Preston was drained first prior to CDCR sending water? The Regional Board is just trying to better understand the problems with the wastewater using laboratory samples from a certified laboratory. The city requested a comfort letter because of the expectation of hydrogen sulfide in the wastewater. The comfort letter was issued on 9 September 2022. The city knew the expectation of the Board with respect to monitoring the plant during "high hydrogen sulfide" events. Does the city have a contract in place with Perc or an environmental consulting firm to collect these samples? Please provide a date when data can be collected and results available.

It is responsible that you have concerns about an explosion and your workers having health effects. Has the city reached out to OSHA to report this incident? To help you, here is the list of CalOSHA sites with their phone numbers: https://www.dir.ca.gov/dosh/ca_map_counties2.pdf. They can be a resource. With your concerns about explosion, is the fire department onsite monitoring it until the threat has abated? Has the city notified the nearby residents of Castle Oaks Golf Course, or those along Five Mile Road. Isn't there a home that sits just across the creek from the wastewater plant. Have these people been notified of the situation? If so, when? Are they receiving updates on the situation? That information should be in your emergency plan/SOP.

We all heard during the 3 October 2022 meeting with all the parties that ARSA was willing to provide pretreatment (i.e., dosing) to eliminate the problem. What is the status of that effort. ARSA seemed more than willing to do their part. Why isn't the city receptive to their offer? With that said CDCR understood the statements made by the Executive Officer and together with ARSA they have begun to deploy water cannons to aid in the evaporation. Your point about the sludge is one that will be addressed when the water levels reach the appropriate levels. You should be aware that the City of Ione, ARSA, and the Castle Oaks Golf Course are named in the Regional Board's permit, as well as the revised MRP. Therefore, there is a shared responsibility for compliance. All parties need to work together to find a solution. Cooperation during the plant upset is something the Regional Board will take into consideration with any future compliance action.

Looking forward to receiving the requested information. Until the situation is resolved, please have Mr. Rock provide daily updates by email. Perfect Regards,

Howard Hold, PG #7466
Senior Engineering Geologist
Title 27 and WDR Compliance and Enforcement Unit
Central Valley, Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Our office is currently teleworking. Please submit all contact by email. Thank you

hhold@waterboards.ca.gov

From: Dan Epperson <Depperson@ione-ca.com>

Sent: Friday, October 21, 2022 8:56 AM

To: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Michael Rock <mrock@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>

Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org

Subject: Re: Ione Tertiary Plant - H2S over 200 ppm

Mr. Hold,

Pardon my ignorance in the matters of meters and science. If our warning meters are maxing out, is the City of Ione supposed to ignore the dangers indicated? I am deeply concerned for the health and safety of our staff and operators.

We have every intention to fully comply with The Boards demands but risking the health and safety of our staff due to the negligence of our partner agencies is terrifying. The board demanded ARSA clean out the ponds in 2017. ARSA's inaction is a major factor as to how situation has arisen to the level it has. By their own admission ARSA's contracted ponds are 30% full of sludge currently.

Sorry for my bluntness but I am worried about an explosion or other injuries from toxic gases that our systems alarms have indicated at our head works. I will check with staff ASAP regarding the lab tests and chain of custody issues. Thank you hearing my concerns.

Sincerely,

Dan Epperson

Mayor of the City of Ione

Dan Epperson

Mayor of Ione

From: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>

Sent: Thursday, October 20, 2022 4:50:50 PM

To: Michael Rock <mrock@ione-ca.com>; Dan Epperson <Depperson@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>

Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org <smeyer@amadorgov.org>

Subject: RE: Ione Tertiary Plant - H2S over 200 ppm

Mr. Rock, et. al thank you for your update that you sent to comply with the comfort letter (see attached) that was issued by our assistant executive officer on 9 September 2022. As I read your email, it appears the samples are only results from a field meter. A field meter is appropriate as a screening tool, to evaluate the situation. However, the Assistant Executive Officer required in the comfort letter a certified laboratory analyze the gas samples, using proper chain of custody procedures, when high gas levels exist.

Item 5 states: *"All previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity. This shall be reported to Kari.Holmes@waterboards.ca.gov;"*

Again, the Regional Board appreciates the notifications and the updates, but when will we receive the required data from a certified laboratory using the proper chain of custody?

This morning I reached out to you and request a copy of the facilities SOPs, which still have not been received. When should I expect to see those document?

Finally, anytime there is a hazardous substance released to the air, ground or water the Office of Emergency Services must be notified. Has your operator filed a report with OES. I have not seen a copy of the report come across my desk yet.

Compliance is a challenge at times, thank you for your attention to these issues.

Howard Hold, PG #7466

Senior Engineering Geologist
Title 27 and WDR Compliance and Enforcement Unit
Central Valley, Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Our office is currently teleworking. Please submit all contact by email. Thank you

hhold@waterboards.ca.gov

From: Michael Rock <mrock@ione-ca.com>

Sent: Thursday, October 20, 2022 3:59 PM

To: Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org

Cc: Dan Epperson <Depperson@ione-ca.com>; Rodney Plamondon <rplamondon@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>

Subject: lone Tertiary Plant - H2S over 200 ppm

EXTERNAL:

Kari:

Today's readings from Lone Fire Department indicate the LEL is 3% which is in compliance. However, the H2S (Hydrogen Sulfide) reading at the top of the stairs at the Headworks was 200+ ppm. The MSA ALTAIR 4X Multigas (Canary) device for reading the LEL levels only goes up to 200 ppm and the needle was maxed out. Mule Creek Fire Department data is identical to Lone Fire Department Report that is attached. I will have the Mule Creek data sent tomorrow.

Even at the bottom of the stairs of the Headworks the H2S was 134 ppm. Maximum general industry peak levels for H2S is 50 ppm. Maximum general industry ceiling limits is 20 ppm. PERC and West Yost both believe there is methane gas present.

The odor for staff at the Tertiary Plant is overwhelming and thus we cannot operate today either.

We have now received 7 formal written or phone call complaints from residents in Castle Oaks regarding the odor. Most of the residents submitting a complaint live on Shakeley Lane near the Tertiary Plant. A direct phone call I received at 8:45 am today was from Michael Politi who lives on Shakeley Lane. He said the odor was quite strong and he was not able to be in his backyard.

Michael

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MATTHEW L. GREEN, Bar No. 227904
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Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF MATTHEW L. GREEN
IN OPPOSITION TO EX PARTE
APPLICATION FOR ORDER TO MODIFY
OCTOBER 10, 2022 ORDER AND
PRELIMINARY INJUNCTION

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Matthew L. Green, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am an attorney at law duly licensed to practice before all of the courts of the State
5 of California. I am Of Counsel at Best Best & Krieger LLP, attorneys of record for Plaintiff Amador
6 Regional Sanitation Authority ("ARSA"). As one of the attorneys for ARSA, I am familiar with
7 the proceedings in the above-entitled action.

8 3. Attached as Exhibit "A" hereto is a true and correct copy of the Order and
9 Preliminary Injunction issued by the Court on October 10, 2022.

10 4. Attached as Exhibit "B" hereto is a true and correct copy of the Proof of Service
11 filed in this Court on October 13, 2022, reflecting personal service of the Order and Preliminary
12 Injunction on Defendant City of Ione ("Ione") on October 11, 2022, at 12:44 p.m.

13 5. Attached as Exhibit "C" hereto is a true and correct copy of Ione's supplemental
14 letter brief to the Court of Appeal, Third Appellate District filed October 11, 2022, with the
15 attachments omitted therefrom.

16 6. Attached as Exhibit "D" hereto is a true and correct copy of the Court of Appeal,
17 Third Appellate District's order filed October 13, 2022, dismissing Ione's first petition for writ of
18 mandate as moot.

19 7. Attached as Exhibit "E" hereto is a true and correct copy of Ione's second petition
20 for writ of mandate filed in the Court of Appeal, Third Appellate District on October 14, 2022, with
21 the exhibits omitted therefrom.

22 8. Attached as Exhibit "F" hereto is a true and correct copy of the Court of Appeal,
23 Third Appellate District's order filed October 18, 2022, dismissing Ione's second petition for writ
24 of mandate.

25 ///

26 ///

27 ///

28 ///

1 9. Attached as Exhibit "G" hereto is a true and correct copy of the Declaration of Gary
2 Ghio in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining
3 Order filed in this Court on September 29, 2022, with Exhibits A through C omitted therefrom.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct.

6 Executed this 25th day of October 2022, at San Diego, California.


7 
8 _____
9 MATTHEW L. GREEN

EXHIBIT A

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10 Facsimile: (916) 325-4010

11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state agency;
and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22-CV-12824
Judge: Hon. Renee C. Day

**ORDER AND
PRELIMINARY INJUNCTION**

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 2

Action Filed: September 20, 2022
Trial Date: Not Set

By *Flu*

FILED
Superior Court of California,
County of Amador
10/10/2022 at 03:40:55 PM
By: B. MORRIS, Deputy Clerk

OCT 10 2022

CLERK OF THE SUPERIOR COURT

1 The order to show cause why a preliminary injunction should not ~~issue in favor of Plaintiff~~
2 Amador Regional Sanitation Authority ("ARSA") came on for hearing in Department 2 of this
3 Court on October 10, 2022. Matthew L. Green and Frank A. Splendorio of Best Best & Krieger
4 LLP appeared on behalf of ARSA. Margaret Long and Carolyn Walker of Prentice Long, PC and
5 Theresa C. Barfield of Somach Simmons & Dunn appeared on behalf of Defendant City of Ione
6 ("Ione"). Having read ARSA's ex parte application for a temporary restraining order and for an
7 order to show cause why a preliminary injunction should not issue, the memoranda and declarations
8 filed by the parties, and having heard argument of counsel, and satisfactory evidence having been
9 presented,

10 IT IS ORDERED THAT a preliminary injunction shall issue in favor of ARSA. Ione and
11 its employees and agents, and any other persons acting with or on behalf of Ione, are required to
12 accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston
13 Reservoir for the next 30 days, for a total of 15 million gallons of secondarily treated wastewater
14 over the 30-day period, pending the trial of this action or further order of this Court.

15
16 Dated: October FE, 2022

By: 

JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 10, 2022, I served a copy of the within document(s):

[PROPOSED] ORDER AND PRELIMINARY INJUNCTION

- ☐ **By personal service.** At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.
- ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- ☒ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☒ **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

1 Margaret Long, Esq.
2 David Prentice, Esq.
3 Prentice Long, PC
4 2240 Court Street
5 Redding, CA 96001

ATTORNEYS FOR DEFENDANT CITY
OF IONE

Tel.: (530) 691-0800

Email: margaret@prenticelongpc.com
David@prenticelongpc.com
Caren@prenticelongpc.com
Carolyn@prenticelongpc.com

6 Theresa C. Barfield, Esq.
7 Michele E. Chester, Esq.
8 Somach Simmons & Dunn
9 500 Capitol Mall, Suite 1000
10 Sacramento, CA 95814

SPECIAL COUNSEL TO THE CITY
ATTORNEY OF IONE

Tel: (916) 446-7979

Email: tbarfield@somachlaw.com
mchester@somachlaw.com

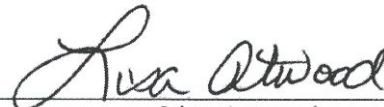
11 California Department of Corrections and
12 Rehabilitation
13 1515 S Street, Suite 314 South
14 Sacramento, CA 95811

Attn: Patrick Covello

Email: Patrick.Covello@cdcr.ca.gov

15 I declare under penalty of perjury under the laws of the State of California that the above
16 is true and correct.

17 Executed on October 10, 2022, at San Diego, California.

18 

19 Lisa Atwood
20
21
22
23
24
25
26
27
28

EXHIBIT B

Attorney or Party without Attorney: Shawn D. Hagerty, Esq. (SBN 182435) BEST BEST & KRIEGER LLP 655 West Broadway, 15th Floor San Diego, CA 92101 Telephone No: 619-525-1300 Attorney For: Plaintiff				For Court Use Only <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> AMADOR SUPERIOR COURT OCT 13 2022 Clerk of the Superior Court By: <u>B. MORRIS</u>	
Ref. No. or File No.: 82456.000002/MLG					
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF AMADOR					
Plaintiff: AMADOR REGIONAL SANITATION AUTHORITY, a California joint powers agency Defendant: CITY OF IONE, a California municipal corporation; et al.					
PROOF OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: 22-cv-12824

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the ORDER AND PRELIMINARY INJUNCTION
3.
 - a. Party served: City of Ione, a California municipal corporation
 - b. Person served: Kenna Brosz, Administrative Assistant
4. Address where the party was served: 1 E Main Street, Ione, CA 95640
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue, Oct 11 2022 (2) at: 12:44 PM
6. Person Who Served Papers:

- a. Peter Campbell (Amador County #19-006) ()
 - b. c/o FIRST LEGAL
530 B Street, Suite 1050
SAN DIEGO, CA 92101
 - c. (619) 231-9111

- d. The Fee for Service was: \$176.26
 - e. I am: A Registered California Process Server
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/12/22
(Date)


(Signature)



Judicial Council Form
Rule 2.150.(a)&(b) Rev January 1, 2007

PROOF OF
SERVICE

7787342
(15059646)

By fax

EXHIBIT C



500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814
OFFICE: 916-446-7979 FAX: 916-446-8199
SOMACHLAW.COM

October 11, 2022

The Honorable Justice Ronald B. Robie
Acting Administrative Presiding Justice
California Court of Appeal, Third Appellate District
914 Capitol Mall, 4th Floor
Sacramento, CA 95814

Re: *City of Ione v. The Superior Court of Amador County, Respondent; Amador Regional Sanitation Authority, Real Party in Interest*
C097044 (Amador County Super. Ct. No. 22CV12824)
PETITIONERS' STATUS UPDATE AND SUPPLEMENTAL LETTER
BRIEF

To the Honorable Justice Robie and the California Court of Appeal, Third Appellate District:

Pursuant to this Court's October 4, 2022 Order, the City of Ione (Ione) respectfully submits this status update following the October 10, 2022 hearing before the Amador County Superior Court (Superior Court), accompanied by a supplemental letter brief to address whether the above-referenced matter is moot.

Please note the law firm of Somach Simmons and Dunn, LLC was recently retained to represent Ione in the above-referenced matter. To that end, a notice of appearance by attorneys Theresa C. Barfield and Michelle E. Chester with Somach Simmons and Dunn, LLC, on behalf of Petitioner Ione, is filed concurrently herewith.

I. Status Update

Ione's September 30, 2022 Petition for Extraordinary Writ of Mandate (Petition) arises from the Superior Court's September 29, 2022 order issuing a temporary restraining order (TRO) requiring Ione to accept secondarily treated wastewater from real party in interest Amador Regional Sanitation Authority (ARSA). Ione's Petition sought, in pertinent part, an immediate stay of the TRO and the issuance of a peremptory or alternative writ of mandate, directing the Superior Court to deny the TRO. This Court stayed the TRO on October 4, 2022, pending the order to show cause hearing set before the Superior Court on October 10, 2022.

At the October 10, 2022 hearing, the Superior Court granted a preliminary injunction in favor of ARSA, requiring Ione to "accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for the next 30 days, for a total of 15

October 11, 2022

Page 2

million gallons of secondarily treated wastewater over the 30-day period, pending the trial of this action or further order of this Court.” (See October 10, 2022 Order of the Superior Court, attached hereto as Attachment 1 (PI Order).) A copy of the Superior Court’s October 10, 2022 Minute Order (Minute Order) is also attached hereto for the Court’s reference (Attachment 2).

II. Supplemental Brief

A. Summary of Argument

It is Ione’s position that the Petition is not moot.

Writ relief remains necessary because the Superior Court, in issuing the PI Order, abused its discretion by failing to reasonably consider the irreparable harm to the citizens of Ione and the surrounding areas, related to the immediate health and safety concerns at issue.

The Superior Court further abused its discretion in finding that ARSA satisfied the legal standard to support issuance of a preliminary injunction, including that ARSA is likely to prevail on the underlying merits of its complaint. ARSA’s complaint, as it relates to injunctive relief, remains deficient on its face and, as pled, must fail as a matter of law.

The Superior Court failed to address its reasoning to support the issuance of the PI Order at the hearing, or by way of expressing its findings in its Minute Order, or in the final PI Order. Ione understands that a transcript of the proceeding will not be available for several weeks.

B. Irreparable Harm to Ione Citizens Is Imminent Without Judicial Relief

The primary issue in the Petition before this Court is Ione’s interest in protecting the health and safety of the citizens of Ione and the surrounding area. (See Petition at Section II.A., pp. 9-11.) Immediate relief is necessary from the Superior Court’s PI Order because it presents an imminent risk of irreparable harm to those individuals. Ione has no legal recourse at the Superior Court to address these immediate concerns. (*Corona Unified Hospital Dist. v. Superior Court of Riverside County* (1964) 61 Cal.2d 846, 850 [issuing a writ where there appeared to be “no other plain, speedy, and adequate remedy in the ordinary course of law”] emphasis omitted.) This Court’s review is necessary because “the issues presented are of great public importance and must be resolved promptly.” (*County of Sacramento v. Hickman*, (1967) 66 Cal.2d 841, 845.)

Unfortunately, the quality of water delivered by ARSA for treatment by Ione poses serious and ongoing threats to the health and safety of local residents. Requiring Ione to accept ARSA water from Preston Reservoir has and will continue to result in violations of Ione’s permit limitations established by the Central Valley Regional Water Quality Control Board (Regional Board). The Regional Board has a statutory obligation in prescribing

requirements applicable to Ione's treatment of wastewater. (Wat. Code, § 13523.) Ione's permitted treatment of domestic wastewater in accordance with the Regional Board's adopted water reclamation requirements ensures its compliance with established limitations intended "to protect the public health, safety, or welfare" (*Ibid.*)

The Superior Court's PI Order does not reflect any consideration of the public safety concerns Ione presented. Ione has no assurances from ARSA that the water delivered from Preston Reservoir will not result in exceedances of coliform bacteria and hydrogen sulfide in addition to resulting nuisance smells that threaten the health and safety of Ione's residents. Accordingly, since the primary and overarching issue in Ione's Petition has not been resolved, and is now even more critical given the Superior Court's issuance of the PI Order, it is Ione's position that the Petition is not moot.

C. The Superior Court Abused Its Discretion In Finding that ARSA Satisfied the Standard for a Preliminary Injunction

A trial court must evaluate two factors when deciding whether or not to issue a restraining order: (1) "the likelihood that the plaintiff will prevail on the merits at trial"; and (2) "the interim harm that the plaintiff is likely to sustain if the [restraining order] were denied as compared to the harm that defendant is likely to suffer if the [order] were issued." (*Church of Christ in Hollywood v. Superior Court* (2002) 99 Cal.App.4th 1244, 1251, quoting *IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70.)

Regarding the first factor, the Superior Court was required to address the "likelihood that the plaintiff will prevail on the merits at trial." (*IT Corp. v. County of Imperial, supra*, 35 Cal.3d at pp. 69-70.) ARSA's complaint, however, is legally deficient on its face in that ARSA fails to plead a cause of action for breach of contract to support a request for injunctive relief.¹ Instead, ARSA relies solely on a cause of action for injunctive relief, which is not legally sustainable. (*Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 356, quoting *Shell Oil Co. v. Richter* (1942) 52 Cal.App.2d 164, 168 ["Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action must exist before injunctive relief may be granted."]) Moreover, even if breach of contract is adequately pled, Ione contests that a valid contract exists in the first instance. In either scenario, the Superior Court abused its discretion by issuing the PI Order in a conclusory fashion, without any reference to its reasoning or specific findings of fact to support the assumption that ARSA met its burden to support the issuance of a preliminary injunction.

Moreover, regarding the second factor, the balancing of immediate harms weighs so heavily in favor of Ione, that the Superior Court's granting of the PI Order exceeds the bounds of reason. (*Church of Christ in Hollywood v. Superior Court* (2002) 99 Cal.App.4th 1244, 1251, citing *IT Corp. v. County of Imperial, supra* 35 Cal.3d at pp. 69-70.) [a trial court

¹ For reference, a copy of the Summons and Complaint filed by ARSA with the superior court is attached hereto as Attachment 3.

The Honorable Justice Robie and the California Court of Appeal, Third Appellate District
Re: City of Ione v. The Superior Court of Amador County
C097044 (Amador County Super. Ct. No. 22CV12824)
PETITIONERS' STATUS UPDATE AND SUPPLEMENTAL LETTER BRIEF
October 11, 2022
Page 4

abuses its discretion when it exceeds the bounds of reason or contravenes uncontradicted evidence[.]) ARSA claims that the mere possibility of a 100-year storm supersedes the actual and current public health crisis that it is creating for the residents of Ione. This is untenable.

III. Conclusion & Short Term Requested Relief

As set forth hereinabove, the primary issue in the Petition before this Court is Ione's interest in protecting the health and safety of the citizens of Ione and the surrounding area. That issue remains unresolved and, on that basis, it is Ione's position that the matter is not moot. However, Ione is now faced with the PI Order, instead of the temporary restraining order addressed in the pending Petition, and the PI Order raises additional concerns and new arguments specific to the Superior Court's actions, as generally outlined herein.

Accordingly, Petitioner respectfully requests leave to file an Amended Petition in the currently pending matter (C097044) in lieu of initiating a new petition for writ of mandate matter tethered solely to the PI Order. An Amended Petition would serve to align the facts and legal arguments with the current state of events after the October 10, 2022 hearing and issuance of the PI Order. Upon the Court's leave, Ione proposes to file an Amended Petition on or before October 14, 2022.

To that extent the Court determines that dismissing the current Petition (C097044) as moot is the preferred course of action, Petitioner will promptly proceed with filing a new petition for writ of mandate arising from the PI Order.

In the interim, Petitioner respectfully requests that this Court issue an immediate stay of the PI Order pending disposition of this matter by this Court.

Respectfully submitted,

SOMACH, SIMMONS AND DUNN, P.C.



Theresa C. Barfield
Michelle E. Chester
Attorneys for Petitioner City of Ione

[Enclosures]

Document received by the CA 3rd District Court of Appeal.

EXHIBIT D

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

CITY OF IONE,
Petitioner,
v.
THE SUPERIOR COURT
OF AMADOR COUNTY,
Respondent;
AMADOR REGIONAL
SANITATION AUTHORITY,
Real Party in Interest.

C097044
Amador County
No. 22CV12824

BY THE COURT:

The petition for writ of mandate is denied as moot. The stay previously issued by this court on October 4, 2022, is vacated.



ROBIE, Acting P.J.

cc: See Mailing List

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

MAILING LIST

Re: City of Ione v. The Superior Court of Amador County
C097044
Amador County Super. Ct. No. 22CV12824

Copies of this document have been sent by mail to the parties checked below unless they were noticed electronically. If a party does not appear on the TrueFiling Servicing Notification and is not checked below, service was not required.

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Sacramento, CA 95814



Amador Superior Court
500 Argonaut Lane
Jackson, CA 95642

EXHIBIT E

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

CITY OF IONE, a California municipal
corporation,

Petitioner,

v.

THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA FOR THE
COUNTY OF AMADOR,

Respondent,

AMADOR REGIONAL SANITATION
AUTHORITY, A California joint powers
agency,

Real Party in Interest.

Case No.

Amador County Superior Court No. 22CV12824
Honorable Renee C. Day, Judge (209) 257-2603

**PETITION FOR EXTRAORDINARY WRIT OF MANDATE; APPLICATION
FOR TEMPORARY STAY; MEMORANDUM OF POINTS AND
AUTHORITIES, EXHIBITS AND DECLARATION OF THERESA C.
BARFIELD IN SUPPORT THEREOF**

**IMMEDIATE STAY REQUESTED:
OCTOBER 11, 2022 ORDER AND PRELIMINARY INJUNCTION**

THERESA C. BARFIELD (SBN 185568)

MICHELLE E. CHESTER (SBN 300632)

SOMACH SIMMONS & DUNN

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Attorneys for Petitioner City of Ione

(Additional Counsel on following Page)

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margaret@prenticelongpc.com

Attorneys for Petitioner City of Ione

Document received by the CA 3rd District Court of Appeal.


CERTIFICATE OF INTERESTED PARTIES

Pursuant to rules 8.208 and 8.488 of the California Rules of Court, Petitioner City of Ione hereby certifies, through its undersigned counsel, that there are no interested entities or persons that must be listed in this certificate.

Respectfully submitted,

SOMACH SIMMONS & DUNN
A Professional Corporation

Dated: October 14, 2022

By: 
Theresa C. Barfield
Michelle E. Chester
Attorneys for Petitioner City of Ione

Document received by the CA 3rd District Court of Appeal.

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PETITION

INTRODUCTION

On October 10, 2022 the Amador County Superior Court (Superior Court) granted a preliminary injunction against the City of Ione (Ione) and in favor of Amador Regional Sanitation Authority (ARSA). (PI Order). In doing so, the Superior Court mandates that Ione “accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for the next 30 days, for a total of 15 million gallons of secondarily treated wastewater over the 30-day period, pending the trial of this action or further order of this Court.” Exhibits P (Minute Order)-Q (Formal Order).

Petitioner files this Petition for Extraordinary Writ of Mandate (Petition) because a post-judgment appeal of the Superior Court’s PI Order would not provide effective relief. The PI Order presents an imminent risk of irreparable harm to Ione and its citizens. The requested relief is based upon the following, discussed in more detail hereinbelow:

1. The Superior Court, in issuing the PI Order, abused its discretion by failing to reasonably consider the irreparable harm to the citizens of Ione and the surrounding areas, related to the immediate health and safety concerns at issue, including its failure to adequately consider reasonable alternatives that would serve to protect the health and safety of the citizens while also addressing the concerns raised by ARSA. The Superior Court’s PI Order,

however, unreasonably favors the alleged harms to ARSA over those of Ione, in the face of a proposed solution that would protect both parties.

2. The Superior Court, in issuing the PI Order, abused its discretion by issuing an order that will operate to violate existing permits issued by the Regional Water Quality Control Board (Regional Board) to both Ione and its wastewater system operator. As such, and absent immediate relief, Ione is in a position of immediately complying with the PI Order, which will violate the Regional Board permits, and leave Ione at risk of facing a potential enforcement action with associated fines and penalties by another state entity. If Ione complies with the Regional Board permits, it must necessarily violate the PI Order which would likely subject Ione to potential sanctions by the Superior Court. It was an abuse of discretion to construct an injunction that requires Ione to violate the Regional Board permits in order to be in compliance with the PI Order.
3. The Superior Court further abused its discretion in finding that ARSA satisfied the legal standard to support issuance of a preliminary injunction, including that ARSA is likely to prevail on the underlying merits of its complaint. ARSA's complaint, as it relates to injunctive relief, remains deficient on its face and, as pled, must fail as a matter of law.

The Superior Court failed to address its reasoning to support the issuance of the PI Order at the hearing, or by way of expressing its findings in its Minute Order, or in the final PI Order, further exacerbating the concerns at issue herein. Exhibits P-Q.¹

PETITION FOR WRIT OF MANDATE JURISDICTION

This Court has jurisdiction. (Cal. Const. Art. VI section 10; Code of Civil Procedure Section 1085)

AUTHENTICITY OF EXHIBITS

All exhibits accompanying this Petition are true and correct copies of original documents. All documents are on file with the respondent Superior Court.

Exhibit A: Amador Regional Sanitation Authority Memorandum in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order

Exhibit B: Declaration of Matthew L. Green in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order

Exhibit C: Declaration of Donald Brown in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order

Exhibit D: Declaration of Steven Corey Stone in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order

Exhibit E: Declaration of Gary Ghio in Support of Ex Parte Application for Order to Show Cause Temporary Restraining Order

¹ Ione understands that a transcript of the proceeding will not be available for several weeks. Declaration of Theresa C. Barfield, filed concurrently herewith.

- Exhibit F:** Declaration of Amy Gedney in Support of Ex Parte Application for Order to Show Cause and Temporary Restraining Order
- Exhibit G:** Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction
- Exhibit H:** City of Ione's Opposition to Ex Parte Application for Order to Show Cause and Temporary Restraining Order; Memorandum of Points and Authorities
- Exhibit I:** Declaration of Michael Rock in Support of Opposition to Ex Parte Application for Order to Show Cause and Temporary Restraining Order
- Exhibit J:** Declaration of Brett Moroz in Support of Opposition to Ex Parte Application for Order to Show Cause and Temporary Restraining Order
- Exhibit K:** Declaration of Margaret Long in Support of Opposition to Ex Parte Application for Order to Show Cause and Temporary Restraining Order
- Exhibit L:** Amador Regional Sanitation Authority Reply Memorandum in Support of Issuance of Preliminary Injunction
- Exhibit M:** Supplemental Declaration of Matthew L. Green in Support of Issuance of Preliminary Injunction
- Exhibit N:** Supplemental Declaration of Ghio, P.E. in Support of Issuance of Preliminary Injunction
- Exhibit O:** Supplemental Declaration of Donald Brown in Support of Issuance of Preliminary Injunction

- Exhibit P:** Superior Court’s October 10, 2022 Minute Order Re Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction
- Exhibit Q:** Superior Court’s October 10, 2022 Order and Preliminary Injunction
- Exhibit R:** Amador Regional Sanitation Authority Complaint for Injunctive and Declaratory Relief

PARTIES

1. The Petitioner is the City of Ione (Ione) and the defendant in the underlying action, *Amador Regional Sanitation Authority v. City of Ione, California Department of Corrections and Rehabilitation*, Amador County Superior Court Case Number 22CV12824.
2. The Respondent is the Amador County Superior Court (Superior Court), the Honorable Renee C. Day.
3. The real party in interest is Amador Regional Sanitation Authority (ARSA), and the plaintiff in the underlying action.

PROCEDURAL HISTORY

A. The Underlying Complaint

On September 21, 2022, ARSA filed a Complaint against Ione and the California Department of Corrections and Rehabilitation (CDCR) in the Superior Court. ARSA alleges a cause of action for injunctive relief, and one for declaratory relief against Ione. Exhibit R, 9:21-10:8; 11:1-18. Although ARSA alleges the existence of a contract in its general allegations, it does not allege an independent and distinct cause of action for “breach of contract”, setting forth the elements of the cause

of action with supporting facts, including damages. Exhibit R. ARSA's complaint seeks preliminary and permanent injunctive relief restraining Ione from refusing to accept ARSA's secondarily treated wastewater from Preston Reservoir and for a judicial determination and declaration that Ione is obligated to accept such water. Exhibit R 11:21-24; 12:1-3.

B. The Temporary Restraining Order

ARSA filed an ex parte application for a temporary restraining order (TRO) on September 28, 2022 to compel Ione to accept secondarily treated wastewater for a period of 30 days. Exhibits A-F. ARSA claimed that Ione must accept wastewater pursuant to a 2007 contract. Exhibit A.

The Superior Court granted ARSA's ex parte TRO application on September 29, 2022, ordering Ione to accept secondarily treated wastewater from ARSA in the amount of 500,000 gallons per day for thirty days. Exhibit G. The Order was issued solely on the basis of ARSA's papers. Ione filed a Petition for Extraordinary Writ of Mandate on September 30, 2022 (Case No. C097044).² This Court stayed the TRO on October 4, 2022, pending the order to show cause hearing set before the Superior Court on October 10, 2022.

C. The Preliminary Injunction

Ione filed its opposition brief and supporting papers, responsive to ARSA's ex parte application, on October 5, 2022. Exhibits H-K. There, Ione states that its 2007

² Case No. C097044 addressed the 9/29/22 TRO. This court dismissed the petition as moot on October 13, 2022.

contract ARSA terminated on July 31, 2022, and that Ione cannot continue to process wastewater from ARSA due to the compromised quality of the water, which would immediately endanger the health and safety of its citizens, as well as violate state-issued permits. Exhibits H-K. ARSA submitted a reply brief, including three supplemental declarations, on October 7, 2022. Exhibits L-O.

At the October 10, 2022 hearing, the Superior Court granted a preliminary injunction in favor of ARSA (PI Order), requiring Ione to “accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston Reservoir for the next 30 days, for a total of 15 million gallons of secondarily treated wastewater over the 30-day period, pending the trial of this action or further order of this Court.” Exhibits P (Minute Order)-Q (Formal Order).

APPEAL IS AN INADEQUATE REMEDY

Writ relief is necessary because the Superior Court’s order immediately interferes with the health and safety of the citizens of Ione and the surrounding areas.

APPLICATION FOR AN IMMEDIATE STAY

Petitioner requests that the Court issue an immediate stay of the Superior Court’s PI Order. (*Paramount Pictures Corp. v. Davis* (1964) 228 Cal.App.2d 827, 835 [“It is well settled that an injunction mandatory in character is automatically stayed on appeal...” citing *Byington v. Superior Court* (1939) 14 Cal.2d 68, 70].) A stay of the Superior Court’s mandatory PI Order is necessary to preserve the status quo while this court considers the issues presented and the risk to the public.


PRAYER FOR RELIEF

WHEREFORE, Petitioner City of Ione respectfully prays that this Court:

1. Immediately stay the Superior Court's October 10, 2022 Order and Preliminary Injunction in *Amador Regional Sanitation Authority vs. City of Ione, et al.*, Amador County Superior Court Case No. 22CV12824, pending disposition of this Petition.
2. Issue a peremptory or alternative writ of mandate or other appropriate writ directing respondent Superior Court to vacate its October 10, 2022 Order and Preliminary Injunction, and directing the Superior Court to enter an order denying ARSA's application for order to show cause and temporary restraining order.
3. Alternatively, if a peremptory writ does not issue in the first instance, and in addition to or in lieu of any alternative writ, issue an order directing respondent Superior Court to show cause why its October 10, 2022 Order and Preliminary Injunction should not be vacated and an order denying the application for order to show cause and temporary restraining order be entered.
4. Award Petitioner its costs in this action.
5. Award such other relief as may be just and proper.

Respectfully submitted,
SOMACH SIMMONS & DUNN
A Professional Corporation

Dated: October 14, 2022

By: 
Theresa C. Barfield
Michelle E. Chester
Attorneys for Petitioner City of Ione

Document received by the CA 3rd District Court of Appeal.

EXHIBIT F

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

CITY OF IONE,
Petitioner,
v.
THE SUPERIOR COURT
OF AMADOR COUNTY,
Respondent;
AMADOR REGIONAL
SANITATION AUTHORITY,
Real Party in Interest.

C097112
Amador County
No. 22CV12824

BY THE COURT:

The petition for writ of mandate with request for stay is denied.


ROBIE, Acting P.J.

cc: See Mailing List

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

MAILING LIST

Re: City of Ione v. The Superior Court of Amador County
C097112
Amador County Super. Ct. No. 22CV12824

Copies of this document have been sent by mail to the parties checked below unless they were noticed electronically. If a party does not appear on the TrueFiling Servicing Notification and is not checked below, service was not required.

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Sacramento, CA 95814

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EXHIBIT G

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FILED
AMADOR SUPERIOR COURT

SEP 29 2022

CLERK OF THE SUPERIOR COURT
By [Signature]

Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF GARY GHIO IN
SUPPORT OF EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER

Date: October 3, 2022
Time: 8:30 a.m.
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Gary Ghio, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I have been a licensed engineer in the State of California for 41 years with extensive
5 experience in managing wastewater disposal systems. Since 2011, I have been the Engineer for the
6 Amador Regional Sanitation Authority ("ARSA"), a joint powers agency responsible for providing
7 wastewater conveyance and disposal services to the Cities of Amador City and Sutter Creek and
8 the County of Amador.

9 3. Wastewater from the City of Sutter Creek, Amador City, and the Martell community
10 is treated by the Sutter Creek Wastewater Treatment Plant ("Sutter Creek WTP"), which is owned
11 and operated by the City of Sutter Creek. Disinfected secondary effluent from the Sutter Creek
12 WTP is conveyed through a series of pipelines and reservoirs, known as the "Henderson/Preston
13 System," and ultimately to Preston Reservoir for discharge to the City of Lone ("Lone") for tertiary
14 treatment at its Castle Oaks Water Reclamation Plant ("Castle Oaks WRP") for irrigation use at the
15 Castle Oaks Golf Course ("Golf Course").

16 4. The Henderson/Preston System is owned by the California Department of
17 Corrections and Rehabilitation ("CDCR"). Since approximately 1977, CDCR has leased the
18 pipelines and reservoirs that make up the Henderson/Preston System to ARSA. A true and correct
19 copy of the current lease between ARSA and CDCR, Ground lease No. L-2070 ("Lease"), executed
20 on February 23, 2009, is attached as Exhibit "A" hereto.

21 5. Under the Lease, ARSA uses the Henderson/Preston System to transport water and
22 wastewater pursuant to a separate agreement between ARSA, CDCR, and Lone, identified as the
23 Agreement to Regulate Use of Henderson/Preston Wastewater Disposal System dated September
24 18, 2007 ("Wastewater Agreement"), a true and correct copy of which is attached as Exhibit B to
25 the Lease.

26 6. The Wastewater Agreement governs the wastewater rights and obligations among
27 ARSA, CDCR, and Lone, as well as the relationship and respective rights between ARSA, CDCR,
28 and Lone with regard to the Henderson/Preston System. The Wastewater Agreement obligates Lone

1 to accept 650 acre feet (or 211,803,427 gallons) of secondarily treated wastewater from Preston
2 Reservoir annually, specifically up to 95 acre feet (or 30,955,886 gallons) of wastewater per month
3 from April through September and up to 10 acre feet (or 3,258,514 gallons) of wastewater per
4 month from October through March.

5 7. The Wastewater Agreement provides for up to 95 acre feet (or 30,955,886 gallons)
6 of wastewater per month from April through September because those months typically fall within
7 the irrigation season, i.e., when the wastewater is needed due to a lack of rain. The Wastewater
8 Agreement only provides for a maximum of 10 acre feet (or 3,258,514 gallons) of wastewater per
9 month from October through March because those months generally fall within the rainy season,
10 i.e., when limited water is needed for irrigation. Based on my experience since the Wastewater
11 Agreement was entered into roughly 15 years ago, however, the respective irrigation and rainy
12 seasons generally begin roughly one month later than what is reflected in the Wastewater
13 Agreement, meaning the irrigation season will likely last through at least October, depending on
14 the commencement of the rainy season.

15 8. The Central Valley Regional Water Quality Control Board's ("Regional Board")
16 Water Reclamation Requirements ("WRRs") Order No. 93-240 regulates the Castle Oaks WRP
17 and flows thereto from the Henderson/Preston System. WRRs Order No. 93-240 only permits
18 wastewater treatment and reuse based on the flows to Preston Reservoir through the
19 Henderson/Preston System. WRRs Order No. 93-240 also names only ARSA, Ione, and Portlock
20 International, Ltd. (the Golf Course) as the dischargers. Ione has received no other water quality
21 permits or permit modifications from the Regional Board that allow Ione to provide reclaimed water
22 to the Golf Course in any manner other than through the Henderson/Preston System from Preston
23 Reservoir. A true and correct copy of WRRs Order No. 93-240 is attached as Exhibit "B" hereto.

24 9. Pursuant to WRRs Order No. 93-240, ARSA can store a maximum of 229 acre feet
25 of water (or 74,619,977 gallons) in Preston Reservoir, which lies within two feet of the freeboard
26 (i.e., the vertical distance between the reservoir water surface and the crest of the reservoir's
27 embankment). Although such capacity would exceed WRRs Order No. 93-240, at 270 acre feet (or
28 86,350,628 gallons), the dam at Preston Reservoir will overtop and wastewater will overflow from

1 the Reservoir.

2 10. In the event Preston Reservoir spills over, or the dam does not hold, the wastewater
3 will flood a nearby Cal Fire Academy property and then run through a nearby creek, Mule Creek,
4 and into the residential subdivision surrounding the Golf Course. The flooding and discharge of
5 disinfected secondary effluent into Mule Creek and onto residential property poses significant
6 public health and water quality contamination issues, as disinfected secondary effluent contains
7 harmful pathogens (protozoa, bacteria, and viruses), inorganic compounds, and parasites. Although
8 the wastewater that is conveyed into Preston Reservoir through the Henderson/Preston System has
9 undergone secondary treatment at the Sutter Creek WTP, local runoff and waterfowl contribute to
10 the bacteria in Preston Reservoir. Attached as Exhibit "C" hereto is a true and correct copy of the
11 Preston Dam Break Inundation Map, which depicts the areas that would be impacted with flooding
12 of disinfected secondary effluent in the event Preston Reservoir spills over.

13 11. Based on Preston Reservoir's current amount of 115 acre feet (or 37,472,914
14 gallons) of wastewater, in the event of a substantial, upcoming rainy season in the region, such as
15 one that includes a 100-year storm event like that experienced in 2017, Preston Reservoir will reach
16 its permitted capacity in early March 2023, and will spill over in April 2023, before the end of the
17 anticipated rainy season. Water balance is required by the Regional Board in order to verify that
18 the system at issue has sufficient capacity for all flows under a 1 in 100 year storm season scenario.
19 Per Regional Board requirements, systems must be able to treat, store, and dispose of all flows
20 under the 1 in 100 year scenario each year.

21 12. In the past, Ione's Castle Oaks WRP has treated 1.2 million gallons (or 3.68 acre
22 feet) per day. In order to avoid the grave consequences that will ensue in the event Preston Reservoir
23 overflows, it is imperative that Ione immediately begin accepting at least 500,000 gallons (or 0.15
24 acre feet) of wastewater from ARSA from Preston Reservoir. Based on my modeling, the
25 acceptance of at least 500,000 gallons for at least 30 days should be sufficient to avoid Preston
26 Reservoir spilling over before the end of the upcoming rainy season, depending on the extent and
27 duration of the rainy season. The only viable option for ARSA to discharge wastewater from the
28 Preston Reservoir is to discharge the water to the Castle Oaks WRP; no other viable options exist.

1 13. Ione has expressed an unwillingness to accept wastewater from Preston Reservoir
2 on the grounds that the water is allegedly high in hydrogen sulfide, which could cause odor issues
3 at the Castle Oaks WRP and the Golf Course, and that the water purportedly has high turbidity (i.e.,
4 cloudiness), which may cause treatment difficulties.

5 14. On September 9, 2022, the Regional Board issued correspondence to ARSA, Ione,
6 and the Golf Course addressing the issue, a true and correct copy of which is attached as Exhibit
7 "D" hereto. Among other items, the Regional Board's September 9, 2022, letter stated in no
8 uncertain terms that "the capacity issues at Preston [Reservoir] are presenting an even greater risk
9 to water quality and public health than potential nuisance concerns related to the treatment of
10 wastewater from Preston [Reservoir] at Ione's [Castle Oaks WRP]."

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct.

13 Executed this 28th day of September 2022, at Sutter Creek, California.

14 

15 GARY GHIO
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EXHIBIT D

Central Valley Regional Water Quality Control Board

9 September 2022

Robin Peters
ARSA, Board Chairman
18 Main Street
Sutter Creek, CA 95685
RPeters@cityofsuttercreek.org
Sent via email

Dominic Atlan
Castle Oaks Golf Course, Manager
1000 Castle Oaks Drive
Ione, CA 95640
datlan@ione-ca.com
Sent via email

Dan Epperson
City of Ione, Mayor
1 East Main Street
Ione, CA 95640
depperson@ione-ca.com
Sent via email

PRESTON RESERVOIR CAPACITY AND TERTIARY PLANT NUISANCE CONDITIONS, CITY OF IONE, AMADOR COUNTY REGIONAL OUTFALL AND CASTLE OAKS GOLF COURSE AND DEVELOPMENT, AMADOR COUNTY

On 3 December 1993, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Water Reclamation Requirement (WRRs) 93-240, which regulate the conveyance, storage, tertiary treatment, and land application of secondary treated domestic wastewater from the City of Sutter Creek Wastewater Treatment Plant.

The Amador Regional Sanitation Authority (ARSA) operates the conveyance, storage, and disposal system between the Sutter Creek wastewater treatment plant and Preston Reservoir (Preston). The system moves effluent from the Sutter Creek wastewater treatment plant to several land application areas and storage reservoirs (which includes Henderson Reservoir), eventually discharging to Preston, which is in Ione. ARSA and the City of Ione are both named in the WRRs 93-240 and have entered into a formal agreement¹ to send effluent from Preston to the City of Ione Tertiary Treatment Plant (Tertiary Plant) for further treatment and reuse on Castle Oaks Golf Course (golf course).

It is Central Valley Water Board staff's understanding that the City is concerned the water coming out of Preston may be high in hydrogen sulfide, which could cause odor issues at the Tertiary Plant and on the golf course. In addition, the intake of Preston

¹ The Board understands that the status of this agreement is in dispute.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

water for delivery to the Tertiary Plant occurs at the bottom of the reservoir and has high turbidity which may be causing treatment difficulties. However, the Board has also been made aware that Preston and Henderson Reservoirs are at or near capacity, limiting the ability of the system to withstand higher flows that may occur during the upcoming rainy season. It is of utmost importance for these capacity issues to be resolved promptly to avert potential public health and water quality contamination issues that may occur if the system becomes unable to handle additional inflows.

One way to help alleviate the current situation is for the Board to allow the City to accept water from Preston, even though that may result in the creation of nuisance conditions, which would ordinarily be considered a violation of WRRs 93-240. With the understanding that the capacity issues at Preston are presenting an even greater risk to water quality and public health than potential nuisance concerns related to the treatment of wastewater from Preston at Lone's tertiary facility, the Central Valley Water Board's Compliance and Enforcement Unit will exercise its prosecutorial discretion to not pursue enforcement of odor nuisance conditions that may occur as a result of the City's acceptance of treated wastewater from Preston at the Tertiary Plant or golf course between 9 September 2022 and 1 January 2023.

The Board expects that all dischargers named in WRRs 93-240 will continue to work cooperatively to address both the capacity concerns at Preston and to take all reasonable and appropriate steps to address any odor concerns that may arise. It is also the expectation of the Central Valley Water Board that the City of Lone and ARSA provide the following information on a weekly basis while the Board is exercising its enforcement discretion:

1. Freeboard levels of Preston and Henderson Reservoirs;
2. Flow into Preston and Henderson Reservoirs;
3. Flow in gallons per day from Preston to the Tertiary Plant;
4. A description of any polymer added by added as pre-treatment to address the nuisance conditions.
5. All previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity. This shall be reported to Kari.Holmes@waterboards.ca.gov; and
6. A weekly summary of any nuisance complaints received by the City and the golf course, along with an explanation of how the complaint(s) were resolved. This summary will include details of coordination efforts made between all dischargers to address areas of concern.

The Board is also committed to working with ARSA to resolve issues related to the operation of their facilities, which may include enhanced maintenance requirements such as the dredging of both Henderson and Preston on a regular basis to ensure that these concerns are adequately addressed in the future.

ARSA, Castle Oaks Golf Course, City of Ione

Amador County

- 3 -

9 September 2022

If you have questions, please contact me directly at John.Baum@waterboards.ca.gov or (916) 464-4839.

A handwritten signature in black ink, appearing to read 'J. Baum', with a large, sweeping flourish extending to the left.

JOHN J. BAUM,
Assistant Executive Officer

cc: list on next page.

ARSA, Castle Oaks Golf Course, City of Ione

Amador County

- 4 -

9 September 2022

cc: Stacey Rhodes, City of Ione, Ione
Diane Wratten, City of Ione, Ione
Thomas Reed, City of Ione, Ione
Dan Epperson, City of Ione, Ione
Dominic Atlan, Castle Oaks Golf Course, Ione
Robin Peters, ARSA, Sutter Creek
Amy Gedney, ARSA, Sutter Creek
Howard Hold, Central Valley Water Board, Rancho Cordova
Kenny Croyle, Central Valley Water Board, Rancho Cordova
Scott Armstrong, Central Valley Water Board, Rancho Cordova
Lixin Fu, Central Valley Water Board, Rancho Cordova
Amador County Dept. of Environmental Health, Jackson
Grant Scavello, USEPA, San Francisco
Jim Scully, Interested Person, Ione
Jim Nevin, Interested Person, Ione
Andrew Packard, Packard Law Offices, Petaluma
Will Carlon, Packard Law Offices, Petaluma
Erica Maharg, ATA Law Group, Oakland
Jack Mitchell, Ledger Dispatch, Jackson
Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, APC, Sacramento
Sally Baron, Interested Person, Rancho Cordova
Virginia Silva, Interested Person, Ione
David Anderson, Interested Person, Mokelumne Hill

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BEST BEST &
KRIEGER LLP

10
11 Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR
15

16 AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
17 agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
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28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF STEVEN COREY
STONE IN OPPOSITION TO EX PARTE
APPLICATION FOR ORDER TO MODIFY
OCTOBER 10, 2022 ORDER AND
PRELIMINARY INJUNCTION

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Steven Corey Stone, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. Since 2011, I have been the primary Operator of the Amador Regional Sanitation
5 Authority ("ARSA"), a joint powers agency responsible for providing wastewater conveyance
6 and disposal services to the Cities of Amador City and Sutter Creek and the County of Amador.

7 3. As ARSA's primary Operator, I am responsible for overseeing the operation and
8 maintenance of the Henderson/Preston System, which includes, but is not limited to, oversight
9 over three reservoirs (Henderson Reservoir, Preston Forebay, and Preston Reservoir) and the
10 water balances therein in order to ensure compliance with all requirements imposed by the
11 Central Valley Regional Water Quality Control Board, the California state agency who regulates
12 wastewater discharges in the area.

13 4. On October 10, 2022, the Court issued a preliminary injunction ordering Ione to
14 immediately accept 500,000 gallons of wastewater per day from Preston Reservoir for 30 days, a
15 copy of which I understand was personally served on Ione midday on October 11, 2022. Since
16 then, Ione has only accepted water from Preston Reservoir from October 14, 2022, through
17 October 18, 2022. During that period of time, the water level at Preston Reservoir dropped from
18 approximately 113.5 acre feet to roughly 108.4 acre feet, a decrease of approximately 5.1 acre
19 feet, or 1.66 million gallons.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Executed this 24th day of October 2022, at Sutter Creek, California.

23 

24 STEVEN COREY STONE

ATTACHMENT 10

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10
11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
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25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

EX PARTE APPLICATION FOR ORDER
TO SHOW CAUSE RE CONTEMPT AND
SANCTIONS

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 Plaintiff Amador Regional Sanitation Authority applies for an order requiring Defendant
2 City of Ione ("Ione") to show cause why it should not be held in contempt of this Court's October
3 10, 2022, order and preliminary injunction ("Order") pursuant to Code of Civil Procedure section
4 1211, and why money sanctions in the amount of fifteen hundred dollars (\$1,500) per day should
5 not be imposed against it pursuant to Code of Civil Procedure section 177.5.


6 The application for an order to show cause ("OSC") regarding contempt is made on the
7 grounds that the Order is a valid order, Ione has actual knowledge of the Order, Ione is able to
8 comply with the Order, and Ione has willfully disobeyed the Order. The application for an OSC
9 regarding sanctions is made on the grounds that Ione has violated the Order, and it has done so
10 without good cause or substantial justification.

11 This application is based upon the memorandum, the declarations of Amy Gedney and
12 Matthew L. Green, and the records and files in this action.

13 Pursuant to the California Rules of Court, rule 3.1202, subdivision (a), Ione is represented
14 by Theresa C. Barfield (tbarfield@somachlaw.com) and Michelle E. Chester
15 (mchester@somachlaw.com) of Somach Simmons & Dunn, 500 Capital Mall, Suite 1000,
16 Sacramento, CA 95814, (916) 446-7979, and by David A. Prentice (david@prenticelongpc.com),
17 Margaret Long (margaret@prenticelongpc.com), and Carolyn Walker
18 (carolyn@prenticelongpc.com) of Prentice Long, PC, 2240 Court Street, Redding, CA 96001,
19 (530) 691-0800. Defendant California Department of Corrections and Rehabilitation is represented
20 by Adam K. Guernsey (aguernsey@hthglaw.com) of Harrison Temblador Hungerford & Guernsey,
21 2801 T Street, Sacramento, CA 95816, (916) 228-4221. Pursuant to the California Rules of Court,
22 rule 3.1202, subdivision (b), there have been no previous applications for similar relief.

23 Dated: October 25, 2022

BEST BEST & KRIEGER LLP

24
25 By: 
26 SHAWN D. HAGERTY
27 MATTHEW L. GREEN
28 FRANK A. SPLENDORIO
Attorneys for Plaintiff
AMADOR REGIONAL SANITATION
AUTHORITY

PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 26, 2022, I served a copy of the within document(s):

EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE RE CONTEMPT AND SANCTIONS;

MEMORANDUM IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE RE CONTEMPT AND SANCTIONS;

DECLARATION OF AMY GEDNEY IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE RE CONTEMPT AND SANCTIONS;

DECLARATION OF MATTHEW L. GREEN IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE RE CONTEMPT AND SANCTIONS;

[PROPOSED] ORDER TO SHOW CAUSE RE CONTEMPT AND SANCTIONS



By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below. I placed, or caused to be placed, the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.



By personal service. At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.



By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.



By e-mail or electronic transmission. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Carolyn Walker, Esq.
Margaret Long, Esq.
David Prentice, Esq.
Prentice Long, PC
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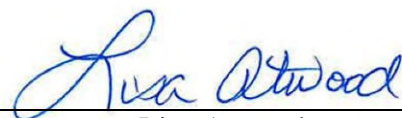
Attn: Patrick Covello

Tel: (916) 324-7308

Email: Patrick.Covello@cdcr.ca.gov

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 26, 2022, at San Diego, California.



Lisa Atwood

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11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

MEMORANDUM IN SUPPORT OF EX
PARTE APPLICATION FOR ORDER TO
SHOW CAUSE RE CONTEMPT AND
SANCTIONS

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 Plaintiff Amador Regional Sanitation Authority (“ARSA”) respectfully submits the
2 following memorandum in support of its ex parte application for an order requiring Defendant City
3 of Ione (“Ione”) to show cause why it should not be held in contempt of the Court’s order and
4 preliminary injunction, and why money sanctions in the amount of fifteen hundred dollars (\$1,500)
5 per day should not be imposed against Ione.

6 **I.**

7 **INTRODUCTION**

8 On October 10, 2022, the Court issued an order and preliminary injunction (“Order”)
9 requiring Ione to immediately accept 500,000 gallons of wastewater per day from Preston Reservoir
10 for 30 days, for a total of 15 million gallons. (Gedney Decl., Ex. A.) The Order was personally
11 served on Ione on October 11, 2022, at 12:44 p.m. (*Id.*, Ex. B.) Aside from a period of roughly five
12 days from October 14 through October 18, 2022, Ione has willfully disobeyed and violated the
13 Order. Because Ione is able to comply with the Order, and there is no good cause or substantial
14 justification for its failure to do so, the Court should issue an order to show cause regarding both
15 contempt and sanctions.

16 **II.**

17 **LEGAL STANDARD**

18 **A. CONTEMPT**

19 The elements of an indirect contempt proceeding based on disobedience of a prior court
20 order are (1) the issuance of a valid order, (2) respondent’s actual knowledge of the order, (3)
21 respondent’s ability to comply with the order, and (4) respondent’s willful disobedience of the
22 order. (*Conn v. Superior Court* (1987) 196 Cal.App.3d 774, 784; see also *Koehler v. Superior Court*
23 (2010) 181 Cal.App.4th 1153, 1159.) “When the contempt is not committed in the immediate view
24 and presence of the court, or of the judge at chambers, an affidavit shall be presented to the court
25 or judge of the facts constituting the contempt” (Code Civ. Proc., § 1211, subd. (a).)

26 **B. SANCTIONS**

27 “The imposition of sanctions, monetary or otherwise, is within the discretion of the trial
28 court.” (*In re Woodham* (2001) 95 Cal.App.4th 438, 443 [citing *Moyal v. Lanphear* (1989)

208 Cal.App.3d 491, 501].) Code of Civil Procedure section 177.5 authorizes judicial officers to impose monetary sanctions, payable to the court, of up to fifteen hundred dollars “for any violation of a lawful court order by a person.” (Code Civ. Proc., § 177.5.) Due process, as well as the statute itself, requires that a person against whom Code of Civil Procedure section 177.5 sanctions may be imposed be given adequate notice that such sanctions are being considered, notice as to what act or omission of the individual is the basis for the proposed sanctions, and an objective hearing at which the person is permitted to address the lawfulness of the order, the existence of the violation, and the absence of good cause or substantial justification for the violation. (*People v. Hundal* (2008) 168 Cal.App.4th 965, 970.)

Section 177.5 defines “person” to include “a witness, a party, a party’s attorney, or both.” (*Ibid.*) Section 177.5 also does not require a willful violation, but merely one committed without “good cause or substantial justification,” which is to say, without a valid excuse. (*Seykora v. Superior Court* (1991) 232 Cal.App.3d 1075, 1081 [quoting *People v. Tabb* (1991) 228 Cal.App.3d 1300, 1311].) Indeed, unlike contempt proceedings, sanction orders do not require a finding that the violator had the ability to comply with the court’s order. (*Seykora, supra*, 232 Cal.App.3d at p. 1084.)

III.

ARGUMENT

A. THE ORDER IS A VALID AND LAWFUL ORDER

A court must have issued a valid order to support a contempt charge against a party who has violated the terms thereof, whereas violation of a void order is not punishable as contempt. (*People v. Gonzalez* (1996) 12 Cal.4th 804, 808.) An order is void if “in excess of the court’s jurisdiction,” including subject matter jurisdiction, personal jurisdiction, and “the defined power of a court in any instance.” (*Id.* at p. 823.) The imposition of sanctions similarly requires violation of a “lawful court order.” (Code Civ. Proc., § 177.5; *Tabb, supra*, 228 Cal.App.3d at p. 1306.)

Here, the Court issued the Order against Ione on October 10, 2022. (Gedney Decl., Ex. A.) The Order was thereafter personally served on Ione on October 11, 2022. (*Id.*, Ex. B.) As a California superior court of unlimited jurisdiction with equity powers, it cannot be controverted

1 that the Court has personal and subject matter jurisdiction in this matter.

2 **B. IONE HAS KNOWLEDGE OF THE ORDER**

3 In order to be guilty of contempt, a party subject to an order of the court must have had
4 actual knowledge of the order's existence. (*People v. Sup. Ct.* (1965) 239 Cal.App.2d 99, 104.)
5 While personal service is not required, (*ibid.*), Ione was personally served with the Order on
6 October 11, 2022. (Gedney Decl., Ex. B.) Moreover, Ione expressly informed both the Central
7 Valley Regional Water Quality Control Board, as well as the Court of Appeal in its since-dismissed
8 writ petition, of the Order. (Rock Decl. in Supp. of Ex Parte App. to Modify Order, Ex. 3, at p. 1;
9 Green Decl. in Opp'n to Ex Parte App. to Modify Order, Ex. C, at pp. 1-2.)

10 **C. IONE IS AND WAS CAPABLE OF COMPLYING WITH THE ORDER AND**
11 **HAS NO VALID EXCUSE FOR FAILING TO DO SO**

12 A party charged with contempt of a prior court order must have had the ability to comply
13 with that order. (*Koehler, supra*, 181 Cal.App.4th at p. 1160.) The only excuse offered by Ione for
14 why it could not accept wastewater from ARSA from Preston Reservoir was that gas readings taken
15 on October 18 through 20, 2022, showed high levels of hydrogen sulfide at Ione's water treatment
16 plant. (Gedney Decl., ¶ 6.)

17 Before addressing the deficiencies in Ione's excuse, and assuming *arguendo* the hydrogen
18 sulfide condition was a valid excuse, it would only cover Ione's noncompliance for three days –
19 October 18 through 20, 2022. Indeed, Ione has offered no justification for its failure to comply with
20 the Order between October 11 and 14, 2022, or since October 20, 2022. (*Id.*, ¶¶ 5, 7.) Contempt
21 and sanctions are thus appropriate for Ione's noncompliance during these time periods alone.

22 The hydrogen sulfide condition at Ione's treatment plant is also not a valid excuse for Ione's
23 violation of the Order from October 18 through 20, 2022, or any other period of time. According
24 to an incident report, Ione's fire department took gas readings at two top vent pipes to test the
25 amount of hydrogen sulfide (H₂S). (Supp. Chester Decl. in Supp. of Ex Parte App. to Modify Order,
26 Ex. A.) These readings showed H₂S at only 1 part per million (PPM), but detected a
27 combustible/explosive range above the lower explosion limit (LEL) of 10% at 13-14%. (*Ibid.*)
28 While Ione's fire department's readings showed similar results on October 19, 2022, the

1 combustible/explosive range dropped below the LEL to only 3% on October 20, 2022. (Gedney
2 Decl., Ex. C [“Brown Decl.”], Exs. A and B thereto.) The amount of H₂S, however, increased to
3 at least 200 PPM at that time. (Brown Decl., Ex. B.) The oxygen levels from October 18 to 20,
4 2022, nevertheless remained constant, at 20.8%, 20.2%, and 20.8%. (Brown Decl., Exs. A, B.)

5 Hydrogen sulfide is a common condition that exists in sewer and wastewater systems.
6 (Brown Decl., ¶ 5.) It is a combustible and toxic gas that forms within sewer collection systems
7 when the organic matter in the raw sewage decomposes and is caused by the lack of oxygen in the
8 water over longer periods of time. (*Ibid.*)

9 Setting aside the cause of the hydrogen sulfide,¹ hydrogen sulfide does not generally pose
10 a health hazard when it is properly monitored and mitigated. (*Id.*, ¶ 6.) To address the presence of
11 hydrogen sulfide, including at the levels detected by Ione’s fire department between October 18
12 and 20, 2022, ventilation blowers are typically used to force air into the confined space at high
13 enough volumes to exchange the air to dilute the concentration to a nonhazardous level. (*Ibid.*)
14 Indeed, in most cases, simply ventilating the utility access hole can reduce the levels of the gas
15 present to a safe level for entry. (*Ibid.*) Hydrogen sulfide may also be treated through the use of
16 chemicals, including chlorine, sodium hypochlorite, or other products such as hydrogen peroxide-
17 based oxidants. (*Ibid.*)

18 To date, Ione has provided no evidence whatsoever reflecting any attempts to treat the
19 hydrogen sulfide. (See *id.*, ¶ 9.) Ione has instead simply shut down the system after detecting
20 conditions that are common in wastewater systems and has elected to take no steps to treat the
21 hydrogen sulfide. (See *ibid.*) ARSA has tested the area around the Preston Reservoir for H₂S, and
22 no H₂S has been detected. (*Ibid.*) The hydrogen sulfide issues identified by Ione thus relate solely
23 to tertiary effluent requirements. They are part of the costs of providing tertiary treatment and
24 therefore must be resolved by Ione as the operator of the tertiary treatment plant.² (*Ibid.*)

25 _____
26 ¹ The likely cause of hydrogen sulfide at Ione’s treatment plant arises from Ione’s decision
27 to stop deliveries of wastewater from Preston Reservoir. (Brown Decl., ¶ 5.) By doing so, stagnant
28 water remained in the closed pipeline between the reservoir discharge valve and the tertiary
treatment plant, which likely allowed the remaining oxygen to be consumed, anaerobic bacteria to
be formed, and hydrogen sulfide to generate. (*Ibid.*)

² The H₂S and LEL readings provided by Ione are also questionable at best. (Brown Decl., ¶
7.) The H₂S level was apparently measured at a level below grade in a vent line; the gas level above

D. IONE HAS WILLFULLY DISOBEYED AND VIOLATED THE ORDER

Finally, a valid judgment of contempt must show facts establishing that the party charged with contempt willfully violated a prior court order. (*Koehler*, 181 Cal. App. 4th at p. 1169.) A party's willfulness can be inferred from the circumstances, and the order to show cause and judgment of contempt need not state facts in support of the finding of willfulness. (*Id.*)

Here, it is beyond controversy that Ione has willfully disobeyed and violated the Order. Although required to accept 500,000 gallons of wastewater per day from Preston Reservoir since October 11, 2022, Ione only accepted water from Preston Reservoir from October 14, 2022, through October 18, 2022. (Gedney Decl., ¶ 5.)

IV.

CONCLUSION

For the reasons set forth above, the Court should issue an order for Ione to show cause why it should not be held in contempt of the Order, and why money sanctions in the amount of fifteen hundred dollars (\$1,500) per day should not be imposed against Ione.

Dated: October 25, 2022

BEST BEST & KRIEGER LLP

By: 

SHAWN D. HAGERTY
MATTHEW L. GREEN
FRANK A. SPLENDORIO
Attorneys for Plaintiff
AMADOR REGIONAL SANITATION
AUTHORITY

the confined space was not measured. (*Ibid.*) H₂S is heavier than air, which means it will collect and concentrate in confined spaces below grade. (*Ibid.*) When mixed with the air outside of the confined space, however, it will typically produce a decreased level of concentration. (*Ibid.*) While the odor may be detectable near the vent, it could be easily mitigated through aeration. (*Ibid.*) Moreover, regarding the data provided by Ione on October 20, 2022, it does not make sense for the LEL to go down and the H₂S level to increase. (*Id.*, ¶ 8.) H₂S is considered combustible, which means the H₂S level and LEL should rise and fall together. (*Ibid.*) The diverging H₂S and LEL readings are also suspect given the amount of oxygen remained constant from October 18 to October 20, 2020. (*Ibid.*) Indeed, without calibration logs, the accuracy of the testing instruments cannot be assumed. (*Ibid.*)

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11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
21 OF CORRECTIONS AND
REHABILITATION, a California state
22 agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
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27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF AMY GEDNEY IN
SUPPORT OF EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE RE
CONTEMPT AND SANCTIONS

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Amy Gedney, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. Since June 2017, I have been the General Manager of Plaintiff Amador Regional
5 Sanitation Authority ("ARSA"), a joint powers agency responsible for providing wastewater
6 conveyance and disposal services to the Cities of Amador City and Sutter Creek and the County of
7 Amador.

8 3. On October 10, 2022, the Court issued an Order and Preliminary Injunction
9 requiring Defendant City of Ione ("Ione") and its employees and agents, and any other persons
10 acting with or on behalf of Ione, to accept from ARSA 500,000 gallons of secondarily treated
11 wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons of
12 secondarily treated wastewater. A true and correct copy of the Order and Preliminary Injunction
13 ("Order") is attached as Exhibit "A" hereto.

14 4. A copy of the Order was personally served on Ione on October 11, 2022, at 12:44
15 p.m. A true and correct copy of the Proof of Service reflecting the same is attached as Exhibit "B"
16 hereto.

17 5. Although it was served with the Order midday on October 11, 2022, Ione did not
18 start accepting water from ARSA from Preston Reservoir until October 14, 2022, three days later.
19 Ione also only accepted water from Preston Reservoir from October 14, 2022, through October 18,
20 2022. During that period of time, the water level at Preston Reservoir dropped from approximately
21 113.5 acre feet to roughly 108.4 acre feet, a decrease of approximately 5.1 acre feet, or 1.66 million
22 gallons.

23 6. Ione informed ARSA and others on October 18, 2022, that it ceased accepting
24 wastewater from Preston Reservoir due to readings taken on that date reflecting high levels of
25 hydrogen sulfide at Ione's wastewater treatment plant. Ione informed ARSA and others that similar
26 readings showing high levels of hydrogen sulfide were taken on October 19 and 20, 2022, and that
27 wastewater thus could still not be accepted from Preston Reservoir on those days.

28 ///

1 7. Since October 20, 2022, Ione has provided no further hydrogen sulfide readings to
2 ARSA, let alone any explanation for its ongoing failure to comply with the Order. Ione has also
3 never provided any details regarding how it is treating the hydrogen sulfide condition at its
4 wastewater treatment plant, aside from simply shutting down the plant.

5 8. Attached as Exhibit "C" hereto is a true and correct copy of a declaration from
6 Donald Brown executed on October 24, 2022. In his declaration, Mr. Brown explains that hydrogen
7 sulfide is a common condition in wastewater systems, that Ione's readings are questionable at best,
8 that Ione may nevertheless treat the condition through aeration and chemicals, and that such
9 treatment is part of the tertiary treatment process and must therefore be resolved by Ione as the
10 operator of the wastewater treatment plant.

11 9. Based on the foregoing, Ione was and is capable of complying with the Order, and
12 there is no good cause or substantial justification for Ione's willful disobedience and violation of
13 the Order.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct.

16 Executed this 25th day of October 2022, at Sutter Creek, California.

17 
18 AMY GEDNEY
19
20
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27
28

EXHIBIT A

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12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state agency;
and DOES 1 through 20, inclusive,

23 Defendants.
24
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28

Case No. 22-CV-12824
Judge: Hon. Renee C. Day

**ORDER AND
PRELIMINARY INJUNCTION**

Date: October 10, 2022
Time: 8:30 a.m.
Dept.: 2

Action Filed: September 20, 2022
Trial Date: Not Set

By *FLY*

FILED
Superior Court of California,
County of Amador
10/10/2022 at 03:40:55 PM
By: B. MORRIS, Deputy Clerk

OCT 10 2022

CLERK OF THE SUPERIOR COURT

1 The order to show cause why a preliminary injunction should not ~~issue in favor of Plaintiff~~
2 Amador Regional Sanitation Authority ("ARSA") came on for hearing in Department 2 of this
3 Court on October 10, 2022. Matthew L. Green and Frank A. Splendorio of Best Best & Krieger
4 LLP appeared on behalf of ARSA. Margaret Long and Carolyn Walker of Prentice Long, PC and
5 Theresa C. Barfield of Somach Simmons & Dunn appeared on behalf of Defendant City of Ione
6 ("Ione"). Having read ARSA's ex parte application for a temporary restraining order and for an
7 order to show cause why a preliminary injunction should not issue, the memoranda and declarations
8 filed by the parties, and having heard argument of counsel, and satisfactory evidence having been
9 presented,

10 IT IS ORDERED THAT a preliminary injunction shall issue in favor of ARSA. Ione and
11 its employees and agents, and any other persons acting with or on behalf of Ione, are required to
12 accept from ARSA 500,000 gallons of secondarily treated wastewater per day from Preston
13 Reservoir for the next 30 days, for a total of 15 million gallons of secondarily treated wastewater
14 over the 30-day period, pending the trial of this action or further order of this Court.

15
16 Dated: October FE, 2022

By: 

JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, Lisa Atwood, declare:

I am a citizen of the United States and employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On October 10, 2022, I served a copy of the within document(s):

[PROPOSED] ORDER AND PRELIMINARY INJUNCTION

- ☐ **By personal service.** At _____ a.m./p.m., I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an Individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.
- ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service. A Declaration of Messenger is attached.
- ☒ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☒ **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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2 David Prentice, Esq.
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5 Redding, CA 96001

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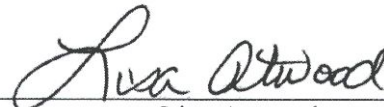
11 California Department of Corrections and
12 Rehabilitation
13 1515 S Street, Suite 314 South
14 Sacramento, CA 95811

Attn: Patrick Covello

Email: Patrick.Covello@cdcr.ca.gov

15 I declare under penalty of perjury under the laws of the State of California that the above
16 is true and correct.

17 Executed on October 10, 2022, at San Diego, California.

18 

19 Lisa Atwood
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EXHIBIT B

Attorney or Party without Attorney: Shawn D. Hagerty, Esq. (SBN 182435) BEST BEST & KRIEGER LLP 655 West Broadway, 15th Floor San Diego, CA 92101 Telephone No: 619-525-1300 Attorney For: Plaintiff				For Court Use Only <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> AMADOR SUPERIOR COURT OCT 13 2022 Clerk of the Superior Court By: <u>B. MORRIS</u>	
Ref. No. or File No.: 82456.000002/MLG					
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF AMADOR					
Plaintiff: AMADOR REGIONAL SANITATION AUTHORITY, a California joint powers agency Defendant: CITY OF IONE, a California municipal corporation; et al.					
PROOF OF SERVICE		Hearing Date:	Time:	Dept/Div:	Case Number: 22-cv-12824

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the ORDER AND PRELIMINARY INJUNCTION
3.
 - a. Party served: City of Ione, a California municipal corporation
 - b. Person served: Kenna Brosz, Administrative Assistant
4. Address where the party was served: 1 E Main Street, Ione, CA 95640
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue, Oct 11 2022 (2) at: 12:44 PM
6. Person Who Served Papers:
 - a. Peter Campbell (Amador County #19-006) ()
 - b. c/o FIRST LEGAL
530 B Street, Suite 1050
SAN DIEGO, CA 92101
 - c. (619) 231-9111
 - d. The Fee for Service was: \$176.26
 - e. I am: A Registered California Process Server
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/12/22
(Date)


(Signature)



Judicial Council Form
Rule 2.150.(a)&(b) Rev January 1, 2007

PROOF OF
SERVICE

7787342
(15059646)

By fax

EXHIBIT C

SHAWN D. HAGERTY, Bar No. 182435
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Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF DONALD BROWN IN
OPPOSITION TO EX PARTE
APPLICATION FOR ORDER TO MODIFY
OCTOBER 10, 2022 ORDER AND
PRELIMINARY INJUNCTION

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Donald Brown, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am the President of Aquality Water Management (“Aquality”) and have more than
5 35 years of experience in the operations of wastewater treatment plants in California. Throughout
6 my career, my positions have ranged from wastewater treatment plant operator to wastewater
7 treatment facilities manager to operations consultant. I have been responsible for planning,
8 organizing, and directing the operation and maintenance of wastewater treatment plants up to 30
9 million gallons per day. Through Aquality, I have provided operational assistance and consulting
10 services to the Amador Regional Sanitation Authority (“ARSA”) for several years.

11 3. I have been provided and have reviewed the supplemental declaration of Michelle
12 E. Chester dated October 18, 2022, along with the City of Ione (“Ione”) Fire Department’s incident
13 report attached thereto. I have also been provided and have reviewed subsequent correspondence
14 between Ione and the Central Valley Regional Water Quality Control Board (“Regional Board”) dated October 19, 2022, and October 20-21, 2022, copies of which are attached hereto as Exhibits
15 “A” and “B,” respectively.
16

17 4. According to the October 18, 2022, incident report, gas readings were taken at two
18 top vent pipes to test the amount of hydrogen sulfide (H₂S) . These readings showed H₂S at only
19 1 part per million (PPM), but detected a combustible/explosive range above the lower explosion
20 limit (LEL) of 10% at 13-14%. While Ione’s fire department readings showed similar results on
21 October 19, 2022, the combustible/explosive range dropped below the LEL to only 3% on October
22 20, 2022. The amount of H₂S, however, increased to at least 200 PPM at that time. The oxygen
23 levels from October 18 to 20, 2022, nevertheless remained constant, at 20.8%, 20.2%, and 20.8%.

24 5. Hydrogen sulfide is a common condition that exists in sewer and wastewater
25 systems. It is a combustible and toxic gas that forms within sewer collection systems when the
26 organic matter in the raw sewage decomposes and is caused by the lack of oxygen in the water over
27 longer periods of time. As detailed in my October 6, 2022, declaration, the likely cause of hydrogen
28 sulfide at the Castle Oaks Water Reclamation Plant arises from Ione’s decision to stop deliveries

1 of wastewater from Preston Reservoir. By doing so, stagnant water remained in the closed pipeline
2 between the reservoir discharge valve and the tertiary treatment plant, which likely allowed the
3 remaining oxygen to be consumed, anaerobic bacteria to be formed, and hydrogen sulfide to
4 generate.

5 6. When properly monitored and mitigated, hydrogen sulfide does not generally pose
6 a health hazard. To address the presence of hydrogen sulfide, including at the levels detected by
7 Ione's fire department, ventilation blowers are typically used to force air into the confined space at
8 high enough volumes to exchange the air to dilute the concentration to a nonhazardous level.
9 Indeed, in most cases, simply ventilating the utility access hole can reduce the levels of the gas
10 present to a safe level for entry. Hydrogen sulfide may also be treated through the use of chemicals,
11 including chlorine, sodium hypochlorite, or other products such as hydrogen peroxide-based
12 oxidants.

13 7. The H2S and LEL readings provided by Ione are also questionable at best. First, the
14 H2S level was apparently measured at a level below grade in a vent line; the gas level above the
15 confined space was not measured. H2S is heavier than air, which means it will collect and
16 concentrate in confined spaces below grade. When mixed with the air outside of the confined space,
17 however, it will typically produce a decreased level of concentration. While the odor may be
18 detectable near the vent, it could be easily mitigated through aeration.

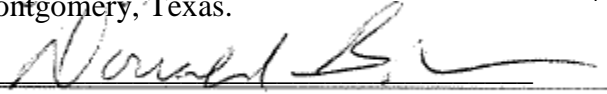
19 8. Moreover, regarding the latest data provided by Ione on October 20, 2022, it does
20 not make sense for the LEL to go down and the H2S level to increase. H2S is considered
21 combustible, which means the H2S level and LEL should rise and fall together. The diverging H2S
22 and LEL readings are also suspect given the amount of oxygen remained constant from October 18
23 to October 20, 2020. Indeed, without calibration logs, the accuracy of the testing instruments cannot
24 be assumed.

25 9. To date, I have seen no evidence from Ione reflecting any attempts to treat the
26 hydrogen sulfide. Ione has instead simply shut down the system after detecting conditions that are
27 common in wastewater systems and has apparently elected to take no steps to treat the hydrogen
28 sulfide. ARSA has tested the area around the Preston Reservoir for H2S, and no H2S has been

1 detected. The hydrogen sulfide issues identified by Ione thus relate solely to tertiary effluent
2 requirements. They are part of the costs of providing tertiary treatment and therefore must be
3 resolved by Ione as the operator of the tertiary treatment plant.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct.

6 Executed this 24th day of October 2022, at Montgomery, Texas.

7 

8 DONALD BROWN
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EXHIBIT A

From: Michael Rock <mrock@ione-ca.com>
Sent: Wednesday, October 19, 2022 3:46 PM
To: Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; Baum, John@Waterboards <john.baum@waterboards.ca.gov>
Cc: Dan Epperson <Depperson@ione-ca.com>; Rodney Plamondon <rplamondon@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>
Subject: Ione Tertiary Plant: Lower Explosion Limits (LEL) still in violation
Importance: High

Dear Kari:

The Ione Fire Department and Mule Creek State Prison Fire Department conducted another reading this morning regarding the Lower Explosion Limits (LEL) at the Tertiary Plant and the conditions are not better. The LEL is still over the limit of 10% at an average reading of 13.5% today. See attached report from this morning. The Fire Department has declared the site a hazardous condition for combustion/explosion.

Under these conditions it is not possible to operate the Tertiary Plant accepting influent from ARSA. The City has contacted the Amador Superior Court regarding this issue. I have also spoken with Mr. Baum and data (calcium nitrate, polymers and chlorine that is being used right now) will be sent to the Regional Board for analysis on how to lower the LEL and still be able to treat for the high turbidity and odorous conditions.

Sincerely,

Michael Rock
City Manager
City of Ione, CA
(209) 273-7712

CITY OF IONE FIRE DEPARTMENT

Incident # 22-29880

**Incident Name
“Treatment”**

10-18-2022

1243 hrs

K1 Person/Entity Involved

Local Option ☐ Business name (if applicable) PERC WATER Area Code Phone Number

☐ Check This Box if same address as incident location. Then skip the three duplicate address lines.

Public works City of Ione
 Mr., Ms., Mrs. First Name MI Last Name Suffix

10100 Five Mile DR
 Number Prefix Street or Highway Street Type Suffix

Head IONE
 Post Office Box Apt./Suite/Room City

CA 95640 -
 State Zip Code

☐ More people involved? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary

K2 Owner

Local Option ☐ Same as person involved? Then check this box and skip the rest of this section.

Business name (if Applicable) Area Code Phone Number

☐ Check this box if same address as incident location. Then skip the three duplicate address lines.

 Mr., Ms., Mrs. First Name MI Last Name Suffix

 Number Prefix Street or Highway Street Type Suffix

 Post Office Box Apt./Suite/Room City

 -
 State Zip Code

L Remarks

Local Option ☐

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

Chief 6200 contacted on duty crews and also Mule Creek Fire to respond with their monitors and double check the readings at the location.

Both Engine companies arrived and took readings from the two top vent pipes and the following readings were observed at 1300 hours

Gas Meters at the top of the head works

H2S = 1 PPM

Combustible/Explosive range 13-14 % our monitor alarms activated for explosive range at 10%

O2 - 20.8 %

The crews advised Superintendent Waklee of their findings and confirmed that the PERC employees that were inside the building did not require any medical assistance or medic unit due to their head ache symptoms, none of the employees denied assistance.

The units will return on 10-19-2022 for a re check at 0645 hrs

L Authorization

0703 Bennett, James FAE 10 18 2022
 Officer in charge ID Signature Position or rank Assignment Month Day Year

☐ Check Box if same as Officer making report ID in charge. 8101 Mackey, Ken FC 10 18 2022
 as Officer making report ID Signature Position or rank Assignment Month Day Year

03010
FDID *

CA
State *

MM DD
10 18
Incident Date *

YYYY
2022

162
Station

22-0029880
Incident Number *

000
Exposure *

Complete
Narrative

Narrative:

A walk in request from Pub Works superintendent Waklee for the fire department to use our Multi Gas monitors to check gas readings from the water at the treatment facility, due to their units reading high numbers in the Head works area and needed to confirm.

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O2 - 20.8 %

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The units will return on 10-19-2022 for a re check at 0645 hrs

Weather Conditions on scene: 80 degrees 33 % Humidity winds 3-6 MPH

SUPPLEMENTAL REPORT - 10-19-2022

10-19-2022 follow up readings with Engine 6235 & Engine 5610

Time: 0652 hrs

Readings using the MSA ALTAIR 4X multi gas monitor

H2 S 20 PPM

Combustible / Explosive Level : 11 %

O2 levels 20.2 %

* Alarms activated immediately

Weather Conditions:

Temp: 61 degrees

Humidity : 43 %

Winds: SSE at 1 MPH

03010
FDID *

CA
State *

MM DD YYYY
10 18 2022
Incident Date *

162
Station

22-0029880
Incident Number *

000
Exposure *

Complete
Narrative

Narrative:

Dew Point: 39

Elevation: 270 ft

*** Per Public works Superintendent Waklee , the entire system was shut down and the supply side of the water pipe valve was completely closed , and all ignition sources removed or secured in the area, also the access was flagged off to prevent access, and employees advised to not enter.

Amador Health Department officer contacted and report made with Dr. Kerr at 1232 hrs, she will be making contact with Amador County Environmental health due to no reporting officer currently working at the county, with information.

per Dr Kerr's question it was confirmed that all PERC employees affected on site did not want medical attention and were advised of the workers comp and medical process if they do require at a later date.

Also it was confirmed with Dr Kerr that the city had contract staff from PERC operating the facility and were qualified state certified Operators Level 2- 3 -4 's and they were on site.

Received phone call from State of California Water Resource Board at 1350 hrs from Kenny Croyle (916) 464-4676 doing a follow up on today's findings, he was advised of our findings and explained that the area was secured from any employees and the water system shut down, no environmental or human risk at this time.

The facility will remain shut down until further notice until the incoming water has been stabilized by the staff or the supply source.

Attached is the copy of the Mule Creek Fire Department - Mutual Aid Incident report - 2-
pages

Photo # 1 - Head works

Photo # 2 Head works

Photo # 3 Head works

A		FDID 03010 *		State CA *		Incident Date MM 10 DD 18 YYYY 2022 *		Station 162		Incident Number 22-0029880 *		Exposure 000 *		<input type="checkbox"/> Delete <input type="checkbox"/> Change		NFIRS - 9 Apparatus or Resources	
B		Apparatus or * Resource		Date and Times <small>Check if same as alarm date</small>						Sent <input checked="" type="checkbox"/>	Number of * People	Use <small>Check ONE box for each apparatus to indicate its main use at the incident.</small>		Actions Taken			
				Month Day Year Hour Min Dispatch <input checked="" type="checkbox"/> 10 18 2022 12:43 Arrival <input checked="" type="checkbox"/> 10 18 2022 12:51 Clear <input checked="" type="checkbox"/> 10 18 2022 13:15													
1		ID E5610							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
2		ID E6234							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
3		ID E6235							<input checked="" type="checkbox"/>	1	<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 11																	
4		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
5		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
6		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
7		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
8		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	
9		ID 							<input type="checkbox"/>		<input type="checkbox"/> Suppression <input type="checkbox"/> EMS <input type="checkbox"/> Other		<input type="checkbox"/> <input type="checkbox"/>				
Type 																	

Type of Apparatus or Resources

Ground Fire Suppression

- 11 Engine
- 12 Truck or aerial
- 13 Quint
- 14 Tanker & pumper combination
- 16 Brush truck
- 17 ARF (Aircraft Rescue and Firefighting)
- 10 Ground fire suppression, other

Heavy Ground Equipment

- 21 Dozer or plow
- 22 Tractor
- 24 Tanker or tender
- 20 Heavy equipment, other

Aircraft

- 41 Aircraft: fixed wing tanker
- 42 Helitanker
- 43 Helicopter
- 40 Aircraft, other

Marine Equipment

- 51 Fire boat with pump
- 52 Boat, no pump
- 50 Marine apparatus, other

Support Equipment

- 61 Breathing apparatus support
- 62 Light and air unit
- 60 Support apparatus, other

Medical & Rescue

- 71 Rescue unit
- 72 Urban Search & rescue unit
- 73 High angle rescue unit
- 75 BLS unit
- 76 ALS unit
- 70 Medical and rescue unit, other

More Apparatus?
 Use Additional
 Sheets

Other

- 91 Mobile command post
- 92 Chief officer car
- 93 HazMat unit
- 94 Type 1 hand crew
- 95 Type 2 hand crew
- 99 Privately owned vehicle
- 00 Other apparatus/resource

NN None

UU Undetermined

NFIRS-9 Revision 11/17/98

A		FDID 03010 *		State CA *		Incident Date 10/18/2022 *		Station 162		Incident Number 22-0029880 *		Exposure 000 *		<input type="checkbox"/> Delete <input type="checkbox"/> Change		NFIRS - 10 Personnel	
----------	--	---------------------	--	-------------------	--	-----------------------------------	--	--------------------	--	-------------------------------------	--	-----------------------	--	--	--	-------------------------	--

B Apparatus or Resource *		Date and Times <small>Check if same as alarm date</small>				Sent	Number of * People	Use	Actions Taken	
Use codes listed below		Month Day Year Hours/mins				<input type="checkbox"/>		Check ONE box for each apparatus to indicate its main use at the incident.	List up to 4 actions for each apparatus and each personnel.	

1	ID E5610	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	Sent		<input type="checkbox"/> Suppression		
	Type 11	Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> EMS		
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15			<input checked="" type="checkbox"/> Other		

Personnel ID	Name	Rank or Grade	Attend <input checked="" type="checkbox"/>	Action Taken	Action Taken	Action Taken	Action Taken
6600A	Mule Creek Engine Crew 4, Personnel		X				

2	ID E6234	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	Sent		<input type="checkbox"/> Suppression		
	Type 11	Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> EMS		
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15			<input checked="" type="checkbox"/> Other		

Personnel ID	Name	Rank or Grade	Attend <input checked="" type="checkbox"/>	Action Taken	Action Taken	Action Taken	Action Taken
8101	Mackey, Ken	FC	X				

3	ID E6235	Dispatch <input checked="" type="checkbox"/>	10	18	2022	12:43	Sent		<input type="checkbox"/> Suppression		
	Type 11	Arrival <input checked="" type="checkbox"/>	10	18	2022	12:51	<input checked="" type="checkbox"/>	1	<input type="checkbox"/> EMS		
		Clear <input checked="" type="checkbox"/>	10	18	2022	13:15			<input checked="" type="checkbox"/> Other		

Personnel ID	Name	Rank or Grade	Attend <input checked="" type="checkbox"/>	Action Taken	Action Taken	Action Taken	Action Taken
0703	Bennett, James	FAE	X				



(CDCR) Mule Creek
State Prison

Station: **ST1**
Shifts Or Platoon: **A Shift**

Location: 10100 Five Mile DR Ione CA 95640	Incident Type: 400 - Hazardous condition, other
Lat/Long: N 38° 21' 27.44" W 120° 57' 51.87"	FDID: 03410 Incident #: 2022-362 Exposure ID: 69295537 Exposure #: 0 Incident Date: 10/18/2022 Dispatch Run #: caaeu029880
Location Type: 1 - Street address	

Report Completed by:	Deaton, Justin	ID:	Date: 10/19/2022
Report Reviewed by:	Sackett, Kevin	ID:	Date: 10/19/2022
Report Printed by:	Sackett, Kevin	ID:	Date: 10/19/2022 Time: 12:54

Structure Type:	Property Use: 647 - Water utility		
Automatic Extinguishment System Present: <input type="checkbox"/>	Detectors Present: <input type="checkbox"/>	Cause of Ignition:	
Aid Given or Received:	Mutual aid given	Primary action taken: 86 - Investigate	
Mutual AID	Their FDID: 3010	Their State: CA	Their Incident #: 029880
Losses	Pre-Incident Values		
Property:	Property:	Civilian Injuries: 0	Fire Service Injuries: 0
Contents:	Contents:	Civilian Fatalities: 0	Fire Service Fatalities: 0
Total:	Total:	Total Casualties: 0	Total Fire Service Casualties: 0
Total # of apparatus on call:	1	Total # of personnel on call:	3

Special Studies	
COVID 19 was a factor in this incident.	No, COVID 19 was not a factor.

Neighboring Agencies
Agency Name: City Of Ione Fire Department
Agency ID: ION
Agency Type: Fire

NARRATIVE (1)
Narrative Title: Haz/Gas Incident
Narrative Author: Deaton, Justin
Narrative Date: 10/19/2022 09:59:05
Narrative Apparatus ID: 5610
Narrative: <p>On October 18, 2022 @ approximately 1243 hrs. while performing my duties as, Institutional Fire Captain, I J. Deaton, was dispatched by ECC Camino for a Hazardous Condition / Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in E-5610 with staffing of Three. Upon arrival I reported to the I.C. for assignment and simultaneously had a face to face with Reporting Party. I was assigned to utilize a MSA Altair 4x multi gas detector in the affected area, (Findings: Comb/Ex 14, O2 20.4%, CO 0, H2S 1) triggering the detectors alarm. Upon completion of the investigation, findings, and communication with the RP, the I.C. released all units and terminated the incident @ approximately 1318 Hrs. I returned to quarters without incident. Upon arrival at institution I notifying ECC Camino and Main Control that E-5610 was back on grounds with three, in quarters, and available.</p> <p>Per RP, I was requested to return to the incident location the following morning @ 0645 hrs. for further investigation and to note any situation changes.</p>

NARRATIVE (2)**Narrative Title:** Follow Up**Narrative Author:** Deaton, Justin**Narrative Date:** 10/19/2022 10:04:48**Narrative Apparatus ID:** 5610**Narrative:**

On October 19, 2022 @ approximately 0645 hrs. while performing my duties as, Institutional Fire Captain, I J. Deaton, as requested by RP from yesterdays incident returned to Hazardous Condition/ Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in E-5610 with staffing of Three. Upon arrival, I had a face to face with the Reporting Party, who stated, that they had turned the affected areas equipment off yesterday after findings and recently turned the equipment back on this morning for further investigation. At this time, (weather conditions: Temp 61, Humidity 43%, Winds SSE 1, DP 39), I utilize a MSA Altair 4x multi gas detector in the affected area, (Findings: Comb/Ex 16, O2 20.8%, CO 0, H2S 18) triggering detectors alarm and showing increases from yesterdays findings. Upon completion of the investigation, findings, and communication with the RP, I exited the premises and returned to quarters without incident. Upon arrival at institution, I notified Main Control that E-5610 was back on grounds with three, returning to quarters and available.

NARRATIVE (3)**Narrative Title:** Haz/GAS Incident**Narrative Author:** Sackett, Kevin**Narrative Date:** 10/19/2022 12:52:34**Narrative Apparatus ID:** C5600**Narrative:**

On October 18, 2022 @ approximately 1243 hrs. while performing my duties as, Institutional Fire Chief, I K Sackett, was dispatched by ECC Camino for a Hazardous Condition / Gas Odor @ 10100 Five Mile Dr. in Ione city limits. I responded in C-5600 with staffing of one. Upon arrival I reported to the I.C. and simultaneously had a face to face with Reporting Party (Todd Waklee) that stated that he used his gas monitor and found high readings of H2S gas. Fire Captain Deaton was assigned to utilize a MSA Altair 4x multi gas detector in the affected area, When he returned he reported reading of Comb/Ex 14, O2 20.4%, CO 0, H2S 1 the reading triggered the detectors alarm for high Combustibles/ Explosives. Upon completion of the investigation, findings, and communication with the RP, the scene was turned over to Todd Waklee Public Works Manager. The I.C. released all units and terminated the incident.

APPARATUS

Unit	5610
Type:	Engine
Use:	Suppression
Response Mode:	No Lights or Sirens
# of People	3
Alarm	10 /18/2022 12:42:00
Dispatched	10 /18/2022 12:43:00
Enroute	-- / -- / -- -- : -- : --
Arrived	10 /18/2022 12:47:00
Cancelled	-- / -- / -- -- : -- : --
Cleared Scene	10 /18/2022 13:18:00
In Quarters	-- / -- / -- -- : -- : --
In Service	-- / -- / -- -- : -- : --
Number Of People not on apparatus: 0	

Member Making Report (Captain Justin Deaton): _____

Incident Reviewer (Chief Kevin Sackett): _____

Treatment
Incident
Photo # 1





Photo # 3

EXHIBIT B

From: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>
Sent: Friday, October 21, 2022 11:09 AM
To: Dan Epperson <Depperson@ione-ca.com>
Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org; Dominic Atlan <datlan@ione-ca.com>; Michael Rock <mrock@ione-ca.com>
Subject: RE: Lone Tertiary Plant - H2S over 200 ppm

Mr. Epperson, thank you for your email.

As you are aware the Regional Water Board oversees the permitting of wastewater plants throughout the region. As part of our responsibility, we inspect various facilities for compliance. One area we look at if there are compliance concerns, like the City of Lone is facing today, are the Standard Operating Procedures that a plant follows when there is an upset. Those SOPs provide a step-by-step procedures the facility can follow during times of upset. Yesterday I sent Mr. Rock two requests for those documents. The operator should have those available at moment's notice. If the Regional Board had those SOPs, we could easily review and understand the city's process to resolve the issue.

The design of Preston Reservoir and the CDCR reservoirs piping are identical. The inlet to the draft pipe is at the bottom of the reservoirs. Both reservoirs store secondary treated effluent. Where in the process is hydrogen sulfide produced? Is the high hydrogen sulfide event the result of delayed extraction from Preston? Would this same condition occurred if Preston was drained first prior to CDCR sending water? The Regional Board is just trying to better understand the problems with the wastewater using laboratory samples from a certified laboratory. The city requested a comfort letter because of the expectation of hydrogen sulfide in the wastewater. The comfort letter was issued on 9 September 2022. The city knew the expectation of the Board with respect to monitoring the plant during "high hydrogen sulfide" events. Does the city have a contract in place with Perc or an environmental consulting firm to collect these samples? Please provide a date when data can be collected and results available.

It is responsible that you have concerns about an explosion and your workers having health effects. Has the city reached out to OSHA to report this incident? To help you, here is the list of CalOSHA sites with their phone numbers: https://www.dir.ca.gov/dosh/ca_map_counties2.pdf. They can be a resource. With your concerns about explosion, is the fire department onsite monitoring it until the threat has abated? Has the city notified the nearby residents of Castle Oaks Golf Course, or those along Five Mile Road. Isn't there a home that sits just across the creek from the wastewater plant. Have these people been notified of the situation? If so, when? Are they receiving updates on the situation? That information should be in your emergency plan/SOP.

We all heard during the 3 October 2022 meeting with all the parties that ARSA was willing to provide pretreatment (i.e., dosing) to eliminate the problem. What is the status of that effort. ARSA seemed more than willing to do their part. Why isn't the city receptive to their offer? With that said CDCR understood the statements made by the Executive Officer and together with ARSA they have begun to deploy water cannons to aid in the evaporation. Your point about the sludge is one that will be addressed when the water levels reach the appropriate levels. You should be aware that the City of Ione, ARSA, and the Castle Oaks Golf Course are named in the Regional Board's permit, as well as the revised MRP. Therefore, there is a shared responsibility for compliance. All parties need to work together to find a solution. Cooperation during the plant upset is something the Regional Board will take into consideration with any future compliance action.

Looking forward to receiving the requested information. Until the situation is resolved, please have Mr. Rock provide daily updates by email. Perfect Regards,

Howard Hold, PG #7466
Senior Engineering Geologist
Title 27 and WDR Compliance and Enforcement Unit
Central Valley, Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Our office is currently teleworking. Please submit all contact by email. Thank you

hhold@waterboards.ca.gov

From: Dan Epperson <Depperson@ione-ca.com>

Sent: Friday, October 21, 2022 8:56 AM

To: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Michael Rock <mrock@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>

Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org

Subject: Re: Ione Tertiary Plant - H2S over 200 ppm

Mr. Hold,

Pardon my ignorance in the matters of meters and science. If our warning meters are maxing out, is the City of Ione supposed to ignore the dangers indicated? I am deeply concerned for the health and safety of our staff and operators.

We have every intention to fully comply with The Boards demands but risking the health and safety of our staff due to the negligence of our partner agencies is terrifying. The board demanded ARSA clean out the ponds in 2017. ARSA's inaction is a major factor as to how situation has arisen to the level it has. By their own admission ARSA's contracted ponds are 30% full of sludge currently.

Sorry for my bluntness but I am worried about an explosion or other injuries from toxic gases that our systems alarms have indicated at our head works. I will check with staff ASAP regarding the lab tests and chain of custody issues. Thank you hearing my concerns.

Sincerely,

Dan Epperson

Mayor of the City of Ione

Dan Epperson

Mayor of Ione

From: Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>

Sent: Thursday, October 20, 2022 4:50:50 PM

To: Michael Rock <mrock@ione-ca.com>; Dan Epperson <Depperson@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>

Cc: Rodney Plamondon <rplamondon@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>; Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org <smeyer@amadorgov.org>

Subject: RE: Ione Tertiary Plant - H2S over 200 ppm

Mr. Rock, et. al thank you for your update that you sent to comply with the comfort letter (see attached) that was issued by our assistant executive officer on 9 September 2022. As I read your email, it appears the samples are only results from a field meter. A field meter is appropriate as a screening tool, to evaluate the situation. However, the Assistant Executive Officer required in the comfort letter a certified laboratory analyze the gas samples, using proper chain of custody procedures, when high gas levels exist.

Item 5 states: *"All previous and future water quality and air samples, including a chain of custody and monitoring locations, for all samples collected to verify high hydrogen sulfide and turbidity. This shall be reported to Kari.Holmes@waterboards.ca.gov;"*

Again, the Regional Board appreciates the notifications and the updates, but when will we receive the required data from a certified laboratory using the proper chain of custody?

This morning I reached out to you and request a copy of the facilities SOPs, which still have not been received. When should I expect to see those document?

Finally, anytime there is a hazardous substance released to the air, ground or water the Office of Emergency Services must be notified. Has your operator filed a report with OES. I have not seen a copy of the report come across my desk yet.

Compliance is a challenge at times, thank you for your attention to these issues.

Howard Hold, PG #7466

Senior Engineering Geologist
Title 27 and WDR Compliance and Enforcement Unit
Central Valley, Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Our office is currently teleworking. Please submit all contact by email. Thank you

hhold@waterboards.ca.gov

From: Michael Rock <mrock@ione-ca.com>

Sent: Thursday, October 20, 2022 3:59 PM

To: Baum, John@Waterboards <John.Baum@Waterboards.ca.gov>; Holmes, Kari@Waterboards <kari.holmes@waterboards.ca.gov>; Croyle, Kenny@Waterboards <Kenny.Croyle@Waterboards.ca.gov>; Hold, Howard@Waterboards <Howard.Hold@waterboards.ca.gov>; Amy Gedney <agedney@cityofsuttercreek.org>; smeyer@amadorgov.org

Cc: Dan Epperson <Depperson@ione-ca.com>; Rodney Plamondon <rplamondon@ione-ca.com>; Dominic Atlan <datlan@ione-ca.com>; Diane Wratten <dwratten@ione-ca.com>; Stacy Rhoades <srhoades@ione-ca.com>; Todd Waklee <twaklee@ione-ca.com>; Brett Moroz <bmoroz@percwater.com>; Orta, Anthony@CDCR <Anthony.Orta@cdcr.ca.gov>

Subject: lone Tertiary Plant - H2S over 200 ppm

EXTERNAL:

Kari:

Today's readings from Lone Fire Department indicate the LEL is 3% which is in compliance. However, the H2S (Hydrogen Sulfide) reading at the top of the stairs at the Headworks was 200+ ppm. The MSA ALTAIR 4X Multigas (Canary) device for reading the LEL levels only goes up to 200 ppm and the needle was maxed out. Mule Creek Fire Department data is identical to Lone Fire Department Report that is attached. I will have the Mule Creek data sent tomorrow.

Even at the bottom of the stairs of the Headworks the H2S was 134 ppm. Maximum general industry peak levels for H2S is 50 ppm. Maximum general industry ceiling limits is 20 ppm. PERC and West Yost both believe there is methane gas present.

The odor for staff at the Tertiary Plant is overwhelming and thus we cannot operate today either.

We have now received 7 formal written or phone call complaints from residents in Castle Oaks regarding the odor. Most of the residents submitting a complaint live on Shakeley Lane near the Tertiary Plant. A direct phone call I received at 8:45 am today was from Michael Politi who lives on Shakeley Lane. He said the odor was quite strong and he was not able to be in his backyard.

Michael

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frank.splendorio@bbklaw.com
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Sacramento, California 95814
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Attorneys for Plaintiff
AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF AMADOR

AMADOR REGIONAL SANITATION
AUTHORITY, a California joint powers
agency,

Plaintiff,

v.

CITY OF IONE, a California municipal
corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

DECLARATION OF MATTHEW L. GREEN
IN SUPPORT OF EX PARTE
APPLICATION FOR ORDER TO SHOW
CAUSE RE CONTEMPT AND SANCTIONS

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 I, Matthew L. Green, declare as follows:

2 1. I have personal knowledge of the following facts, and if called to testify, I would
3 and could testify competently thereto.

4 2. I am an attorney at law duly licensed to practice before all of the courts of the State
5 of California. I am Of Counsel at Best Best & Krieger LLP, attorneys of record for Plaintiff Amador
6 Regional Sanitation Authority ("ARSA"). As one of the attorneys for ARSA, I am familiar with
7 the proceedings in the above-entitled action.

8 3. On October 26, 2022, at 9:39 a.m., I notified Defendant City of Ione's counsel,
9 specifically Theresa C. Barfield, Michelle E. Chester, David A. Prentice, Margaret Long, and
10 Carolyn Walker, by electronic mail that ARSA would be presenting to the Court, at a time and date
11 to be determined by the Court, in Department 1 an ex parte application for an order requiring Ione
12 to show cause why it should not be held in contempt of this Court's October 10, 2022, order and
13 preliminary injunction, and why money sanctions in the amount of fifteen hundred dollars (\$1,500)
14 per day should not be imposed against it. A copy of my electronic mail to all of Ione's counsel is
15 attached as Exhibit "A" to this declaration. Although ARSA's ex parte application does not seek
16 any relief against Defendant California Department of Corrections and Rehabilitation, I also copied
17 its counsel, Adam K. Guernsey, on my ex parte notice electronic mail.

18 4. As of the time of the execution of this declaration, no response has been received,
19 but opposition is expected.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing
21 is true and correct.

22 Executed this 26th day of October 2022, at San Diego, California.

23
24 

MATTHEW L. GREEN

EXHIBIT A



Lisa Atwood

From: Matthew Green
Sent: Wednesday, October 26, 2022 9:39 AM
To: Theresa Barfield; 'Michelle Chester'; 'david@prenticelongpc.com'; 'Margaret Long'; Carolyn@prenticelongpc.com
Cc: 'Adam Guernsey'; Frank Splendorio; Lisa Atwood
Subject: Amador Regional Sanitation Authority v. City of Lone, Case No. 22CV12824 - Notice of ARSA's Ex Parte Application for OSC re Contempt and Sanctions Against City of Lone

Dear Counsel,

Pursuant to the California Rules of Court, rule 3.1204, subdivision (a), Plaintiff Amador Regional Sanitation Authority will be presenting to the Court, at a time and date to be determined by the Court, in Department 1 of the Superior Court of California, County of Amador, located at 500 Argonaut Lane in Jackson, California, an ex parte application for an order requiring Defendant City of Lone to show cause why it should not be held in contempt of this Court's October 10, 2022, order and preliminary injunction, and why money sanctions in the amount of fifteen hundred dollars (\$1,500) per day should not be imposed against it. Please advise whether the City of Lone intends to appear to oppose the application.



Matthew Green
Of Counsel
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5 Facsimile: (619) 233-6118

6 FRANK A. SPLENDORIO, Bar No. 272601
frank.splendorio@bbklaw.com
7 BEST BEST & KRIEGER LLP
500 Capitol Mall, Suite 1700
8 Sacramento, California 95814
Telephone: (916) 325-4000
9 Facsimile: (916) 325-4010

10
11 Attorneys for Plaintiff
12 AMADOR REGIONAL SANITATION AUTHORITY

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF AMADOR

15
16 AMADOR REGIONAL SANITATION
17 AUTHORITY, a California joint powers
agency,

18 Plaintiff,

19 v.

20 CITY OF IONE, a California municipal
21 corporation; CALIFORNIA DEPARTMENT
OF CORRECTIONS AND
22 REHABILITATION, a California state
agency; and DOES 1 through 20, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV12824
Judge: Hon. J.S. Hermanson

[PROPOSED] ORDER TO SHOW CAUSE
RE CONTEMPT AND SANCTIONS

Date:
Time:
Dept.: 1

Complaint Filed: September 20, 2022

1 TO DEFENDANT CITY OF IONE:

2 Plaintiff Amador Regional Sanitation Authority ("ARSA") having presented to this Court
3 sufficient grounds to initiate a contempt proceeding, you are ordered to appear on
4 _____, 2022, at 8:30 a.m. in Department 1 of this Court located at 500 Argonaut
5 Lane, Jackson, California 95642 to show cause why you should not be held in contempt of this
6 Court's order, dated October 10, 2022, requiring you to immediately accept 500,000 gallons of
7 wastewater per day from Preston Reservoir for 30 days, for a total of 15 million gallons, pending
8 trial in this action, and why money sanctions in the amount of fifteen hundred dollars (\$1,500) per
9 day should not be imposed against you.

10 IT IS FURTHER ORDERED THAT:

11 This Order to Show Cause shall be served on Defendant City of Ione ("Ione") by personal
12 service or in some other manner that ensures formal notification of the contempt charge and the
13 time and place of the hearing no later than _____, 2022. Proof of such service
14 shall be filed at least _____ court days prior to the hearing.

15 Any opposition papers to the Order to Show Cause shall be filed and served on ARSA by
16 electronic mail and overnight mail no later than _____, 2022. Any reply papers
17 to the opposition shall be filed and served on Ione by electronic mail and overnight mail no later
18 than _____, 2022.

19
20 Dated: _____

JUDGE OF THE SUPERIOR COURT