

State of California

Memorandum

To : File A-87-220

Date : September 23, 1987

From : **FAIR POLITICAL PRACTICES COMMISSION**
Kathy Donovan

Subject: Extension of 21-day Deadline

On September 11, 1987, I contacted the requestor, Robert Pleines, regarding an extension of the 21-working day deadline. He raised no objection to an extension to September 18, 1987.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION IX
 215 Fremont Street
 San Francisco, Ca. 94105



CERTIFIED MAIL NO. 244965
 RETURN RECEIPT REQUESTED

Sacramento Regional County
 Sanitation District
 ATTN: Chairperson
 827 Seventh Street, Room 304
 Sacramento, CA 95814

In Reply Refer to: W-2

Re: C 061231 10 0

MAR 16 1979

To Whom It May Concern:

We are pleased to offer the Sacramento Regional County Sanitation District a Step 2 award in the amount of \$1,620,750 as an amendment to your basic grant to assist you in the design of your Natomas interceptor system. This award is based upon your application as certified to this office by the California State Water Resources Control Board.

If you wish to accept this award, the original and two (2) copies of the enclosed Grant Agreement should be signed, dated and returned within three (3) weeks after receipt. Please return the signed Grant Agreements to:

Ed Dito, Acting Chief
 Grants Administration Section
 State Water Resources Control Board
 Division of Water Quality
 P.O. Box 100
 Sacramento, CA 95801

Part III of the Grant Agreement contains general/special conditions which should be particularly noted prior to your acceptance.

Sincerely,

Richard A. Covington
 Frank M. Covington
 Director, Water Division

FILE
 ORIGINAL

Enclosure

4 c Grant Agreement/Amendment

57-220
 KED - Plz
 RETURN FOR
 Filing when
 complete. Thx.
 7

U.S. ENVIRONMENTAL PROTECTION AGENCY
GRANT AGREEMENT/AMENDMENT

GRANT IDENTIFICATION NO.

C 0 6 1 2 3 1 1 0 0

CHECK APPLICABLE ITEM(S)

DATE OF AWARD (obligation date)

14 MAR 1979

GRANT AGREEMENT

GRANT AMENDMENT

TYPE OF ACTION

Continuation

SUBSEQUENT RELATED PROJECT (HWT)

PART I-GENERAL INFORMATION

1. GRANT PROGRAM

Construction Grants

2. STATUTE REFERENCE

PL 92-500

3. REGULATION REFERENCE

40 CFR 35

4. GRANTEE ORGANIZATION

a. NAME

Sacramento Regional County
Sanitation District

c. ADDRESS

827 Seventh Street, Room 304
Sacramento, CA 95814

b. EMPLOYER I.D. NO. (EIN)

5. PROJECT MANAGER (Grantee Contact)

a. NAME

D. W. McKenzie

d. ADDRESS

827 Seventh Street, Room 304
Sacramento, CA 95814

b. TITLE

Engineer

c. TELEPHONE NO. (Include Area Code)

(916) 440-6565

6. PROJECT OFFICER (SWRCB Contact)

a. NAME

Samir Nessim

d. ADDRESS

State Water Resources Control Board
Division of Water Quality
Contracts Administration Unit
P.O. Box 100
Sacramento, CA 95801

b. TITLE

Project Coordinator

c. TELEPHONE NO. (Include Area Code)

(916) 322-6457

7. PROJECT TITLE AND DESCRIPTION

Design of Natomas Interceptor System

PROJECT STEP (HWT)

2

8. DURATION

PROJECT PERIOD (Dates)

Award - 3/15/80

BUDGET PERIOD (Dates)

9. DOLLAR AMOUNTS

TOTAL PROJECT COSTS

EPA GRANT AMOUNT (In-Kind Amt.) \$1,620,750

TOTAL ELIGIBLE COSTS (HWT)

\$2,161,000

UNEXPENDED PRIOR YR. BAL. (EPA Funds)

TOTAL BUDGET PERIOD COSTS

THIS ACTION (This obligation amount) \$1,620,750

10. ACCOUNTING DATA

APPROPRIATION

68X0103

DOC CONTROL NO.

C00140

ACCOUNT NO.

Y779092002

OBJ CLASS

41
41 11
41

AMOUNT CHARGED

\$1,620,750

11. PAYMENT METHOD

ADVANCES REIMBURSEMENT

OTHER

12. PAYEE (Name and mailing address. Include ZIP Code)

Grantee Organization

SEND PAYMENT REQUEST TO SWRCB, Div. Water Quality,
Payments Unit, P.O. Box 100, Sacto., CA 95801

PART II - APPROVED BUDGET

TABLE A - SUBJECT CLASS CATEGORY (Non-construction)	TOTAL APPROVED ALLOWABLE BUDGET PERIOD COST
1. PERSONNEL	
2. FRINGE BENEFITS	
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS: RATE _____ % BASE _____	
11. TOTAL (Share: Grantee _____ % Federal _____ %)	
12. TOTAL APPROVED GRANT AMOUNT	\$
TABLE B - PROGRAM ELEMENT CLASSIFICATION (Non-construction)	
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10. TOTAL (Share: Grantee _____ % Federal _____ %)	
11. TOTAL APPROVED GRANT AMOUNT	\$
TABLE C - PROGRAM ELEMENT CLASSIFICATION (Construction)	
1. CONSTRUCTION AND PROJECT COSTS	
2. ADMINISTRATIVE EXPENSES	\$ 111,700
3. LAND, STRUCTURES, RIGHT-OF-WAY	
4. CONSULTANT ARCH./ENGR. FEES	1,905,100
5. GRANTEE ARCH./ENGR. FEES (FORCE ACCOUNT)	
6. EQUIPMENT	
7. CONTINGENCIES	103,200
8. RELOCATION PAYMENTS	
9. INDIRECT COSTS	41,000
10. SUBTOTAL	
11. GRANT PROCESSING FEE	
12. TOTAL (Share: Grantee <u>124</u> % Federal <u>75</u> % State <u>124</u> %)	\$ 2,161,000
13. TOTAL APPROVED GRANT AMOUNT	\$ 1,620,750

a. General Conditions:

The grantee covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this grant, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The grantee warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this grant agreement or any grant amendment pursuant to 40 CFR 30.425.

b. Special Conditions:

1. All architectural/engineering subagreements must comply with regulations published in the Federal Register on September 27, 1978, and as further explained in State Water Resources Control Board Clean Water Grant Bulletins 29A through 29H.

The Grantee shall award such subagreements which are expected to exceed \$10,000 prior to the commencement of any services. Subagreements not exceeding \$100,000 shall be submitted within 30 days of their award and must be approved before the first grant payment can be made. Any subagreements expected to exceed \$100,000 must be submitted and approved prior to the award of the subagreement.

Grantees performing architectural/engineering work with their own forces (force account) must receive prior approval in accordance with Federal Rules and Regulations 40 CFR 35.936-14 and Clean Water Grant Bulletin No. 29D..

The amounts listed on Page 2 of the grant offer for fees are estimates only and do not indicate approval of the professional subagreements or force account requests.

2. Sewer Service Connection Limitation.

(a) Definitions.

- (1) Area of prohibition shall mean that area shown by the exterior boundaries of Exhibit "A", attached hereto and by this reference incorporated herein, but excluding the parcels thereof indicated thereon as excluded.
- (2) Permit shall mean to allow voluntarily and knowingly without compulsion of an order of a court of competent jurisdiction.

- (b) The grantee shall not permit new sewer service connections to the Sacramento Regional Wastewater System, or to any other existing or new multiple connection wastewater systems constructed or operated by the grantee, to serve lands within the area of prohibition designated in Exhibit "A", except that the grantee may permit new sewer service connections to the Regional System in the area designated on Exhibit "A" for conditional inclusion in the Natomas Interceptor System Service area only after satisfactory completion of any required state and federal environmental documents.

- (c) In the event that any new sewer service connections are permitted by the grantee in violation of condition (b) above during the twenty (20) year period commencing with the Step 2 grant award for the Natomas Interceptor System project, the grantee will return to the State Water Resources Control Board and the United States Environmental Protection Agency on demand by either agency all state and federal grant funds plus interest at the rate of seven (7) percent per annum from the date of the Step 2 grant award, for the Natomas Interceptor Section 2 and the Natomas Pumping Station*. Demand hereof shall not be made until consideration has been given to relevant EPA and state policies and procedures that are in effect at the time of the making of the demand. Further, prior to making such a demand, the grantee shall be notified in writing and given a period not less than ninety (90) days in which to cure or attempt to cure the violation of the condition.
- (d) During the twenty (20) year period commencing with the Step 2 grant award for the Natomas Interceptor System project, the grantee shall submit annual reports of the status of its compliance with condition (b) above to the State Water Resources Control Board and Region IX of the United States Environmental Protection Agency. During such (20) year period, on each fifth anniversary of the Step 2 grant award, the State Water Resources Control Board, the United States Environmental Protection Agency and the grantee shall review this condition (1) for applicability in view of the then existing state and federal policies and county and city planning policies, provided, however, that this condition (1) may not be waived in whole or part without the express written consent of the U.S. EPA or the SWRCB pursuant to delegated authority.

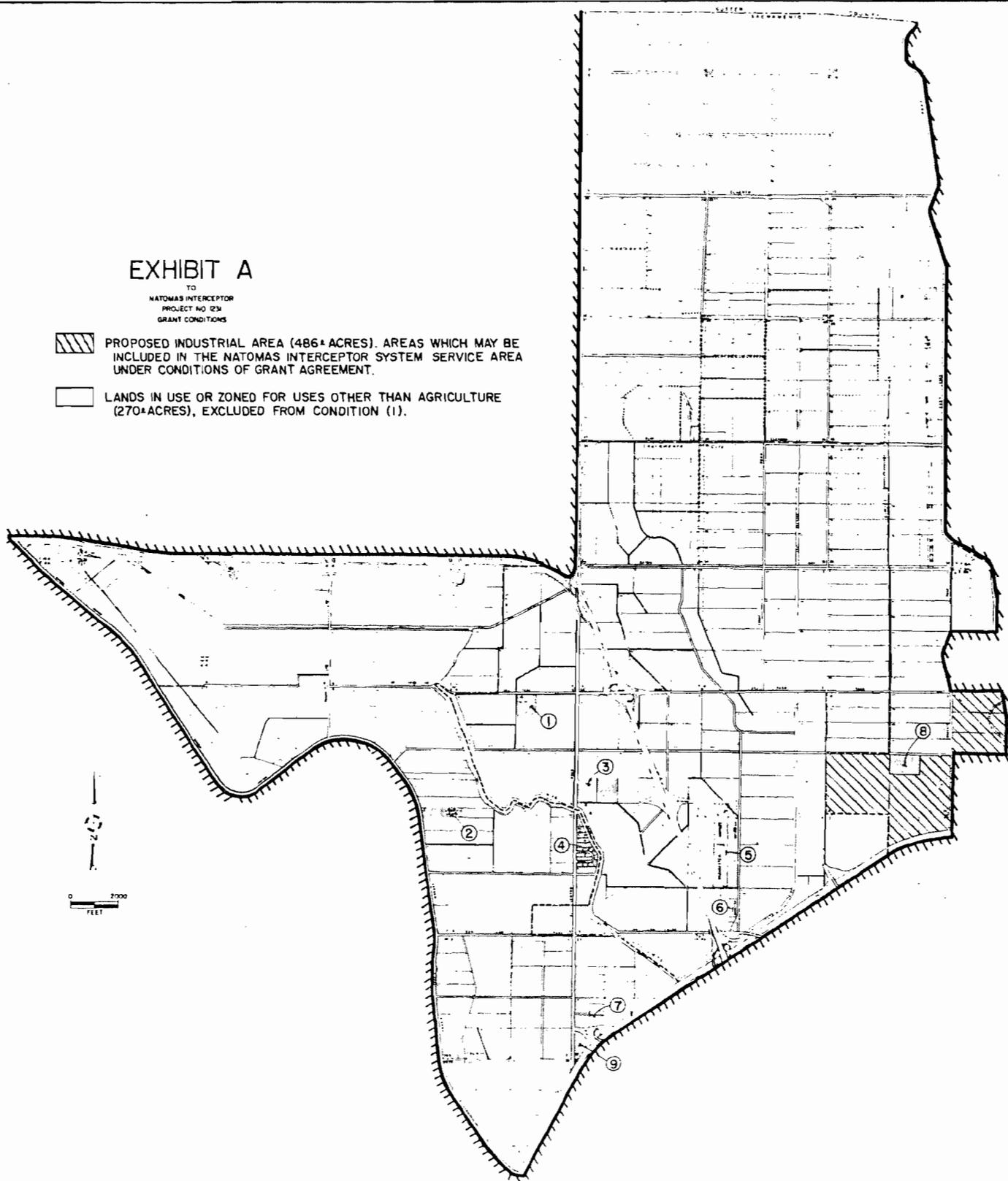
*Natomas Interceptor Section 2 and the Natomas Pumping Station are as shown in Figure 1-3 (Page 1-9) of the Project Report and Draft EIR for the Natomas Interceptor System dated September, 1978.

EXHIBIT A

TO
NATOMAS INTERCEPTOR
PROJECT NO. 123
GRANT CONDITIONS

 PROPOSED INDUSTRIAL AREA (486+ ACRES). AREAS WHICH MAY BE INCLUDED IN THE NATOMAS INTERCEPTOR SYSTEM SERVICE AREA UNDER CONDITIONS OF GRANT AGREEMENT.

 LANDS IN USE OR ZONED FOR USES OTHER THAN AGRICULTURE (270+ ACRES), EXCLUDED FROM CONDITION (1).



NATOMAS INTERCEPTOR SYSTEM
LANDS EXCLUDED FROM GRANT CONDITION 2

<u>Parcel</u>	<u>Acres</u>	<u>Zoning</u>	<u>Major Use</u>
1	11.0	A	School
2	14.1	M-1	Light Industrial
3	37.4	A	Mobile Home Park
4	41.2	A-2 and A-1-A	Single Family Residenti
5	85.7	A	Airport
6	11.3	M-1	Light Industrial
7	39.7	TC and C-2	Commercial
8	20.0	A-80	Agriculture
9	<u>12.0</u>	A-2	Agriculture
Total	272.4		

PART IV

NOTE: The Grant Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters grant awards and to the appropriate Grants Administration Office for state and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the automatic withdrawal of the grant offer by the Agency. Any change to the Grant Agreement by the grantee subsequent to the document being signed by the EPA Grant Award Official which the Grant Award Official determines to materially alter the Grant Agreement shall void the Grant Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers **Sacramento Regional County** a grant/amendment to the **Sanitation District** for 75 % of all approved costs incurred up to and not exceeding \$ **1,620,750** for the support of approved budget period effort described in application Application for Federal Assistance included herein by reference.

<p>ISSUING OFFICE (Grants Administration Office) ORGANIZATION ADDRESS EPA, Grants Administration Section 215 Fremont Street San Francisco, CA 94105</p>	<p>AWARD APPROVAL OFFICE ORGANIZATION ADDRESS EPA, Water Division 215 Fremont Street San Francisco, CA 94105</p>
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THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY
 SIGNATURE OF AWARD APPROVAL OFFICIAL: *Richard A. Covington* Frank M. Covington, Director, Water Division
 DATE: 14 MAR 1979

This Grant Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and grant regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the grantee organization, and (2) the grantee agrees (a) that the grant is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by EPA to have been overpaid will be returned or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED GRANTEE ORGANIZATION
 SIGNATURE: *Sandra P. Amal* Chairperson
 DATE: 3/27/79

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
RESOLUTION NO. SR-834

RESOLUTION REQUESTING THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
TO WAIVE A GRANT CONDITION REGARDING PROVISION OF SEWER
SERVICE IN THE NORTH NATOMAS AREA OF SACRAMENTO COUNTY

WHEREAS, on March 27, 1979, the Board of Directors of the Sacramento Regional County Sanitation District did execute Grant No. C-06-1231 which provided for construction of regional sewerage facilities to serve the Natomas area; and

WHEREAS, said grant included a CONDITION requiring that grant funds would be returned to the United States Environmental Protection Agency and the State Water Resources Control Board upon demand should sewer connections be allowed in specified portions of what is known as the North Natomas area of Sacramento County prior to March 16, 1999; and

WHEREAS, Grant No. C-06-1231 provides that said CONDITION will be periodically reviewed for applicability in view of current county and city planning policies and state and federal policies; and

WHEREAS, the grant funds subject to the CONDITION approximate \$4,165,000, plus current interest of \$2,000,000; and

WHEREAS, Sacramento Regional County Sanitation District performs a utility function in providing wastewater conveyance, treatment, and disposal services for the urban area of Sacramento County and therefore enjoys no control over land use decisions in Sacramento County; and

WHEREAS, elected policy-making bodies will almost certainly determine that development is appropriate in the North Natomas area prior to March 16, 1999; and

WHEREAS, such determination will open the area to development in the immediate future; and

WHEREAS, the provision of sewer service to such development is in conformance with local, state and national water pollution control goals and policies and is mandated by federal law and state water quality objectives; and

WHEREAS, such development, if connected to the sewer system, will trigger the CONDITION requiring repayment of the grant funds and interest which would represent a hardship to the Sacramento Regional County Sanitation District in fulfilling its obligations to provide regional sewerage service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Sacramento Regional County Sanitation District seek a waiver of the CONDITION requiring repayment of the grant funds and interest in accordance with grant provisions for periodic review of the CONDITION.

BE IT FURTHER RESOLVED that the Chairperson of the Board of Directors is hereby authorized and directed to request assistance in the waiver solicitation from federal and state elected officials representing the Sacramento metropolitan area.

ON A MOTION by Director BRYAN, seconded by Director CARMODY, the foregoing resolution was passed and adopted by the Board of Directors of the Sacramento Regional County Sanitation District, this 14th day of January, 1986, by the following vote, to wit:

In accordance with Section 25103 of the Government Code of the State of California, a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento, on

AYES: Directors, BRYAN, CARMODY, JOHNSON, SHORE, SHEEDY

NOES: Directors, COLLIN

ABSENT: Directors, SMOLEY

JAN 14 1986

By *Joan Fallon*
Deputy Clerk, Board of Supervisors

Joan Fallon
Chairperson of the Board of Directors
Sacramento Regional County
Sanitation District

(SEAL)

ATTEST:

Rosely A. Williams
Clerk of the Board of Directors

FILED

JAN 14 1986

BOARD OF DIRECTORS
Rosely A. Williams
Clerk of the Board

R. Pleinies

D. W. McKENZIE, Director
DOUGLAS M. FRALEIGH, Deputy Director
W. C. WANDERER, JR., Deputy Director



COUNTY OF SACRAMENTO

DEPARTMENT OF PUBLIC WORKS

COUNTY ADMINISTRATION BUILDING • ROOM 304 • 827 SEVENTH STREET
SACRAMENTO, CALIFORNIA 95814

TELEPHONE: (916) 440-6581

January 28, 1986

Honorable Board of Directors
Sacramento Regional County Sanitation District
County of Sacramento
State of California

Members in Session:

Subject: Natomas Grant Condition

Recommendation:

It is recommended that your Board approve in concept the establishment of a grant reimbursement surcharge to the District Capital Investment Equalization (CIE) Fee for properties in the North Natomas area that are subject to the referenced grant condition.

Discussion:

On January 14, 1986, your Board approved a resolution confirming the District's intent to seek a waiver from the repayment conditions of Grant No. C-06-1231. Your Board continued until today approval of a second option, the negotiation of an amendment to the grant condition which would permit pro rata payback of grant funds. Both of the above options assume the District is able to successfully negotiate a change to the original grant with the United States Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB). While this assumption is reasonable, recent correspondence (Attachment A) from the EPA suggests that agency is not willing to negotiate. For this reason, a third course of action must be considered, whereby the initial funds for repayment would be provided by the first property initiating action that could result in sewer connections within the area of prohibition. Based on action by the Board of Supervisors on January 15, 1986, on a rezone and parcel map request for a 153-acre parcel that is subject to the grant condition, that initial action may be the proposed adoption of a rezoning ordinance for that property in early April, 1986. The proposed action associated with the rezoning ordinance would involve the property owner(s) placing the repayment amount, to be determined by the District Engineer and currently estimated at approximately \$6.2 million, in a trust account prior to the effective date of the ordinance. Prior to the deposit of the repayment amount, a reimbursement agreement, effective contingent

Honorable Board of Directors
January 28, 1986
Page 2

upon an EPA or SWRCB demand for repayment, would be presented to your Board for approval, proposing that the owner be repaid those funds through the collection of a surcharge on connection fees from properties within the area of prohibition. Specifically, such a surcharge would work as follows.

All non-publicly owned properties located within the proposed surcharge area, as shown on Attachment B, which are issued sewer connection permits prior to March 16, 1999, will be required to pay their fair share of the surcharge as a component of the CIE Fee. That component is estimated to be \$262 per Equivalent Single Family Dwelling (ESD). This estimate is based on the assumption that 24,961 ESD's will be issued permits prior to March 16, 1999. It is also proposed that the component increase annually by ten percent of the prior year amount to account for the time value of money.

In case there is a delay in adopting the rezone ordinance for the 153-acre parcel, it is proposed that your Board formally request at this time that the County Board of Supervisors and the City Council adopt this repayment condition as being applicable to the initial private property located within the surcharge area that requests a rezone.

The reimbursement agreement would stipulate that payment of the surcharge component of the CIE Fee to the owners would be made on an annual basis, within sixty days of the end of each fiscal year. Payments would cease prior to March 16, 1999, should the total amount collected at any time exceed the estimated \$6.2 million plus reasonable interest.

The number of ESD's, 24,961, which was the basis for the surcharge component was determined as shown on Attachment C. Land uses identified in the current North Natomas Community Plan under consideration by the City of Sacramento and the anticipated rate of growth to March 16, 1999, served as the basis for determining that number. Approximately 700 undeveloped acres within the Plan area that is exempt from the grant condition was taken into consideration in arriving at the surcharge amount. Acreage designated for public use was also excluded. Should area beyond the designated Plan, and within the grant condition boundaries, be approved for development prior to March 16, 1999, it too would be subject to the CIE Fee surcharge if connection permits were issued before that date. Depending on the rate of growth in the grant condition area, both within and outside the North Natomas Community Plan, the surcharge period could change significantly, but an extension beyond March 16, 1999, is not recommended regardless of the amount collected for reimbursement to that date.

Honorable Board of Directors
January 28, 1986
Page 3

Final determination of the surcharge component will be deferred until a community plan is adopted. At that time, the component will be computed based on the approved land use acreage and the concept presented herein.

Respectfully submitted,

D. W. McKenzie
District Engineer

DWM:JPG:mm



ATTACHMENT A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

225 Franklin Street
San Francisco, Ca. 94105

0 2 JAN 1985

Jesse M. Diaz, Chief
Division of Clean Water Grants
Manager - Clean Water Grant Program
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95801

Dear Mr. Diaz: *Jesse*

This letter is in response to yours of October 8, 1985, in which you recommended that the Richter property be excluded from the special grant conditions intended to protect agricultural land in Sacramento County (Construction Grant No. C-06-1231-100). We cannot agree with your recommendation.

Federal law (40 CFR 6.302(c)) mandates that EPA mitigate any adverse effects from funding facilities which may impact environmentally significant agricultural land.

In 1978 the Sacramento County Regional Sanitation District asked for EPA funding of a South Natomas interceptor which would allow development of 4,000 acres of prime agricultural land next to the City of Sacramento. EPA at that time requested that the District submit proposals to mitigate the adverse impacts of this project on prime agricultural land. Because the County had just rezoned the adjacent 20,000 acre North Natomas area from "urban reserve" to "permanent agriculture" the District stated that this rezoning action mitigated the loss of the prime agricultural land in the South Natomas area. On March 14, 1979, a grant was awarded to the District with the condition that there be a prohibition on new sewer hookups in the North Natomas area for a period of 20 years. This grant condition had been proposed by the District and was intended to mitigate the adverse effects of funding the facilities, which would enable development in the South Natomas area. It was imposed under authority of NEPA and implemented EPA's Policy to Protect Environmentally Significant Agricultural Lands (September 8, 1978). This policy requires EPA to evaluate direct, indirect and cumulative impacts.

EPA issued a Negative Declaration under NEPA on the sewer project because it accepted the mitigation offered by the Sanitation District. EPA may not have approved the grant without mitigation measures to protect prime agricultural lands. The grant condition states that it would be reviewed in light of any change in Federal policy. Federal policy has not been relaxed. At a meeting with the grantee on April 11, 1984, EPA and the SWRCB indicated that the condition could be modified only if the grantee could show that there would be a net positive environmental impact by implementing such a change.

Neither the Division of Clean Water Grants nor the City or County of Sacramento have attempted to show that there would be net environmental benefits from developing land in the North Natomas area. Since that is the sole criterion upon which EPA would consider a change to the grant condition, we see no justification for granting an exemption for the Richter property, which is primarily "environmentally significant agricultural land" as defined by the USDA and in EPA's Policy.

The proposed North Natomas Community Plan clearly expresses the City's intent to extensively develop the North Natomas area. Consequently EPA anticipates demanding payback of all Federal grant funds plus interest at a rate of seven (7) percent per annum, from the dates of grant awards, for design and construction of the Natomas Interceptor Section 2 and the Natomas Pumping Station. We shall keep you fully apprised of any future actions we plan to take.

For your information, I have enclosed a copy of a recent letter from Judith Ayres to Congressman Vic Fazio, who had expressed an interest in this issue. If you have any questions, please feel free to call me at (415) 974-8293.

Sincerely,



Tom Kremer, Chief
California Liaison/Technical Assistance
Section
Program Support Branch
Water Management Division

Enclosure



23 DEC 1985

Honorable Vic Fazio
U. S. House of Representatives
1740 Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Fazio:

This letter is a follow-up to our meeting of December 3, 1985, in further response to your concerns regarding our grant conditions affecting the Richter property in Sacramento County. You asked whether a pro-rata payback would be possible and whether a developer, rather than the grantee, could make the payback.

The grant conditions, which the grantee offered to EPA as mitigation for the loss of prime agricultural land in the South Natomas area, call for repayment of the full amount of the grant, plus interest, in the event of any provision of sewer service to the area of prohibition. Our Regional Counsel reviewed the possibility of pro-rata payback and found no basis in the grant conditions to accommodate such a proposal. This determination was conveyed to Sacramento County by our letter of September 23, 1983. In addition to being inconsistent with the agreed upon terms of the grant, we believe that a pro-rata payback policy would be administratively infeasible.

The grant conditions state that the grantee shall reimburse EPA if the conditions are violated. EPA is not concerned as to how the grantee obtains the funds. However, in light of the unacceptability of pro-rata payback, a developer's paying the entire amount appears unlikely.

EPA's "Policy to Protect Environmentally Significant Agricultural Land" has not been altered. An exemption to the grant condition for the Richter property would result in net negative impacts on the environment. The proposed North Natomas Community Plan expresses the City's intent to extensively develop the North Natomas area. Consequently, EPA intends to request payback of the full amount due.

If we can be of further assistance, please let me know or your staff may contact Catherine Roberts, Intergovernmental Affairs Officer at (415) 974-7033.

Sincerely,

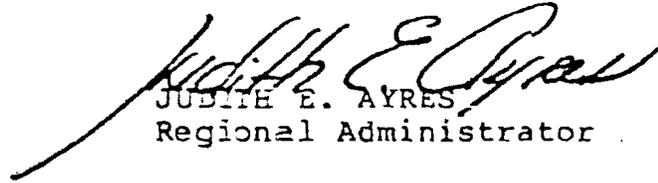
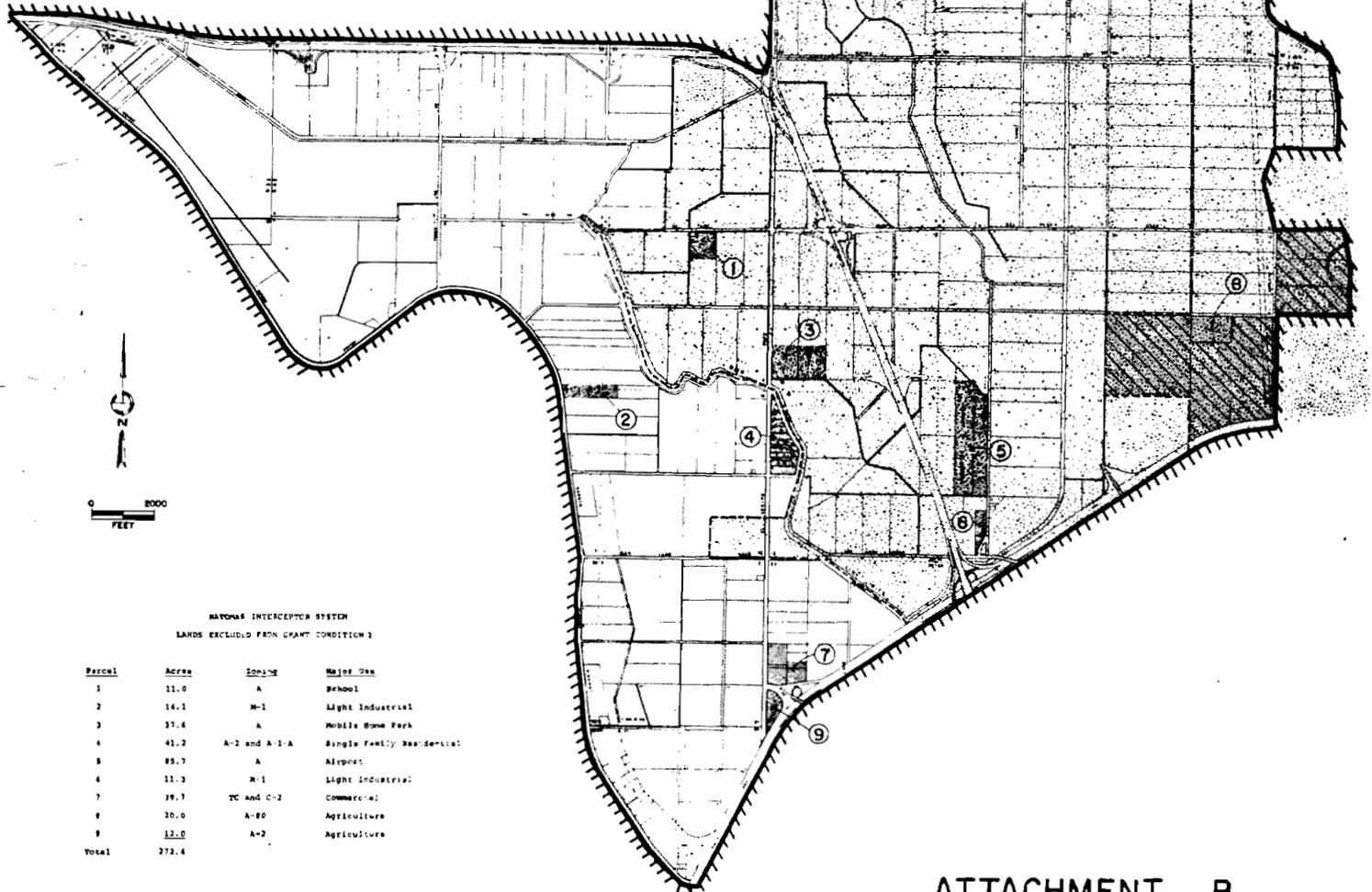

JUDITH E. AYRES
Regional Administrator

EXHIBIT A

TO
NATOMAS INTERCEPTOR
PROJECT NO 1231
GRANT CONDITIONS

-  PROPOSED INDUSTRIAL AREA (486+ ACRES). AREAS WHICH MAY BE INCLUDED IN THE NATOMAS INTERCEPTOR SYSTEM SERVICE AREA UNDER CONDITIONS OF GRANT AGREEMENT.
-  LANDS IN USE OR ZONED FOR USES OTHER THAN AGRICULTURE (270+ ACRES), EXCLUDED FROM CONDITION (1).
-  NATOMAS GRANT CONDITION AREA
-  NORTH NATOMAS COMMUNITY PLAN



NATOMAS INTERCEPTOR SYSTEM
LANDS EXCLUDED FROM GRANT CONDITION 1

Parcel	Acres	Zoning	Major Use
1	11.0	A	School
2	14.1	M-1	Light Industrial
3	37.4	A	Mobile Home Park
4	41.2	A-2 and A-2-A	Single Family Residential
5	85.7	A	Airport
6	11.3	M-1	Light Industrial
7	39.7	TC and C-2	Commercial
8	20.0	A-80	Agriculture
9	12.0	A-2	Agriculture
Total	272.4		

TABLE 1

NORTH NATOMAS GRANT REPAYMENT
LAND USE AND ESD PROJECTIONS

PERIOD		M-50	M-20	LIGHT IND.	O/B	COMMUNITY COMM.	HIGHWAY COMM	SPORTS COMPLEX	LOW DENS.	MED. DENS.	HIGH DENS.	TOTAL DU _s	TOTAL ESD _s
86/87	TOTAL ACRES	58	320	110	0	20	10	100	320	175	138	7,376	9,022
THRU	-EXEMPT ACRES		305	110								0	2,075
89/90	SURCHARGE ACRES	58	15	0	0	20	10	100	320	175	138	7,376	6,947
90/91	TOTAL ACRES	59	320	123	0	25	10	100	320	196	162	8,156	9,702
THRU	-EXEMPT ACRES		46	100					60			420	1,120
94/95	SURCHARGE ACRES	59	274	23	0	25	10	100	260	196	162	7,736	8,582
95/96	TOTAL ACRES	0	420	133	53	42	13	0	440	301	248	12,148	12,966
THRU	-EXEMPT ACRES								60			420	390
99/00	SURCHARGE ACRES	0	420	133	53	42	13	0	380	301	248	11,728	12,576
95/96	TOTAL ACRES	0	315	100	40	32	10	0	330	226	186	9,111	9,725
THRU	-EXEMPT ACRES								45			315	293
3/26/99	SURCHARGE ACRES	0	315	100	40	32	10	0	285	226	186	8,796	9,432
(3.75)													
85/86	TOTAL ACRES	117	955	333	40	77	30	200	970	597	486	24,643	28,449
THRU	-EXEMPT ACRES	0	351	210	0	0	0	0	105	0	0	735	3,488
3/26/99	SURCHARGE ACRES	117	604	123	40	77	30	200	865	597	486	23,908	24,961
CONVERSION FACTOR TO ESD		5	5	5	5	5	5	5	6.5	9	17		
TOTAL ESD _s		585	3,020	614	199	383	149	1,000	5,623	5,371	8,019		

GRAND TOTAL ESD_s 24,961

PREPARED BY FIH
22-Jan

TABLE 2
 NORTH NATOMAS GRANT REPAYMENT
 SURCHARGE AMOUNT AND REPAYMENT PROJECTIONS

TOTAL ESDs 24,961
 PAYMENT AMOUNT \$6,552,000
 CIE SURCHARGE \$262
 INTREST 10.00%

YEAR	ESD GROWTH		SURCHARGE COMPONENTS			AMOUNT
	CUMULATIVE	/YEAR	BASE	INTREST	TOTAL	
1986-87	1,737	1737	\$262	\$0	\$262	\$455,87
1987-88	3,474	1737	\$262	\$26	\$289	\$501,46
1988-89	5,210	1737	\$262	\$55	\$318	\$551,61
1989-90	6,947	1737	\$262	\$87	\$349	\$606,77
1990-91	8,663	1716	\$262	\$122	\$384	\$659,63
1991-92	10,380	1716	\$262	\$160	\$423	\$725,59
1992-93	12,096	1716	\$262	\$203	\$465	\$798,15
1993-94	13,813	1716	\$262	\$249	\$512	\$877,96
1994-95	15,529	1716	\$262	\$300	\$563	\$965,76
1995-96	18,044	2515	\$262	\$356	\$619	\$1,556,74
1996-97	20,559	2515	\$262	\$418	\$681	\$1,712,42
1997-98	23,075	2515	\$262	\$486	\$749	\$1,883,66
1998-3/26/99	24,961	1886	\$262	\$561	\$824	\$1,554,02

TOTAL ESDs 24,961
 TOTAL \$BASE \$6,552,000
 TOTAL PAYMENT \$12,849,711

PREPARED BY FIH
 22-Jan

COUNTY OF SACRAMENTO

Inter-Department Correspondence

November 21, 1986

To: Chairperson and Members
Board of Directors
Sacramento Regional County Sanitation District

From: Robert L. Pleines
Supervising Deputy County Counsel

Subject: North Natomas Development - EPA Grant
Limitation Violation
Agenda - November 25, 1986 - Item No. 47

RECOMMENDATION

The purpose of this memorandum is to discuss alternative mechanisms, together with the relative advantages and disadvantages of each, of requiring property owners within the North Natomas area to bear the \$6.2 million Environmental Protection Agency (EPA) repayment cost which will be incurred by the District if it authorizes a sewer connection for the new sports arena.

This office recommends that the Board of Directors receive this report, schedule a public hearing thereon on December 16, 1986 at 2:00 p.m., provide for service of this memorandum together with notice of the hearing on all potentially affected property owners, and at the conclusion of the hearing tentatively make the following determinations:

1. Whether property owners should be required to bear the above cost, and if so;
2. The geographical area to be subjected to the cost recovery mechanism;
3. The type of mechanism by which the cost is to be recovered, together with various subdeterminations requiring resolution in order to permit planning; and
4. The procedural schedule by which the mechanism selected will be planned, adopted and implemented.

OFFICE COPY

DISCUSSION

As you are aware, the City of Sacramento has issued a conditional use permit and a foundation permit for the construction of a sports arena in the North Natomas area. That sports arena is within the area affected by the sewer connection prohibition discussed below and, if connected to the Sacramento Regional County Sanitation District's sewer system, will give cause for demands by the EPA and the State Water Resources Control Board (SWRCB) for repayment by the District of some \$6.2 million in grant funds.

BACKGROUND

In 1978, the District applied to EPA for a grant for the purpose of designing and constructing the Natomas Interceptor system. The grant for that entire project was some \$40 million. Of that \$40 million, approximately \$4 million was granted for the purpose of designing and constructing the facilities to serve the South Natomas area. As a condition of providing that grant of \$4 million, EPA required that the District enter into an agreement extending through March 1999, prohibiting virtually all sewer connections to the District's sewer system within some 19,000 acres in the North Natomas area.

Recently, the City of Sacramento has amended its General Plan to provide for the urbanization of approximately 8,000 acres of that prohibited area. The sports arena in question is within that 8,000 acres. It is anticipated that the District will be asked to authorize a sewer connection for the arena in March 1987. Granting of that authorization will trigger immediate District liability for the \$4 million, plus another \$2.2 million of accumulated interest.

The District has made application to EPA to have the grant condition amended or waived to allow sewer connections for that proposed urban development. By its letter of November 5, 1986, addressed to the District Engineer, a copy of which is attached, Region IX of the EPA has apparently refused to further consider such an amendment or waiver.

Your Board has consistently stated that if connection is to be made resulting in the necessity of repayment of the grant funds, the responsibility for that repayment will rest upon the persons causing, and for whose benefit, the repayment is required. Consequently, we are in the process of negotiating an agreement with the sports arena developers for the purpose of requiring the developers to indemnify the District and provide security for the EPA and SWRCB repayment. In conjunction with

that agreement, it is the desire of the developers to devise a method whereby the cost can be spread over the entire acreage intended for development.

Thus, the sports arena developers propose that if they pay the \$6.2 million repayment, a cost spreading mechanism be implemented under which they are reimbursed by later developers within the area to the extent that funds are received through that mechanism.

This office recommends that under no circumstance should those developers have any claim against the District's General Fund for reimbursement, that the claim for reimbursement be limited strictly to whatever funds are collected through the cost spreading mechanism, and that implementation of the cost spreading mechanism be at least substantially completed before the agreement and sewer connection is authorized.

We have considered four separate mechanisms for spreading the cost over the appropriate acreage (of course, the appropriate acreage would have to be defined in the mechanism). The mechanisms considered are as follows:

1. An ordinance establishing a surcharge to be paid upon annexation or connection or providing a surcharge to the sewer use charge.
2. An assessment district formed under the Municipal Improvement Act of 1913.
3. A Mello-Roos District.
4. A reimbursement district.

Each of these mechanisms will be separately considered below. At the conclusion of the discussion of each mechanism, we briefly summarize our views of its relative acceptability, concluding that a District Surcharge Ordinance (discussed under point 1, below) is the most advisable mechanism.

All of these mechanisms will be facilitated by inclusion of the affected territory within the District, and some of them cannot be imposed absent such inclusion. Therefore, whatever mechanism might be selected, annexation proceedings should be commenced to include the territory over which the spread is to occur, and such proceedings should probably be initialed contemporaneously with the selection of the mechanism to be applied.

1. Surcharge Ordinance

The District could amend its annexation ordinance to provide for a surcharge for the area in question and request that the Local Agency Formation Commission not approve any annexations for that area without requiring that the fee be paid as a condition to the annexation pursuant to Government Code Section 56844, subd. (a).

Alternatively, the District could also amend its sewer rate ordinance to provide for a surcharge to the connection fee at such time as any of the parcels within the area in question are connected to the District system or to provide a surcharge to the sewer use fees charged within the subject area.

Either of these fees could be authorized by ordinance under Section 5471 of the Health and Safety Code. Any fee charged by ordinance, whether at annexation, connection or service, must be reasonable, fair and equitable, must be fixed by an ordinance which is not arbitrary, and must be uniform and without discrimination against particular property owners. Associated Homebuilders v. City of Livermore (1961) 56 Cal. 2d 847; Boynton v. City of Lakeport Municipal Sewer District (1972) 28 Cal.App. 3d 91, 94; Carlton Santee Corp. v. Padre Dam Municipal Water District (1981) 120 Cal.App. 3d 14, 30. Nor may the fee exceed the reasonable cost of providing the service or regulatory activity without first being approved by a two-thirds vote of the District voters. Cal. Const. Art. XIII A, Govt. C. § 50076; Beaumont Investors v. Beaumont-Cherry Valley Water Dist. (1985) 165 Cal.App. 3d 227. We think the surcharge in question would fit within these specified parameters whether it were an annexation, connection or service surcharge.

When the District entered into the EPA grant agreement in 1979, the territory in question was not, and still is not, within the District boundaries. Normally, the District would have owed no obligation to the property owners to allow connection to the District's facilities. However, as we have pointed out in our prior letter to you of September 5, 1986, the District's Master Interagency Agreement of 1974 does impose some obligation with respect to these properties since they are in the City of Sacramento, and the District agreed with the City to serve the City's territory. However, in 1979 the City acquiesced in and probably impliedly consented to the District's agreement with EPA to preclude sewer connections in the territory in question. Consequently, there is presently no obligation on the part of the District to serve the property owners in this territory.

Since that is the case, and the repayment of the grant funds would not become due except for the connection of properties within the territory in question, the imposition of the cost of that repayment upon the property owners of that territory is a reasonable and necessary charge for the use or capacity rights of the District. The fact that it is charged only within a specified portion of the District does not make it discriminatory for the reason that the District owes no obligation to these property owners and the payment becomes due only upon the providing of service to the very same property owners.

We shall now briefly analyze each of the potential ordinances.

a. Annexation Surcharge. The District's annexation ordinance could be amended to provide a surcharge for the area in question. Section 56844 of the Government Code specifically allows LAFCO to place as a condition upon annexation to a district "the payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county or district." Thus, the charge in question being a charge for a "use or right of use" would be a proper charge. Since the annexation fee increase would affect single-family or multi-family development projects and apply to the filing, accepting, reviewing, approving or issuing of an application, permit or entitlement to use, it would be necessary to adopt the ordinance in accordance with the provisions of Sections 54986 or 54992 of the Government Code. Both of these sections require certain notice prior to adoption of the ordinance and Section 65962 of the Government Code would prohibit the ordinance from becoming effective sooner than 60 days following final action on the ordinance.

b. Connection Surcharge. Section 5471 of the Health and Safety Code allows your District to adopt an ordinance approved by two-thirds vote of the members of the Board of Directors to prescribe, revise and collect fees, tolls, rates, rentals or other charges for services and facilities furnished by the District, either within or without its territorial limits, in connection with its sanitation or sewerage system. That section further provides that the revenues derived therefrom may be used for, among other purposes, the repayment of federal or state loans or advances made to the District for the construction or reconstruction of sanitary or sewerage facilities. We think the repayment of the grant funds in question would come within the definition of repayment of federal or state loans or advances and would be an appropriate use of the surcharge revenues. Again, the ordinance would be adopted pursuant to the same Government Code provisions as would the annexation surcharge ordinance.

c. Service Surcharge. Pursuant to the provisions of Section 5471 of the Health and Safety Code, the District could impose a surcharge upon the service billings of the property owners of the territory in question upon the same authority as the connection surcharge. Again, such an ordinance would be adopted pursuant to the above-mentioned Government Code provisions. The primary drawback of a service surcharge ordinance would be the prolonged period of time and the administrative burden involved in collecting and reimbursing this surcharge.

In each case, Section 54995 of the Government Code would provide a 120 day period of limitation for the filing of actions to contest the validity of the ordinance. However, if the territory in question would not be within the boundaries of the District at the time of the adoption of any of the ordinances, the property owners might make the argument that the 120 day period does not commence until such time as application for annexation is made or such application is approved. Additionally, Section 65913.5 of the Government Code might extend the period within which such action could be brought until 180 days after levy upon any specific development. We cannot at this time assure your Board as to which period would be held applicable. However, if any period other than the 120 days provided by Government Code Section 54995 is applicable property owners could contest the validity of the ordinance well into the future. The District itself is authorized by Government Code Section 54996 to bring a validating action for the purpose of affirming the validity of the ordinance which action might preclude later challenges.

In any action brought to contest the validity of any of the ordinances in question, the District would first have the burden of establishing that the fee does not exceed the cost of the service, facility or regulatory activity for which it is established. Beaumont Investors v. Beaumont-Cherry Valley Water Dist., *supra*; Govt. C. § 50076.5. There may then be a presumption that the rates fixed by the Board are reasonable and fair and the burden may then be upon any person contending otherwise to overcome this presumption. Elliott v. City of Pacific Grove (1975) 54 Cal.App. 3d 53, 59-60; Associated Homebuilders v. City of Livermore, *supra*, 854; Durant v. City of Beverly Hills (1940) 39 Cal.App. 2d 133, 139.

The advantage of this type of cost spreading mechanism is that the burden of cost recovery would be imposed upon properties only as they develop. Property owners desiring to retain land for which sewer connections are not required would be insulated from the fees.

The chief disadvantage is that such a mechanism would provide no guarantee to the sports arena developers of a timely recovery of the \$6.2 million, or even a guarantee of full recovery. The timing and amount of recovery would turn solely upon the rate of development within the affected territory, if, as and when development occurs.

Should this type of mechanism be selected, the Board will need to decide the following subsidiary issues upon conclusion of the December 16 hearing. Resolution of these issues will influence the timing and extent of recovery which the sports arena developers could expect.

a. Should the fee apply to the entire 19,000 acres covered by the EPA prohibition, the 8,000 acres which the City has most recently committed to urbanization, or some other area;

b. Should the fee ordinance remain in effect indefinitely pending full recovery, or during a period certain, for example, until 1999 when the prohibition of the EPA condition will expire. A time certain application will almost certainly defeat full recovery unless the territory to which the mechanism is applied is so small as to virtually guarantee full development within the time prescribed;

c. Should the fee schedule be formulated in a manner which permits return of only the \$6.2 million, or recovery of that amount plus interest for capital utilization, and if interest, the rate;

d. Should the fee schedule be graduated on a time basis through the levy of a high rate early and lower rate later (or vice versa) to permit accelerated recovery; and

e. On what basis should the fee be charged; for example, a uniform rate on acreage developed; a graduated rate based on the type of development (i.e. homes vs. factories), etc.?

The issues relating to interest and accelerated recovery have not been raised to date by the sports arena developers. However, it has been the experience of this office that these types of questions tend to be presented by developers in connection with advance expenditures which are subject to reimbursement by others. We would expect that at some point such questions will be asked in connection with these proceedings. We do not by expressing the issues mean to imply that interest and acceleration are legally susceptible to a fee structure. Further legal research will be required should there be an interest in such features.

2. 1913 Act Assessment District

The cost of repayment of approximately \$6.2 million to the EPA could conceivably be spread among the property owners in North Natomas through the formation of an assessment district. Under this approach the assessment district would be comprised of all North Natomas lands for which a sewer hookup to the Sacramento Regional Wastewater system would trigger repayment to EPA.

Sacramento County assessment districts have historically been formed pursuant to the Municipal Improvement Act of 1913 (hereinafter referred to as the "Act"). Sts. & Hwys. C. §§ 10000 et seq.

Utilization of the 1913 Act would depend upon whether or not repayment of the EPA penalty qualifies as an "improvement" within the meaning of the Act. The Act may be utilized to finance the costs of construction or acquisition of public improvements. Included among those improvements expressly provided for under the Act is the acquisition of existing sewer facilities. See Sts. & Hwys. C. §§ 10102 and 5101(c). In addition, Section 10010 provides that acquisition of improvements includes the acquisition of "use or capacity rights" in improvements authorized under the Act. Thus, the acquisition of capacity and disposal rights in an existing sewer system is an eligible "improvement" under the Act. This interpretation was adopted by the California Supreme Court in Dawson v. Town of Los Altos Hills (1976) 16 Cal. 3d 676, 685. It would seem reasonable for SRCSD to impose the cost of repayment to EPA as a charge upon North Natomas landowners for the right to hook up to the regional sanitation system. That cost could then be legally characterized as an eligible "improvement" under the Act.

The other issue is whether imposition of such an assessment would benefit land upon which it is imposed. It is a well settled legal principle that property cannot be assessed for the cost of a public improvement unless that improvement will benefit the property assessed beyond the benefit received by the public in general. White v. County of San Diego (1980) 26 Cal. 3d 897, 904.

In this instance, the landowners of North Natomas would ostensibly be receiving a substantial benefit through the formation of an assessment district, since their land would be significantly more valuable with a right of access to a sewer system than without it. However, the acquisition of such a right is of no value or legal "benefit" unless the properties affected previously had no right to utilize the sanitation system. See

Kalashian v. Co. of Fresno (1973) 35 Cal.App. 3d 43, 48. The question of preexisting rights to utilize the sanitation system arises out of the District's duty to serve incorporated area within Sacramento arguably created by the District's service contract with the City. For reasons discussed above, we conclude that the contract does not require such service.

It is our conclusion that a 1913 Act Assessment District does constitute a legally viable method of spreading the costs of the \$6.2 million and providing for their recovery. However, the very nature of an assessment district imposes burdens which probably make such a mechanism a less than desirable one.

First, a majority protest by the owners of affected land would trigger the need of the Board of Directors to act by a four-fifths vote. In the event of a majority protest, six affirmative votes would be required to form the District, whereas only four votes would be required for certain other mechanisms.

This office strongly recommends that if the District desires to make any promise whatsoever to the sports arena developers concerning reimbursement, that the reimbursement mechanism be implemented virtually immediately. Creation of an assessment district now would impose assessments on unimproved land. Such a process would guarantee rapid and complete recovery of the \$6.2 million. It would probably also, however, generate significant protest by persons who desire to avoid such costs until their land develops, and may desire never to undertake development. An attempt to form the assessment district now, and assess only developed land or land as it develops, involves complications which this office has not had an adequate opportunity to explore, and would trigger issues concerning benefit relationships.

The imposition of assessments initiated by the District upon undeveloped land could also generate District damage liability exposure should there be a change in zoning policy by Sacramento which prevents those lands from developing.

For all of these reasons, we believe that an assessment district mechanism would be an inappropriate vehicle for spreading the \$6.2 million in costs.

3. Mello-Roos Special Tax

The purpose of Mello-Roos legislation is to finance the cost of providing facilities, not to construct or operate those facilities. Government Code Section 53311 states

"A local government may use the provisions of this chapter instead of any other method of

financing part or all of the cost of providing the authorized kinds of capital facilities and services." (emphasis added) (All references are to the Government Code unless noted otherwise)

"Providing" a facility arguably means more than initial construction. It can also mean making existing facilities available for use, including paying money to remove impediments to that use. Moreover, the purpose of Mello-Roos is not necessarily to fund all of the costs of the facility, but can be to fund only a portion of the cost.

The basic types of facilities that can be financed are described in Section 53313.5.

"A community facilities district may also finance the purchase, construction, expansion, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer. . . . Facilities need not be physically located within the district. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the Resolution of Formation to establish the district as adopted" (Section 53313.5 as added by SB 1115)

Other sections authorize purchase of completed facilities. (Section 53321(c), 53321.5) Thus, a Mello-Roos facilities district can be used to fund the purchase of a sewer line that was completed years before.

Use of Mello-Roos to fund repayment of the EPA grant could be analogized to such a purchase since the federal government partially paid for the facility and still retains a restriction on its use analogous to an ownership interest. Now the Regional Sanitation District wants to buy out that restrictive interest in order to use the facilities in a manner unencumbered by the federal government's restrictions. Even though the sanitation district in the Natomas case technically owns the facility now, it does not have the right to use it fully as if it owned it without restriction. This payment would be analogous to the sanitation district purchasing free and clear title to the facility so that it could use it in the way that it wants to.

The facility grant could also be eligible for repayment by Mello-Roos taxes under the following provision which allows Mello-Roos taxes to be used to fund the following facilities:

"Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate." (Govt. Code § 53313.5(f)) (emphasis added)

A major question is what geographic area should be included in a community facilities district to fund repayment of the grant. Although the theoretical basis for the tax would differ according to the geographical area upon which it is levied, we believe that the Board would be legally empowered to form the District within either the 8,000 acres urbanized area or the entire 19,000 acres covered by the EPA limitation. The basis for measuring the tax would be some fair, pro-rated share per parcel of the total repayment of the grant.

Thus, Mello-Roos appears to be a viable method to fund repayment.

The chief advantage of a Mello-Roos District is the fact that the fund raising mechanism would be a tax, rather than a fee or assessment. Taxes require far less attention to such issues as "benefit" and "cause and effect" than do fees and assessments. Therefore, the Mello-Roos District would be a more flexible vehicle for the tailoring of Board policy decision to landowner concerns. Such a District could also levy the tax in relation to developing land, omitting unimproved acreage.

However, because a tax would be imposed, two-thirds approval by either registered voters or property owners (depending upon whether the affected area is inhabited or uninhabited) would be required. Furthermore, a Mello-Roos District is both more time consuming and expensive to form than other available mechanisms. We seriously doubt that a Mello-Roos District could be initiated and planned within the time constraints which this Office strongly recommends.

4. Integrated Financing District for Reimbursement

The last potential mechanism for reimbursing the original developer in North Natomas who advances the \$6.2 million, is an "integrated financing district" under newly enacted state law. (Chapter 1512, Statutes of 1986, effective January 1, 1987) This law authorizes a local agency (including a regional sanitation district) to establish an integrated financing district

"to assist in financing any work which may be financed pursuant to [the traditional assessment acts or the Mello-Roos special tax]." (Govt. Code § 53185) (All references are to the Government Code unless noted otherwise)

The statute authorizes the regional sanitation agency to enter into a reimbursement agreement with an "investor" (any private person or entity or public entity). (Section 53190) The investor would advance funds to the Regional Sanitation District to be used exclusively to pay the costs of work and costs authorized under traditional assessment laws or the Mello-Roos Act. Regional Sanitation District would then issue the investor a warrant entitling the investor to specified amounts of money that is paid to the Integrated Financing District's fund in the form of "contingent assessments" on land within the integrated financing district boundaries. (Section 53190.5(a), (b)) This obligation of the Regional Sanitation District to repay the investor would be secured by a pledge of the revenues arising from these contingent assessments or from other assessments or special taxes imposed pursuant to other assessment laws or the Mello-Roos Act levied within the integrated financing district. (Section 53191.5) The obligations of the reimbursement agreement are enforceable in various specified manners. (Sections 53193, 53193.5, 53194, 53194.5)

The Regional Sanitation District would be authorized to create an "integrated financing district" which would have the power to levy an assessment which is contingent upon the development of land and which may be made payable at the time of approval of a tentative subdivision map, final subdivision map, zoning change, or building permit. (Section 53187(a)) The amount of the contingent assessment is in proportion to the benefit to be received by each parcel and must be specified as a fixed dollar amount per unit of area for parcels developed into each of several land use categories, with annual adjustments allowed. (Section 53187(a)) The contingent assessment may also be levied together with a traditional assessment or special tax with a requirement that the amount of the various levies be pro-rated to reflect appropriate benefit. (Section 53187(b)) The proceeds of the contingent assessment may be used for various purposes, including making payments to an investor pursuant to the reimbursement agreement. (Section 53187(c)(4))

This Act is new, untried, and fraught with legal uncertainties. It is not clear, for example, how this mechanism should be applied when there is no underlying Mello-Roos tax or

Chairperson and Members
Board of Directors

-13-

November 21, 1986

assessment on the land. The requirement that the charges be imposed on the basis of a benefit relationship creates a complication which, though surmountable, is difficult. A majority protest of property owners defeats creation of this mechanism. Contrary to an assessment district, no authority for the Board to override the majority protest is provided.

For all of the foregoing reasons, it is our view that this mechanism would be inferior to a surcharge ordinance.



ROBERT L. PLEINES
Supervising Deputy

RLP:bjh

cc: Brian H. Richter, County Executive
Douglas M. Fraleigh, Director, Public Works



ATTACHMENT 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

215 Fremont Street
San Francisco, Ca. 94105

RECEIVE

NOV 6 1986

5 NOV 1986

OFFICE OF COUNTY ENGINEER
DEPARTMENT OF PUBLIC WORKS

Douglas M. Fraleigh, District Engineer
County of Sacramento Department of Public Works
County Administration Building, Room 304
827 Seventh Street
Sacramento, California 95814

Dear Mr. Fraleigh:

We have reviewed your letter of August 28, 1986, and the arguments you presented during the meeting of October 8, 1986, regarding the North Natomas grant conditions. In your letter, you stated that a complete waiver of the grant conditions appears to be inappropriate, and are therefore seeking a partial waiver for those areas now planned for development.

We agree that in light of the change in local land use policies your request for review of the grant condition is appropriate under the terms of the grant condition. We do not agree, however, that you have made a case for our allowing a partial waiver. Such a waiver is not automatic under the grant conditions, but subject to the decisions of EPA and the State Water Resources Control Board in light of applicable law, regulation, and policy. We have stated at several instances that, although Federal policy on agricultural land has not been relaxed, but strengthened, we would consider waiving the grant condition if a net positive environmental benefit would result. This does not appear to be the case under the current local plan. We have reviewed the environmental documents and note that, at a minimum, the proposed development will result in the following significant adverse environmental impacts: deterioration of air quality, loss of environmentally significant agricultural land, further growth-inducement in the North Natomas area and beyond, and discouragement of in-filling on available, vacant land. Other adverse environmental impacts include reduction of groundwater recharge, danger of flooding, increased noise and traffic, and water quality degradation due to increased urban runoff.

While we respect local land use policies, these policies do not supersede Federal law. EPA cannot prevent implementation of local land use decisions, but we are prohibited from funding facilities which lead to the development of environmentally significant agricultural land, unless those impacts

are duly mitigated. Without the grant condition, or equivalent mitigation, the facilities in the South Natomas area would likely never have been grant-funded. To abandon the condition at this time on the sole basis of a local plan change would amount to abdication of our responsibilities under Federal law.

In your letter, you questioned our proposed method of calculation of the reimbursement amount. We cannot agree with your claim that interest should be calculated from the dates of actual payments to Sacramento County. The grant conditions very plainly state that the grantee shall return grant funds plus interest "from the date of the Step 2 grant award" for the C-06-1231-100 grant and "from the date of this grant award" for the C-06-1231-160 and -170 grants. These are the conditions to which the County agreed. At the dates of grant award these funds were set aside for Sacramento County and could be used for no other purpose. Had adequate mitigation for the removal of farmland from production not been offered by the County, the funds would have been used to solve water quality problems elsewhere in the State of California.

Another question raised was the issue of simple vs. compound interest. Since the grant doesn't specify whether the interest accrued on a grant repayment be compounded or not, we have investigated EPA standard practice on repayments and have found that simple interest is what is generally charged grantees in such cases. Therefore, we agree that the amount should be recalculated on the basis of simple interest.

If you have any further questions regarding this matter, please call Mr. Tom Kremer of my staff at (415) 974-8293.

Sincerely yours,



Frank M. Covington
Director, Water Management Division

cc: Jesse Diaz, SWRCB

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II

A SPHERE-OF-INFLUENCE PROCEEDING IS A
PRELIMINARY STEP WHICH DOES NOT CONFER
AN ENTITLEMENT FOR USE

As discussed above, a decision is not covered by Section 84308 unless it involves a license, permit or other entitlement for use. A sphere-of-influence proceeding does not involve a license or a permit. Agoura Hills contends that because a sphere-of-influence decision is a precondition to annexation ^{involves} ~~it is therefore~~ an entitlement for use since the annexation decision involves an entitlement for use. Two cases illustrate the error in Agoura Hills' reasoning.

In Friends of Lake Arrowhead v. Board of Supervisors (1974) 38 Cal. App. 3d 497, 113 Cal. Rptr. 223, the court denied a writ of mandate sought to block construction of a 55-unit planned residential development. The denial was based, in part, on the fact that the developer had performed substantial construction on the project in reliance on an entitlement for use. In so ruling, the Court of Appeal held as follows:

Section 21170 refers to the good faith commencement of construction "in reliance upon the issuance by a public agency of any lease, permit, license, certificate, or other entitlement for use..." (Italics supplied.) Approval of a tentative tract map and a site development plan clearly constitutes "other entitlement for use" within the meaning of the statute. (See Section 21080.)...

Id., at 509.

[no 91]

Thus, ~~in~~ Friends of Lake Arrowhead, the court determined that the approval of the tentative tract map was the final discretionary decision of the government agency under the

1 procedures which applied.

2 In the second case, People v. County of Kern (1974) 39
3 Cal. App. 3d 830, 837-840, 115 Cal. Rptr. 67, decided a few
4 months later, the court distinguished the circumstances in that
5 case from those in Friends of Lake Arrowhead. The Court pointed
6 out that ~~in People v. County of Kern~~ approval of the tentative
7 tract map was not the final discretionary decision in the
8 process. ^{in that case} A rezone was also necessary. By contrast, in Friends
9 of Lake Arrowhead "...the tentative tract map and site
10 development were the final discretionary acts of the public
11 agency." (People v. County of Kern, supra at 840.)

12 In the instant case, ^{it} is clear that the sphere-of-
13 influence proceeding is only a preliminary step in the process
14 and is not the final discretionary decision of the LAFCO with
15 regard to annexation. Consequently, the sphere-of-influence
16 proceeding ^{is not an} ~~cannot rise to the level of constituting an~~
17 "entitlement for use" as that term is used in Section 84308.

18 III

19 THE TRIAL COURT FAILED TO DISTINGUISH BETWEEN A
20 DECISION WHICH MAY HAVE A MATERIAL FINANCIAL
21 EFFECT UPON A CONTRIBUTOR AND ONE WHICH
INVOLVES AN ENTITLEMENT FOR USE

22 A sphere-of-influence decision may well have an effect
23 upon landowners' property values; however, that does not mean
24 that a sphere-of-influence proceeding involves an entitlement
25 for use. As shown in Section I, part C, supra, these are two
26 entirely separate components of the analysis of whether
27 disqualification is required pursuant to Section 84308.

ATTACHMENT 1

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING A SURCHARGE TO THE
SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
CAPITAL INVESTMENT EQUALIZATION FEE WITHIN THE
PORTION OF NORTH NATOMAS CURRENTLY DESIGNATED
BY THE CITY OF SACRAMENTO FOR URBAN DEVELOPMENT**

The Board of Directors of the Sacramento Regional County Sanitation District ordains as follows:

Section 1. The Sacramento Regional County Sanitation District, hereinafter called the "District", entered into a Master Interagency Agreement dated November 1, 1974, with, among others, the City of Sacramento and the County of Sacramento. That Master Interagency Agreement requires the District to provide sewer service to all appropriately zoned and developing portions of the North Natomas area described in Section 3.5.1 of Ordinance No. SRSD-21 as added by this ordinance. Thereafter, the District entered into a grant agreement dated March 14, 1979 with the United States Environmental Protection Agency for Grant No. C-06-1231-100, which agreement provided in part that should the District permit any new sewer service connection within the said area of North Natomas, demand could be made, under appropriate circumstances, for the repayment by the District of certain grant funds together with interest thereon. The City of Sacramento has now changed the zoning of a considerable portion of the said North Natomas area to urban designations, and some property owners therein have commenced construction of urban facilities. These facilities will soon require sewer service, and it will be the District's obligation under the said Master

Interagency Agreement to provide that sewer service. Although the District does not necessarily agree that repayment of the said grant funds may be appropriate or due, the District may not be able to prevail in its contention, and the providing of that sewer service will initiate events with the probable ultimate requirement that the District make the repayment specified in the said grant agreement. The District estimates the amount required as of June 30, 1987, to make such repayment is \$6,353,000. It is the District's intent to enter into an agreement with the owner of the first development in the said North Natomas area wherein that owner will indemnify the District against any loss resulting from the said repayment and will provide security therefor, and, if called upon to do so, such owner will provide the funds for the grant repayment. In order to reimburse such owner for the excess of such payment over and above his proportionate share, it is necessary to enact this ordinance to recover the funds from the property owners who would not otherwise be able to receive sewer service from the District until March 14, 1999. It is for the benefit of those owners that this repayment is being made, and it is to those owners that the cost should be spread. It is anticipated that by March 1999, there will have been made in the said North Natomas area sewer service connections equivalent to 18,803 single family residences. Based upon this estimate, the surcharge provided for herein is calculated at \$338 per equivalent single family residence in order to collect sufficient

revenue to make full reimbursement of the funds advanced by the first connecting owner, and this amount is increased annually by an amount representing 6% compound interest. If the required repayment is substantially different from the above estimate, the District will amend Section 3.5.4 of its Ordinance No. SRSD-21, as added herein, to reflect a proper base amount. Any agreement between the District and such first connecting owner shall limit such owner's recovery to the funds provided for herein.

Section 2. Section 3.5 is added to Ordinance No. SRSD-21 enacted on January 28, 1986, to read as follows:

Section 3.5 North Natomas CIE Fee Surcharge

There is hereby established within the territory described in Section 3.5.1 a CIE Fee surcharge in the amount set forth in Section 3.5.4. This surcharge shall be imposed upon each property within the described area and shall be payable by the owner thereof at such time as a building permit authorizing connection to the sewer lines of the District or of a contributing agency is issued for the subject property, a district sewer connection permit is issued for the subject property, or the subject property is physically connected to the sewer lines of the District or of a contributing agency, whichever occurs the earliest. The revenue derived from the surcharge shall be used only for the purpose of repaying with appropriate interest grant funds relative to Environmental Protection Agency Grant No. C-06-1231-100 to the federal or state

governments, for reimbursing with interest the District for such a repayment, or for reimbursing with interest a private party for advancing the funds for such a repayment, provided such private party has entered into an agreement with the District providing for such reimbursement. The surcharge provided for herein shall remain in effect until such date as the surcharge has been collected for 18,803 ESD's or the equivalent thereof for a mixture of residential, commercial and industrial properties, or until March 14, 1999, whichever occurs first, and shall apply to any such building permit, sewer connection permit or sewer connection issued or occurring on or before such date.

Section 3. Section 3.5.1 is added to said ordinance to read as follows:

Section 3.5.1 Territory In Which Surcharge Applies

The territory in which the surcharge established in Section 3.5 applies is all that portion of the County of Sacramento, State of California, described as follows:

Beginning at the intersection of the westerly boundary of the City of Sacramento as said boundary exists as of March 1, 1987, and the southerly right of way line of Interstate Highway 80; thence from said point of beginning northeasterly along the southerly right of way line of Interstate Highway 80 to its intersection with the quartersection line between the northwest and northeast quartersections of Section 13, Township 9 N, Range 4 E, M.D.B. & M.; thence northerly along said quartersection line

to its intersection with the section line between Sections 12 and 13, Township 9 N, Range 4 E, M.D.B. & M.; thence westerly along said section line to its intersection with the section line between Sections 11 and 12, Township 9 N, Range 4 E, M.D.B. & M.; thence northerly along the section line between said Sections 11 and 12 to its intersection with the half section line between the north and south half sections of Section 12, Township 9 N, Range 4 E, M.D.B. & M.; thence easterly along said half section line to its intersection with the section line between Section 12, Township 9 N, Range 4 E, and Section 7, Township 9 N, Range 5 E, M.D.B. & M.; thence northerly along said section line to the northeast corner of said Section 12; thence from said corner westerly to the intersection of the centerlines of Del Paso Road and Sorento Road; thence northerly along the centerline of Sorento Road to its intersection with the northerly boundary of Valley View Acres Subdivision; thence easterly along said northerly boundary to its intersection with the centerline of East Levee Road; thence northerly along the centerline of East Levee Road to its intersection with the centerline of Elkhorn Boulevard; thence westerly along the centerline of Elkhorn Boulevard to its intersection with the westerly right of way line of State Highway 99; thence southerly along said right of way line to its intersection with the northerly right of way line of Interstate Highway 5; thence westerly along said northerly right of way line to its intersection with the westerly boundary of the

City of Sacramento as it exists as of March 1, 1987; thence southerly along said City boundary as it exists as of March 1, 1987, to the point of beginning.

Section 4. Section 3.5.3 is added to said ordinance to read as follows:

Section 3.5.3 Territorial Exclusions

There shall be excluded from the territory described in Section 3.5.1 the following Assessor's Parcel Numbers as shown on the 1986-87 records of the Sacramento County Assessor:

225-080-06, 225-150-14 through 225-150-19, both inclusive, 225-180-33 through 225-180-35, both inclusive, 225-310-07, 225-310-09, 225-310-10 and 274-030-54.

Section 5. Section 3.5.4 is added to said ordinance to read as follows:

Section 3.5.4 Amount of Surcharge

The amount of the surcharge established in Section 3.5 shall be as follows:

Residential Users

From the effective date of this ordinance through February 29, 1988, there shall be a surcharge of \$338 per ESD. Thereafter, the surcharge shall increase on March 1 of each year as follows:

<u>March 1</u>	<u>Surcharge Per ESD</u>
1988	\$358
1989	\$379
1990	\$402
1991	\$426
1992	\$452

1993	\$479
1994	\$508
1995	\$538
1996	\$570
1997	\$604
1998 (through March 14, 1999)	\$640

Commercial Users

The surcharge for commercial users shall be calculated in the same manner and using the same ratios as the CIE Fee provided in Section 3, except that the base for the calculations shall be the then current surcharge provided in this section for residential users, but not less than five (5) times the residential user surcharge per acre of commercial development.

Industrial and Major Commercial Users

The surcharge for all industrial and those major commercial users, not otherwise covered herein, where the discharge is greater than 60,000 gallons per acre per month shall be calculated in the same manner as the CIE Fee provided in Section 3, except that the multiplier shall be \$28.17 per 1,000 gallons of discharge per month until March 1, 1988 at which time such surcharge shall increase in the same ratio as the increase for residential users, but the surcharge shall not be less than five (5) times the residential user surcharge per acre of industrial or commercial development.

Section 6. Section 3.5.5 is added to said ordinance to read as follows:

Section 3.5.5 Inapplicability of Surcharge To Certain Mandatory Connections

The surcharge established in Section 3.5 shall not apply to the connection of any residence which is or has been served by a septic system and is required by the County Health Officer to be connected to a sanitary sewer line.

Section 7. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Directors on _____, and on _____.

This ordinance shall take effect and be in full force on and after sixty (60) days from the date of its passage hereof, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Directors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Director _____, seconded by Director _____, the foregoing ordinance was passed and adopted by the Board of Directors of the Sacramento Regional County Sanitation District, at a regular meeting hereof, this _____ day of _____, 1987, at the following vote, to wit:

AYES: Directors,
NOES: Directors,
ABSENT: Directors,

Chairperson of the Board of Directors
of the Sacramento Regional County
Sanitation District

(SEAL)

ATTEST: _____
Clerk of the
Board of Directors

RLP:bjh
or-3.5-city

ATTACHMENT 2

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING A SURCHARGE TO THE
SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
CAPITAL INVESTMENT EQUALIZATION FEE WITHIN
THE SPECIFIED PORTION OF NORTH NATOMAS NOT
CURRENTLY DESIGNATED FOR URBAN DEVELOPMENT**

The Board of Directors of the Sacramento Regional County Sanitation District ordains as follows:

Section 1. The Sacramento Regional County Sanitation District, hereinafter called the "District", entered into a Master Interagency Agreement dated November 1, 1974, with, among others, the City of Sacramento and the County of Sacramento. That Master Interagency Agreement requires the District to provide sewer service to all appropriately zoned and developing portions of the North Natomas area described in Sections 3.5.1 and 3.5.2 of Ordinance No. SRSD-21 as added by Ordinance No. SRSD-22 and this ordinance. Thereafter, the District entered into a grant agreement dated March 14, 1979 with the United States Environmental Protection Agency for Grant No. C-06-1231-100, which agreement provided in part that should the District permit any new sewer service connection within the said area of North Natomas, demand could be made, under appropriate circumstances, for the repayment by the District of certain grant funds together with interest thereon. The City of Sacramento has now changed the zoning of that portion of the said North Natomas area described in the said Section 3.5.1 to urban designations,

and some property owners therein have commenced construction of urban facilities. These facilities will soon require sewer service, and it will be the District's obligation under the said Master Interagency Agreement to provide that sewer service. Although the District does not necessarily agree that repayment of the said grant funds may be appropriate or due, the District may not be able to prevail in its contention, and the providing of that sewer service will initiate events with the probable ultimate requirement that the District make the repayment specified in the said grant agreement. The District estimates the amount required as of June 30, 1987, to make such repayment is \$6,353,000. It is the District's intent to enter into an agreement with the owner of the first development in the said North Natomas area wherein that owner will indemnify the District against any loss resulting from the said repayment and will provide security therefor, and, if called upon to do so, such owner will provide the funds for the grant repayment. In order to reimburse such owner for the excess of such payment over and above his proportionate share, it was necessary to enact Ordinance No. SRSD-22 and it is further necessary to enact this ordinance to recover the funds from the property owners who would not otherwise be able to receive sewer service from the District until March 14, 1999. It is for the benefit of those owners that this repayment is being made, and it is to those owners that the cost should be spread. The majority of the land to which this

ordinance is applicable is currently designated for permanent agricultural cropland land uses on the Sacramento County General Plan Land Use Map. This land use designation is reserved for land which is most suitable for intensive agricultural pursuits. In recognition of the need to promote a healthy agricultural atmosphere, the Sacramento County Board of Supervisors adopted general plan goals and policies to conserve agricultural lands, a finite material resource, and to protect valuable agricultural land from encroachment by incompatible land uses and from urbanization. This ordinance should not be interpreted to mean the District in any way favors urbanization, nor is the ordinance intended to induce or direct the urbanization of those lands designated in the County General Plan for agricultural cropland use. In the event the appropriate planning body should, in the future, change the land use designation of the lands described herein to a designation requiring sewer service, and if the District is at that time required to provide and capable of providing such sewer service then, it is the purpose of this ordinance to impose upon the lands described herein, in addition to such other fees as are appropriate throughout the District, the surcharge provided for herein. It is not the function of the District, nor does the District have the power, to make land use planning decisions. The District is merely a utility service required since 1974 by law and contract to provide sewer service within those portions of the territory of its contributing

agencies for which the appropriate planning agency has made an urban land use designation and which territory is otherwise ready to be developed. Any agreement between the District and such first connecting owner shall limit such owner's recovery to the funds provided for herein and in Ordinance No. SRSD-22.

Section 2. Section 3.5 of Ordinance No. SRSD-21 enacted on January 28, 1986, as added by Ordinance No. SRSD-22 is amended to read as follows:

Section 3.5 North Natomas CIE Fee Surcharge

There is hereby established within the territory described in Sections 3.5.1 and 3.5.2 a CIE Fee surcharge in the amount set forth in Section 3.5.4. This surcharge shall be imposed upon each property within the described area and shall be payable by the owner thereof at such time as a building permit authorizing connection to the sewer lines of the District or of a contributing agency is issued for the subject property, a district sewer connection permit is issued for the subject property, or the subject property is physically connected to the sewer lines of the District or of a contributing agency, whichever occurs the earliest. The revenue derived from the surcharge shall be used only for the purpose of repaying with appropriate interest grant funds relative to Environmental Protection Agency Grant No. C-06-1231-100 to the federal or state governments, for reimbursing with interest the District for such a repayment, or for reimbursing with interest a private party for

advancing the funds for such a repayment, provided such private party has entered into an agreement with the District providing for such reimbursement. The surcharge provided for herein shall remain in effect until such date as the surcharge has been collected for 18,803 ESD's or the equivalent thereof for a mixture of residential, commercial and industrial properties, or until March 14, 1999, whichever occurs first, and shall apply to any such building permit, sewer connection permit or sewer connection issued or occurring on or before such date.

Section 3. Section 3.5.2 is added to said Ordinance No. SRSD-21 to read as follows:

Section 3.5.2 Additional Territory In Which Surcharge Applies

Additional territory in which the surcharge established in Section 3.5 applies is all that portion of the County of Sacramento, State of California, described as follows:

Beginning at the intersection of the westerly right of way line of State Highway 99 and the Sacramento-Sutter County line; thence from said point of beginning, southerly along the westerly right of way line of State Highway 99 to its intersection with the northerly right of way line of Interstate Highway 5; thence westerly along the northerly right of way line of Interstate Highway 5 to its intersection with the centerline of Garden Highway; thence southeasterly along the centerline of Garden Highway to its intersection with the southerly right of way line

of Interstate Highway 80; thence northeasterly along the southerly right of way line of Interstate Highway 80 to its intersection with the quartersection line between the northwest and northeast quartersections of Section 13, Township 9 N, Range 4 E, M.D.B. & M.; thence northerly along said quartersection line to its intersection with the section line between Sections 12 and 13, Township 9 N, Range 4 E, M.D.B. & M.; thence westerly along said section line to its intersection with the section line between Sections 11 and 12, Township 9 N, Range 4 E, M.D.B. & M.; thence northerly along the section line between said Sections 11 and 12 to its intersection with the half section line between the north and south half sections of Section 12, Township 9 N, Range 4 E, M.D.B. & M.; thence easterly along said half section line to its intersection with the section line between Section 12, Township 9 N, Range 4 E, and Section 7, Township 9 N, Range 5 E, M.D.B. & M.; thence northerly along said section line to the northeast corner of said Section 12; thence from said corner westerly to the intersection of the centerlines of Del Paso Road and Sorento Road; thence northerly along the centerline of Sorento Road to its intersection with the northerly boundary of Valley View Acres Subdivision; thence easterly along said northerly boundary to its intersection with the centerline of East Levee Road; thence northerly along the centerline of East Levee Road to its intersection with the Sacramento-Sutter County Line; thence westerly along the Sacramento-Sutter County line to

the point of beginning; Excepting therefrom all of the territory described in Section 3.5.1.

Section 4. Section 3.5.3 of said Ordinance No. SRSD-21 as added by said Ordinance No. SRSD-22 is amended to read as follows:

Section 3.5.3 Territorial Exclusions

There shall be excluded from the territory described in Sections 3.5.1 and 3.5.2 the following Assessor's Parcel Numbers as shown on the 1986-87 records of the Sacramento County Assessor:

225-080-06, 225-121-01 through 225-121-05, both inclusive, 225-122-01, 225-131-01 through 225-131-09, both inclusive, 225-132-02 through 225-132-05, both inclusive, 225-132-08, 225-150-14 through 225-150-19, both inclusive, 225-180-33 through 225-180-35, both inclusive, 225-220-47 through 225-220-49, both inclusive, 225-220-51, 225-220-54 through 225-220-57, both inclusive, 225-310-07, 225-310-09, 225-310-10, 274-030-54 and the westerly 14.1 Acres of 225-110-51.

Section 5. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Directors on _____, and on _____.

This ordinance shall take effect and be in full force on and after sixty (60) days from the date of its passage hereof, and before the expiration of fifteen (15) days from the date of its

passage it shall be published once with the names of the members of the Board of Directors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Director _____, seconded by Director _____, the foregoing ordinance was passed and adopted by the Board of Directors of the Sacramento Regional County Sanitation District, at a regular meeting hereof, this _____ day of _____, 1987, at the following vote, to wit:

AYES: Directors,

NOES: Directors,

ABSENT: Directors,

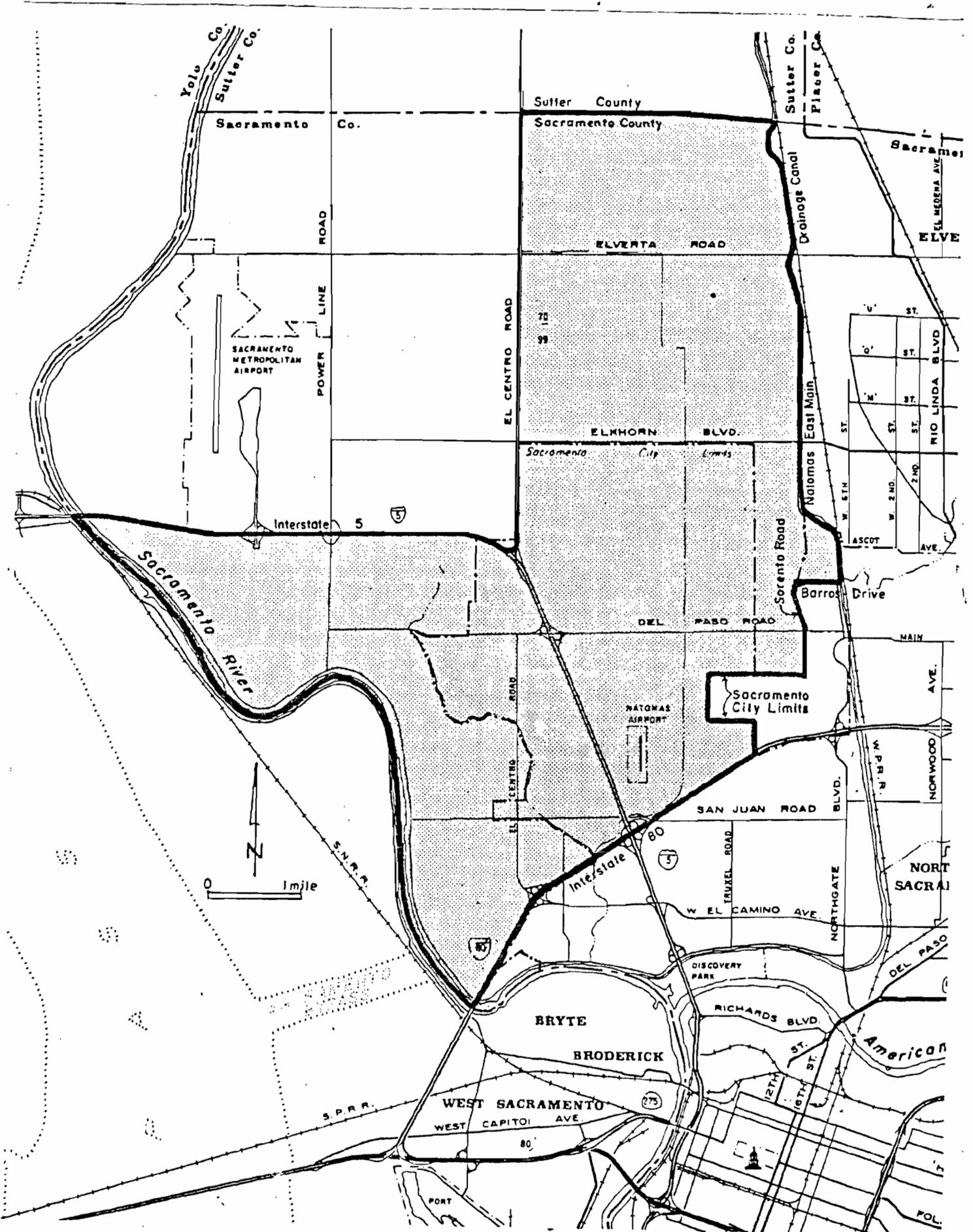
Chairperson of the Board of Directors
of the Sacramento Regional County
Sanitation District

(SEAL)

ATTEST: _____
Clerk of the
Board of Directors

RLP:bjh
or-3.5-county

Exhibit A





California Fair Political Practices Commission

August 12, 1987

Robert Pleines, Assistant County Counsel
Sacramento County
700 H Street, Suite 2650
Sacramento, CA 95814

Re: 87-220

Dear Mr. Pleines:

Your letter requesting advice under the Political Reform Act was received on August 11, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathy Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:jaj