

UKIAH VALLEY SANITATION DISTRICT

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November 18, 2016

Sage Sangiacomo
City Manager
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Dear Sage,

I write this in response to the letter you sent to me by e-mail on November 15 at 7:07 p.m. regarding the City's proposed recycled water project. You claim the City has answered all District questions and provide all requested information. While you addressed many of the District's question in an indistinct and blurred manner, others were ignored. As to the former, the information provides little detail, certainly insufficient to allow any meaningful response, let alone enable the District to make any decisions on these matters.

One glaring example of a request by the District that was ignored relates to this. The District pointedly asked in its November 8, 2016, letter to the City Council to participate in the process, and for the City to allow the District an open line of communication with the proposed lender so it may fully understand, from the source, all the impediments to the loan. Again, this request has been ignored.

- Why is the City not willing to allow the District to participate in the process and have direct communication with the lender in an effort to resolve these issues?

This brings up another unanswered question: what are all the issues or conditions or requirements the lender demands before funding is approved? The City has made it clear the lawsuit between the two agencies is one such impediment. However, what little information we were able to obtain from the lender revealed there are multiple funding issues. Only recently, the City announced that an additional condition is an agreement between the City and District regarding the recycled water project. (City's 10/19/16 Agenda Summary Report for item 3.b., page two, first paragraph, last sentence.)

But, in responding to the District's inquiry regarding the desired or necessary terms of that agreement, you mentioned that "it must provide assurances to the WRCB that the District lawsuit will not jeopardize the City's financial ability to repay the loan." From that, I observe two points. First, it appears a resolution of the lawsuit is not actually necessary to secure funding; rather, an agreement of some sort, short of dismissal, will suffice. Second, this agreement is again directed at the lawsuit, which is already known to be an issue with the lender.

- Again, what are the other conditions the lender requires or other issues the lender has with funding the loan?

Related are your comments that City offered to pledge City "Account NO. 830" to repay the loan. I take that to mean that is the only fund the City offered as security for the desired loan. This is significant because, according to information given to us by the lender's attorney, the City offered to pledge the entire wastewater system revenue stream as security for the loan and it was the potential impact of the

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District's lawsuit on that entire revenue stream that was at least one of its funding concerns. This is why the District asked on what authority the City relied to pledge the District's portion of that revenue.

Again, the implication in your comments is that the City did not offer to pledge the entire wastewater system revenue, but rather just Account 830. Your letter states that "Account 830 is a City only wastewater system capital project fund." According to public records, City Account 830 was created by City Resolution 2015-47 and is, more precisely, entitled "Recycled Water Revenues Fund 830."

- Is that account, as the name implies, to be funded with recycled water revenue?

If so, it would appear the state's concerns about the lawsuit could be quickly alleviated since the District's claims are not against that account or its revenue.

- If not, what source of revenue exactly is the City proposing to use to fund that account such that it concerns the state?
- Also, has the City funded the account to date, and, if so, again, what is the source of revenue the City used to fund it?

Regarding the District's questions about shared costs and revenue of the recycled water project, your letter first states the City owns all water after it is treated by the plant and that it did not seek District participation in the venture. You then point out that the City may now desire it. Our inquiries on the subject obviously sought detail on these points. To be clear, the District has not taken a position on the issue and cannot without all the details. That said, it seems to me that a division of recycled water costs and revenue, if it were to occur, would have some foundation in the ratio of ESSUs used by the two agencies. Of course, that is a central issue in the lawsuit, further demonstrating that the matters go hand in hand and require a comprehensive resolution.

- If the City has some ideas as to the manner in which recycled water costs (loans, operations, and otherwise) and revenue would be shared, please provide all details.
- If the City has some idea to use District revenue (gross or otherwise) for the recycled water project in any manner, please provide all details.
- I anticipate that affirmative answers to these questions and details provided by the City will likely create further questions.

Your letter states the City applied for roughly \$25 million in loans and \$10 million in grants for the recycled water project. As pointed out in my earlier letter to you, Mr. White from the City specifically represented to the District Board in a public meeting that the City had already "received" those sums, plus an additional \$2 million in grants. Mr. White further stated the City intended to seek additional or other loans and grants for the project. At last night's Board meeting, Mr. White also stated that he indicated that he stated to the Board at that April meeting that the City was "awarded" the grants and loans and did not indicate "received". This is passingly strange as a quick referral to his power point presentation indicates "received".

It is apparent that the loan was not received, despite the contrary representation, but the grant money remains unclear. Your letter mentions, as we knew, that the City applied for the \$10 million grant, but we continue to ask:

- Has that grant money been received? If so, when? Have the funds been utilized? If so, how much and for what exactly? If the grant money has not been received, why? And, if there are conditions on receipt of the grant, exactly what are they? If the conditions involve the District, please provide copies of all conditions as given to you by the granting source.
- What about the \$2 million grant (we have the same questions as above for this grant)? Was it even applied for? If not, why?

- Has the City sought or inquired about additional or other loans or grants as represented? If so, what loans or grants and what is the status of those efforts? If not, why?

In terms of practical application of recycled water, we also asked several questions that remain unanswered in any level of detail. Several of our inquiries deal with discharge of treated water that the proposed recycled water system will be unable to handle. In your letter, you mention the recycled water system will handle, after the first three phases of development, 60% of the wastewater treatment plant's treated water. Phase four, which has no proposed funding according to your letter, would in theory handle another 20% of the plant's treated water. The remaining treated water and issues associated with the timing of discharge in relation to irrigation demand is proposed to be dealt with by additional storage.

Assuming all of that is feasible and actually accomplished, the fact remains that there is no apparent plan to deal with the discharge issues we face in the present time and which will continue, or worsen, until the entire proposed recycle water project is completed years down the road. We continue to ask the City,


- How does the City propose to deal with discharge of the plant's treated water at present, as the project progresses, before phase 3 is completed, and again, before phase 4 is completed? This is particularly important in light of the state's restrictions mentioned in my earlier letter to the City Council.

Lastly, we asked why the City did not earlier inform the District of the issues with the state loan funding, especially considering that it knew of the issues at the time Mr. White presented an outline of the project to the District in April of this year. Your letter states that the reason was because the City was not "definitively" told by the state of the issue until June 28, 2016. Certainly, prudence dictated that the District be told at the earliest time. Most certainly, the City should not have led the District to believe for the two plus months that followed the April meeting that it had actually "received" funding for the project. And

- Why did the City choose to notify the District of the issue for the first time in the City's cross lawsuit against the District? Why didn't the City simply notify the District of the problem and seek to work with the District?

You question why the District didn't seek a resolution until our attorney's September 20 letter, but forget that the City first notified the District of the issue in the City's counter lawsuit. In other words, the City seeks legal reparation for an issue the District was never even told about. That action--the City's decision--placed this matter on the wrong footing from the get go. Placing blame is not the answer, distortion of fact requires correction and antagonistic behavior is not useful.. The District urges the City to see both sides of the picture and professionally address the issues facing the agencies. We continue to hope the City will permit the District to become part of the process. The District is hopeful to start that process without delay.

Sincerely,



Frank McMichael
District Manager