

**MEMORANDUM  
DEPARTMENT OF FACILITY SERVICES  
COUNTY OF PLACER**

To: BOARD OF SUPERVISORS

Date: NOVEMBER 20, 2012

From: <sup>MD</sup> JAMES DURFEE / BILL ZIMMERMAN <sup>8</sup>

Subject: SEWER MAINTENANCE DISTRICT 3 REGIONAL SEWER PROJECT:  
ENVIRONMENTAL IMPACT REPORT CERTIFICATION

**ACTION REQUESTED / RECOMMENDATION:**

1. Adopt a Resolution certifying the Environmental Impact Report and Mitigation Monitoring and Reporting Plan for the Sewer Maintenance District 3 Regional Sewer Project in the communities of Loomis and Granite Bay, California and direct staff to file a Notice of Determination.

**BACKGROUND:** On August 10, 2010, your Board approved a contract with Analytical Environmental Services (AES) to evaluate the potential impacts associated with the Sewer Maintenance District (SMD) 3 Regional Sewer Project (Project) and prepare the appropriate environmental documentation. The Project includes the decommissioning of the Sewer Maintenance District 3 wastewater treatment plant (WWTP), constructing a pump station, and pipeline to convey wastewater from the existing WWTP to the SMD 2 (Granite Bay area) collection system for treatment at the City of Roseville Dry Creek WWTP. The goal of the Project is to bring the SMD 3 WWTP into compliance with Waste Discharge Requirements and a Cease and Desist Order issued by the Central Valley Regional Water Quality Control Board.

Because the Project is receiving federal grant funding administered by the USACE, the Project must comply with both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), with the County and the USACE acting as the lead agencies respectively.

A Notice of Preparation and Initial Study was released on December 27, 2011. Public input on the scope of the EA/EIR was solicited during a 30-day comment period, including a public scoping meeting on January 18, 2012.

The Draft EA/EIR was released on June 22, 2012 for a 45-day public comment period ending on August 6, 2012. In addition to the mandatory noticing requirements, staff presented Project details at the Horseshoe Bar Municipal Advisory Council at their May 15, 2012 meeting, the Granite Bay Municipal Advisory Council at their June 6, 2012 meeting, and mailed the Notice of Availability to residents in the Project area. Full copies of the Draft EA/EIR were also posted at public libraries, County offices, and on the County website.

County staff received 19 written comments during the public comment period, the majority from residents expressing concerns regarding potential impacts within the Hidden Valley subdivision. In response to the concerns expressed, the preferred alignment was modified to avoid the open space area in the Hidden Valley Subdivision while still meeting Project objectives. The revised alignment was presented to the Granite Bay Municipal Advisory Council (GBMAC) at their August 1, 2012 meeting.

Staff received one late arriving correspondence providing additional information regarding the use of sewer easements within the Hidden Valley open space. The Final EIR describes the preferred project as the alignment constructed entirely within public Rights-of-Way which avoids the Hidden Valley open space, as presented to the GBMAC on August 1, 2012. Since the letter does not raise any new CEQA issues, no revision of the Final EIR is necessary.

The Final EA/EIR was released on November 9, 2012 for a ten (10) day public review period. The Draft and Final EA/EIR, taken together, constitute the Final EIR pursuant to CEQA Guidelines. The USACE intends to file a Finding of No Significant Impact, which will complete the NEPA process.

Hard copies of the Draft and Final EA/EIR, including the Mitigation Monitoring and Reporting Plan (MMRP), have been provided to your Board. Copies are also on file with the Clerk of the Board, the Community Development Resource Agency, local libraries, and online at:  
<http://www.placer.ca.gov/Departments/CommunityDevelopment/EnvCoordSvcs/EIR.aspx>

**ENVIRONMENTAL CLEARANCE:** Certification of the Final EIR and MMRP satisfies the environmental review requirements of CEQA. Because all potential environmental impacts were mitigated to less than significant levels, adoption of written Findings and Statement of Overriding Considerations are not necessary to support your Board's decision.

**FISCAL IMPACT:** There is no fiscal impact associated with certification of the Final EIR and MMRP.

JD:BZ:KB:RL:LM

CC: COUNTY EXECUTIVE OFFICE

AVAILABLE FOR REVIEW AT THE CLERK OF THE BOARD'S OFFICE: FINAL EIR

ATTACHMENTS: RESOLUTION  
PUBLIC COMMENT LETTER

T:\FAC\BSMEMO2012\EE\SMD 3 REGIONAL SEWER EA\_EIR CERTIFICATION (R1).DOCX

# Before the Board of Supervisors County of Placer, State of California

In the matter of:

Resolution \_\_\_\_\_

**A RESOLUTION CERTIFYING THE ENVIRONMENTAL  
IMPACT REPORT AND MITIGATION MONITORING  
AND REPORTING PLAN FOR THE SEWER MAINTENANCE  
DISTRICT 3 REGIONAL SEWER PROJECT AND APPROVAL  
TO FILE A NOTICE OF DETERMINATION**

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held \_\_\_\_\_, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
Chair, Board of Supervisors

Attest:

\_\_\_\_\_  
Clerk of the Board

**WHEREAS**, Placer County, through the Department of Facility Services, proposes to undertake the SMD 3 Regional Sewer Pipeline Project (Project), and

**WHEREAS**, a Notice of Preparation and Initial Study was released on December 27, 2011, and

**WHEREAS**, a public scoping meeting was held on January 18, 2012, and

**WHEREAS**, a Notice of Availability (SCH #2011122079) of the Draft Environmental Impact Report (EIR) was released on June 22, 2012 for a forty-five (45) day public comment period ending on August 6, 2012, and

**WHEREAS**, written comments from the public were received, and responses to those comments were prepared, and

**WHEREAS**, the Final EIR, including responses to comments, was released for a ten (10) day public comment period on November 9, 2012, and

**WHEREAS**, a Mitigation Monitoring and Reporting Plan (MMRP) was prepared that will mitigate all potential impacts to less than significant levels.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors that the Board, having considered the EIR, written comments and responses thereto, the mitigation measures and the MMRP, the staff report, and all public comment, oral and written, and all other information in the record pertinent to the Project, hereby makes the following findings and certifies the EIR for the Project:

1. The Final EIR is complete and has been prepared in compliance with the requirements of CEQA and the CEQA Guidelines.

2. The Final EIR was presented to, and reviewed by, the Board of Supervisors, the decision-making body of the lead agency.
3. The EIR, hereby certified for the Project, reflects the independent judgment and analysis of the County, which has exercised overall control and direction of its preparation.
4. The MMRP prepared for the Project is adopted and all mitigation measures will be implemented.
5. There is no substantial evidence in the record as a whole to support a fair argument that the Project as mitigated would have a significant impact on the environment; therefore preparation of written Findings and a Statement of Overriding Considerations are not required.
6. Records associated with the Project are maintained at the Department of Facility Services located at 2855 2<sup>nd</sup> Street, Auburn, California.



tel: 916.455.7300 · fax: 916.244.7300  
1010 F Street, Suite 100 · Sacramento, CA 95814

October 30, 2012

**SENT VIA EMAIL: KBell@placer.ca.gov**

Mr. Kevin Bell  
Environmental Engineering Program Manager  
Placer County Department of Facility Services  
11476 C Avenue  
Auburn, CA 95603

**RE: Sewer Easements Within Hidden Valley/SMD Regional Sewer Project**

Dear Kevin:

This letter provides additional information in support of the August 6, 2012 comments of the Hidden Valley Community Association's ("HVCA") on the Draft Environmental Impact Report/Environmental Assessment ("DEIR") Placer County Sewer Maintenance District Regional Sewer Project ("Project") with respect to the County's easements within Hidden Valley. This letter clarifies that:

(1) The easements for the existing sewer line do not authorize any other than the existing line, and specifically does not authorize the expanded sewer line described as Alternative A in the DEIR.

(2) To the extent the County requires access to the existing sewer line, HVCA should be notified of the need for such access. No access may be provided for activities beyond the scope of the existing easements.

**The Scope of the 1973 Sewer Easements is Limited**

Our DEIR comments noted that the existing easements through Hidden Valley would not permit construction of the project described as Alternative A in the DEIR, in particular, the expanded capacity sewer line. We understand that a variation of Alternative B, which does not include any changes to the existing sewer line within Hidden Valley, will be described as the proposed project in the Final EIR. The Final EIR should clarify that additional property rights would be a necessary prerequisite to constructing the facilities within Hidden Valley described in Alternative A.

Hidden Valley Requests Prior Notice of Entries Within the Scope of the Existing Easements

An additional issue discussed at our meeting is the scope of the right-of-way associated with the existing easements. The grant of an easement, such as a sewer easement, includes “secondary easements” such as the right to maintain and repair the improvements subject of the primary easement. (*Los Angeles v. Howard* (1966) 244 Cal.App.2d 538, 543 (*Los Angeles*)). “The extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by which it was acquired.” (Civ. Code, § 806.) Here, the easement expressly addresses the issue of the right-of-way by asserting, “The right-of-entry shall terminate on completion of the work.” While one could interpret that language as only allowing for a right-of-way for the initial installation and not subsequent repair or maintenance activities, the easement also provides, “The GRANTOR further understands that the present of the GRANTEE is to construct and maintain a gravity or pressure sewer line . . . .” A reviewing court could reasonably harmonize these two provisions as authorizing a right-of-way for construction activities associated with both the initial installation as well as subsequent maintenance activities.

Yet this secondary easement is not unlimited. “The acts must be done in a reasonable manner without an undue burden on the servient owner; also the servient owner may use his property in any manner not inconsistent with the easement so long as it does not unreasonably impede the dominant tenant in his rights.” (*Los Angeles, supra*, 244 Cal.App.2d at 543.) Thus, the County should provide HVCA with advance notice prior to commencing any subsequent “work” within Hidden Valley, including maintenance or repair. Additionally, the easements do not include right of access for purposes unrelated to activities to maintain the pipeline, including bringing any wildlife agency staff on the premises, as may have occurred this last summer. Authorizations to enter Hidden Valley are necessary prior to such visits.

Please notify the HVCA President, Sharyn VanTassell Matin at (916) 783-3545, (808) 662-0432 or [sharynmatin@earthlink.net](mailto:sharynmatin@earthlink.net) if any visits to Hidden Valley are anticipated. HVCA will use best efforts to ensure that the County receives reasonable access to perform needed activities within Hidden Valley. As Hidden Valley has an ongoing problem with trespassers, such notice will ensure that the County’s visits are duly authorized and are not treated as trespasses.

\* \* \*