



City of Ukiah

September 14, 2016

Chairman Ronco and Board Members
Board of Directors
Ukiah Valley Sanitation District
151 Laws Ave.
Ukiah, CA 95482

SENT BY EMAIL AND REGULAR U.S. MAIL

Re: UVSD v. City of Ukiah

Dear Chairman Ronco and Board Members:

The lawsuit filed by the District against the City is having immediate and serious adverse consequences affecting the sewer system and the ratepayers in the City and the District. As you know, the City was recently awarded \$25,564,000 from the Clean Water State Revolving Loan Fund (CWSRF) and \$9,996,000 in grants from the Water Recycling Funding Program (WRFP) to construct Phases I – III of the Recycled Water Project. In addition, the City is in the process of applying for up to an additional \$13,000,000 from the CWSRF and \$7,000,000 from the WRFP for the final phase.

For a phone call on April 18, 2016, between the City Attorney and Sergio Rudin, staff attorney with the Office of Chief Counsel, State Water Resources Control Board, Mr. Rudin sent the City Attorney a copy of the standard legal opinion that will be required before the Department of Water Resources will enter a loan agreement with the City. That opinion requires the City's legal counsel to state that "...there is no...suit...pending or threatened against or affecting the City's...wastewater system or the assets, properties or operations of the City relating to its...wastewater system which, if determined adversely to the City or its interests would result in any material change in the assets or financial condition of the City, the City's...wastewater system or the financial condition thereof." In a telephone conference call among City staff and officials in the Department of Water Resources on June 28, 2016, the Department staff raised the issue of the District's lawsuit and specifically advised City staff that the pendency of the lawsuit and the possibility of the District rescinding the Financing Agreement between the City and the District will prevent the Department from entering any loan agreements with the City. The City was advised that these funds will no longer be reserved for the City if the lawsuit is still pending and unresolved at the end of this year.

This project is not a frivolous "feel-good" environmental program; it is, by far, the most cost-effective alternative to the State's stricter regulations on discharging to the Russian River. If we lose the loans and grants for the recycled water system, the City and District will need to upgrade the plant to comply with the new standards. Staff estimates compliance with current regulatory requirements will cost up to \$30,000,000 in the short term, and will likely increase over time with escalating regulatory requirements if discharge to the river continues. It is important to note the treatment plant was modified less than a decade ago at a cost of \$75,000,000 and is already "out of compliance" due to new regulatory requirements that did not exist until after the upgrade project was under construction in 2006. In addition, it is highly likely that no discharge whatsoever into the river will be allowed in the foreseeable

future. These inevitable mandates will result in additional future costs that could be avoided by developing a recycling system now.

Councilmembers have discussed the consequences of losing this funding with District board members in the past and we have also discussed the other financial impacts of this litigation on both the City and the District.

To avoid these serious adverse financial impacts, the City proposes that the District dismiss its lawsuit and that the City and District devote their time, money and resources to solving the costly issues confronting the sewer system and improving their working relationship. The City Council and staff have been frustrated by the unresolved conflict between the City and the District, but also recognize that the current District Board feels strongly about its grievances. There are new faces at the City, including four new City Council members, a new City Manager, new Director of Water and Sewer and a new Finance Director who are prepared to address the District's concerns with an open mind, a commitment to honest and transparent communication and a desire to establish a productive long-term working relationship with the District. The City is prepared to engage in serious negotiations to address the District's concerns as long as the District Board is prepared to likewise negotiate in good faith and seriously consider the City's concerns.

If necessary, the parties could agree on terms that would allow the District to refile its law suit in the future without prejudice, if the parties fail to reach agreement. As the last year has made clear, however, the parties cannot conduct this expensive, disruptive and time consuming litigation and at the same time work to resolve their disagreements, and the pending lawsuit has and threatens to further cost the ratepayers in the District and the City millions of dollars which will ultimately increase their rates for sewer service.

Very truly yours,



Stephen G. Scalmanini, Mayor



Jim O. Brown, Vice Mayor



Douglas F. Crane, Councilmember



Kevin Doble, Councilmember



Maureen Mulheren, Councilmember

cc: City Manager
District General Manager