

NOVATO SANITARY DISTRICT

March 22, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District will be held at **6:30 p.m., Monday, March 22, 2010**, at the District Office, 500 Davidson Street, Novato.

AGENDA

1. PLEDGE OF ALLEGIANCE:

2. AGENDA APPROVAL:

3. PUBLIC COMMENT (Please observe a three-minute time limit):

This item is to allow anyone present to comment on any subject not on the agenda, or to request consideration to place an item on a future agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Board at this time as a result of any public comments made.

4. BOARD MEMBER REPORTS:

5. REVIEW OF MINUTES:

- a. Consider approval of minutes of the January 11th and 25th, 2010 meetings.

6. CONSENT CALENDAR:

- a. Approve payment to the County of Marin in the amount of \$26,000.00 for encroachment permit fees.
- b. Approval of disbursements.

7. SOLID WASTE:

- a. Receive report on Pilot Food Waste Composting program.

8. ELECTION CONTEST:

- a. Report on election contest.

9. ADMINISTRATIVE:

- a. Consider adoption of revised 2009-10 annual District budget.
- b. Consider approval of budget adoption schedule for 2010-11 fiscal year.
- c. Consider approval of Policy 5060 on minutes.

10. WASTEWATER OPERATIONS:

- a. Wastewater Operations Committee report
- b. Consider approval of an amendment to Agreement for Emergency Consulting Services.

11. REPORTS:

- a. North Bay Water Reuse Authority.
- b. ISO 14001: Environmental Management System training
- c. NPDES Tentative Order

12. MANAGER'S REPORT:

12. ADJOURNMENT:

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District at (415) 892-1694 at least 24 hours prior to the meeting. Notification prior to the meeting will enable the District to make reasonable accommodation to help ensure accessibility to this meeting.

Next Resolution No. 3022

January 11, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, January 11, 2010, preceded by a closed session beginning at 5:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 5:10 p.m. President Di Giorgio announced the Board would meet in closed session to discuss the following matters on the Closed Session Agenda.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION – ONE POTENTIAL CASE:

Initiation of litigation pursuant to Subsection (c) of Government Code Section 54956.9.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:

Existing litigation pursuant to Subsection (a) of Government Code Section 54956.9, Suzan Sharpley, Robert Abeling vs. William Long, Novato Sanitary District, Elaine Ginnold, Marin County Registrar of Voters.

BOARD MEMBERS PRESENT FOR CLOSED SESSIONS: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT FOR CLOSED SESSIONS: Manager-Engineer Beverly B. James, Deputy Manager-Engineer Sandeep Karkal, and District Counsel Kent Alm. Sky Woodruff, Principal, Meyers Nave, was present via phone.

The closed Sessions ended at 6:33 p.m.

Open session began at 6:40 p.m.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer Beverly James, Deputy Manager-Engineer Sandeep Karkal, Administrative Secretary Julie Borda, and District Counsel Kent Alm.

ALSO PRESENT: Colleen Rose, Novato resident
Dennis Welsh, Petaluma
Dean L. Heffelfinger, Novato resident
Pam Welsh, Novato resident
Brant Miller, Novato resident
Phil Tucker, CA Healthy Communities Network
Bill Scott, Novato resident

Suzanne Brown Crow, Novato resident
Norman Stone, Novato resident
Jack Kaplan, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the Agenda was approved as mailed.

FIRST CLOSED SESSION REPORT: District Counsel Kent Alm reported that the Board authorized the law firm of Meyers Nave to initiate litigation against Bank of Marin with regards to the electronic transfer losses in 2009. He stated this litigation would begin within the next several weeks.

SECOND CLOSED SESSION REPORT: District Counsel Kent Alm reported that instruction was given to District Counsel in regards to handling the matter of existing litigation: Suzan Sharpley, Robert Abeling vs William Long, Elaine Ginnold.

PUBLIC COMMENT: None.

BOARD MEMBER REPORTS:

President Di Giorgio stated he was not pleased with the letter authored by Director Welsh (**letter to Patrick Faulkner, County Counsel, dated January 6, 2010**) which was sent to the Board members and the Press. He felt the letter belittles the integrity of the Board and that of District Counsel.

Member Welsh responded that he has agreed to participate in Brown Act training as soon as on-line training is available. He discussed his participation as a witness in the EPA matter in April 2009.

President Di Giorgio and District Counsel Kent Alm discussed the appropriateness of Director Welsh's participation in closed session meetings which involve discussion of the EPA incident with the District's hired law firm of Barg Coffin Lewis and Trapp. Mr. Alm stated that the matter needs to be resolved prior to any further closed session meetings and that he would prepare a legal opinion regarding this matter.

Member Long discussed the letter from Director Welsh stating it was defamatory. He requested Director Welsh revise the letter and publicly circulate it to all parties it was originally sent to.

Member Welsh read a letter he wrote to the Board, dated January 11, 2010, objecting to the Emergency Services Agreement with Veolia and the hiring of temporary employees from Aerotek.

CONSENT CALENDAR:

On motion of Member Quesada, seconded by Member Long, and carried unanimously, the following consent calendar items were approved:

- a. Approval of a contract amendment with Olin Chlor Alkali Products, Olin Corporation to supply 12.5% liquid sodium hypochlorite.
- b. Approval of a contract with Brentagg Pacific, Inc. to supply 25% liquid sodium bisulfite.
- c. Approval of regular disbursements in the amount of \$519,631.04, upgrade project disbursements in the amount of \$1,868,414.89, and Board member disbursements in the amount of \$4,232.69.

Suzanne Brown Crow, Novato resident, commented on the check to Barg, Coffin, Lewis and Trapp and requested a copy of the total amount spent on attorney fees in relation to the EPA matter.

Norm Stone, Novato resident, questioned the initiation of litigation against Bank of Marin as discussed in closed session. Mr. Alm replied that he would be available to speak to Mr. Stone after the Board meeting however, he could not discuss details disclosed in the closed session meeting.

PUMP STATION REHABILITATION: PROJECT 72403:

Consider approval of a contract with The Covello Group for construction management services. The Manager stated that the Rush Creek and Deer Island Pump Station Rehabilitation Project has been awarded, and it is expected that the remaining three design stages constituting the remaining eleven pump stations will begin construction within the next few months. She stated the total estimated construction value of the projects is currently about \$5.04 million. She noted that The Covello Group is currently providing construction management services for the treatment plant upgrade project and the collection system improvements. She stated staff has requested a proposal from The Covello Group to provide construction management services on all the four stages of the pump station upgrade project and has negotiated a not-to-exceed fee on a time-and-materials basis of \$540,589.

Director Welsh stated his opposition to this request because he believes the District's Field Services Superintendent and Staff Inspector should be able to complete the construction management services for all or part of this project.

The Manager stated that the Inspector and Field Services Superintendent are actively involved with other projects. In addition, she stated the management expertise needed for this project exceeds the District's knowledge.

Member Quesada commended The Covello Group's past work with the District, noting their management expertise and ability to keep change orders to a minimum.

On motion on Member Fritz, seconded by Member Long and carried with the following vote, the Board approved a contract in an not-to-exceed amount of \$541,000 with The Covello Group for construction management services on a time and materials basis. Ayes: Di Giorgio, Fritz, Long, Quesada. Noes: Welsh.

LITIGATION:

Consider authorization to provide legal counsel for Director Long for case number CIV096368.

Member Long recused himself at 7:15 p.m.

District Counsel Kent Alm gave an overview of the existing litigation as discussed in the second closed session: Existing litigation pursuant to Subsection (a) of Government Code Section 54956.9, Suzan Sharpley, Robert Abeling vs William Long, Novato Sanitary District, Elaine Ginnold, Marin County Registrar of Voters. He discussed the reasons he does not recommend the District provide legal defense for Director Long in the above mentioned matter. He stated there is no specific provision dealing with Special District Board member legal representation. He noted that he has discussed this issue with Director Long.

Member Fritz stated he feels it is unfair that Director Long be expected to bear the legal costs in this matter. He believes Director Long should be represented.

President Di Giorgio commented on the matter and stated he feels Member Long should receive legal representation in this matter.

Member Quesada discussed the thirty-one parcels that did not receive a ballot which allowed them to vote for the Novato Sanitary District Board of Directors. He stated he felt it was an error by the County Registrar of Voters and suggested the County contact the disenfranchised parcels and allow them to cast a vote at this time. He believes Member Long should receive legal representation in this matter.

Member Welsh discussed the matter, stating it has not been determined who is at fault regarding the thirty-one parcels. He stated he supports legal representation for Member Long in this matter.

District Counsel Kent Alm discussed the pending litigation stating that if Member Long did not reply to the lawsuit, one would assume the plaintiffs would prevail without any further action. He stated that the District is named in the lawsuit as well, and will respond because they have a substantial stake in determining what the issues are in terms of whether the correct boundaries were provided. He discussed the arguments in

favor of, and, in opposition to, providing Board Member Long with legal defense in the pending litigation.

Bill Scott, Novato resident, stated he supports the Board's legal representation of Member Long in this matter.

Norm Stone, Novato resident, stated he agrees with the defense of Member Long if the District uses the same counsel to represent Member Long and the District in this matter.

Jack Kaplan, Novato resident, stated his concern with the precedent the Board is setting in this matter by offering legal defense to Member Long. He discussed Veolia's campaign support and the potential conflict of interest.

Brant Miller, Novato resident, stated he sees no conflict of interest in the District defending Member Long and stated he supports the Board representing Member Long's defense.

On motion of Member Fritz, seconded by Member Quesada and carried with the following votes, the Board authorized the provision of legal representation for Director Long for case number CIV096368. Ayes: Di Giorgio, Fritz, Quesada, Welsh. Abstain: Long due to his absence from the meeting at this time.

MANAGER'S ANNOUNCEMENTS:

The Manager pointed out that the November 9th and November 23rd, 2009, minutes were provided in the Board packet but were not placed on the Agenda. For this reason, the minutes were unable to be approved at this meeting. She stated the minutes would be included as an agenda item at the next Board meeting.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 7:49 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording

January 25, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, January 25, 2010, preceded by a closed session beginning at 6:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 6:03 p.m. President Di Giorgio announced the Board would meet in closed session to discuss the following matter on the Closed Session Agenda.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:

Existing litigation pursuant to Subsection (a) of Government Code Section 54956.9, Suzan Sharpley, Robert Abeling vs. William Long, Novato Sanitary District, Elaine Ginnold, Marin County Registrar of Voters.

BOARD MEMBERS PRESENT FOR CLOSED SESSIONS: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT FOR CLOSED SESSIONS: Manager-Engineer Beverly B. James and District Counsel Kent Alm.

The closed Session ended at 6:30 p.m.

Open session began at 6:35 p.m.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer Beverly James, Administrative Secretary Julie Borda, and District Counsel Kent Alm. Deputy Manager-Engineer Sandeep Karkal arrived at 7:10 p.m.

ALSO PRESENT: Deanna Pierce, Novato resident
Tom Pierce, Novato resident
Dennis Welsh, Petaluma
Jo Heffelfinger, Novato resident
Pam Welsh, Novato resident
Brant Miller, Novato resident
Phil Tucker, CA Healthy Communities Network
Dennis Fishwick, Novato resident
Norm Stone, Novato resident
John Bailey, Veolia Water

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the Agenda was approved as mailed.

CLOSED SESSION REPORT: District Counsel Kent Alm reported that the hearing for this closed session item has been set for February 22nd.

PUBLIC COMMENT: None.

BOARD MEMBER REPORTS:

Member Long thanked Member Welsh for the revision of his letter (**letter to Patrick Faulkner, County Counsel, dated January 6, 2010**). Member Long also commented on an article in the Pacific Sun.

Member Fritz commented on the Wastewater Operations Committee meeting and the ongoing construction at the treatment facility.

President Di Giorgio also thanked Member Welsh for the revision of his letter and expressed his appreciation.

REVIEW OF MINUTES:

Consider approval of minutes of the November 9th, 23rd and 30th, 2009 Board meetings. Director Quesada requested the minutes be approved individually.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the November 9, 2009 Board meeting minutes were approved.

Member Quesada questioned the formation of the Ad-hoc Referendum Preparation Committee and requested the committee be changed from "Ad-hoc" to a "Standing" committee to facilitate public notice and public attendance.

District Counsel Kent Alm suggested that if Board wished to have the meetings public, they could do so. He stated there is nothing that prohibits an Ad-hoc committee from having public meetings or keeping minutes, but it is not required; the decision is at the Board's discretion.

Member Di Giorgio pointed out a change to the November 23rd meeting minutes. He stated that the individuals appointed to the Ad-hoc Referendum Preparation Committee were himself and Member Fritz, not Member Long and Member Fritz as stated in the minutes. Recording Secretary Julie Borda will review the audio tape of the minutes, revise the minutes as needed, and request Board approval at the next scheduled Board meeting.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the November 30, 2009 Board meeting minutes were approved.

CONSENT CALENDAR:

Member Fritz pointed out an incorrect date in item b: Meeting schedule – March 9th. He noted that the correct date should be March 8th.

On motion of Member Long, seconded by Member Quesada, and carried unanimously, the following consent calendar items were approved:

- a. Approval of Consent for Boundary Change and Waiver of Conducting Authority for Annexation of the Hamilton Pool.
- b. Approval of meeting schedule as follows: February 8th and 22nd, March 8th and 22nd, April 12th and 26th.
- c. Approval of regular disbursements in the amount of \$501,271.43, upgrade project disbursements in the amount of \$133,111.24, and payroll related disbursements in the amount of \$107,577.57.

WASTEWATER OPERATIONS:

Committee report: The Manager noted that the Wastewater Operations committee met on January 20, 2010. She reviewed the key points of the *Monthly Operations Report, December 2009*, prepared by Veolia Water West Operating Services, Inc. She discussed the January 4th low level mercury sample collected at the Ignacio site which was higher than any previous results for low level mercury. She discussed the details involved in this sample collection episode. She stated the results of the investigation were submitted to the Regional Water Quality Control Board as a preliminary memorandum to meet the five-day reporting requirements, and will additionally be submitted with the monthly Self-Monitoring Report.

President Di Giorgio questioned the mercury sample collection procedure and follow-up. The Manager explained in detail the actions that were taken due to this result and stated she was unsure of what caused the anomaly. Plant Manager, John Bailey, Veolia Water thoroughly discussed the collection methods required for mercury sampling.

COLLECTION SYSTEM IMPROVEMENTS PROJECT 72706:

Consider approval of change orders for the Railroad Avenue sewer main replacement. The Manager discussed the Railroad Avenue Sewer Line Project which the Board reviewed at their February 9, 2009 meeting. Under this Agreement, the District agreed to pay half of the estimated project costs. She noted that Signature Properties had incurred additional costs during the project totaling \$167,873 and that the District's

share of this cost (50%) would be \$83,936.50. She recommended the Board approve the change order.

Director Welsh questioned what revenue would be generated from this project. The Manager explained that 150 units would need connection permits at the current fee of \$7,720 per connection. She stated that in addition, each unit would be billed the annual sewer service charge of \$462 (current annual fee for fiscal year 2009-2010).

On motion on Member Quesdada, seconded by Member Fritz and carried unanimously, the Board approved payment to Signature Properties for change orders for the Railroad Avenue sewer main replacement in the amount of \$83,936.50.

DISTRICT COUNSEL:

District Counsel update on Board Member Welsh's letter of January 6, 2010 to Marin County District Attorney. District Counsel Kent Alm referenced a letter (included in the Board packet) dated January 6, 2010, addressed to Edward S. Berberian, District Attorney, from Board Member Dennis J. Welsh. He stated that the letter discussed the controversy over whether there was a conflict with Member Welsh's attendance at a Closed Session meeting where matters of the pending EPA investigation were discussed with representatives from the law firm of Barg, Coffin, Lewis and Trapp. He stated he received inquiries from the District Attorney's office and had responded with a written opinion which was provided to the Board members and to the District Attorney on January 22nd. He stated that the Board could agendaize this item at a later time after a response had been received from the District Attorney's office.

Norm Stone, Novato resident, asked Mr. Alm if the District would seek judicial intervention or name a Board member as a defendant in this matter. Mr. Alm stated that no one would be named as a defendant and the Board would wait until the District Attorney responded on this matter.

Give direction to staff and District Counsel regarding letter from Board Member Welsh of January 11, 2010. District Counsel Kent Alm commented on the items Member Welsh brought forth in the letter and stated he was able to address the core issue of the letter. He stated he could secure case law and background information regarding the legal issue of entering into the emergency contract with Veolia Water if the Board directed him to do so.

Member Long asked if Veolia was providing any services outside of the Emergency Services Contract. The Manager responded that Veolia was only providing the services as outlined in the Emergency Services Contract. District Counsel Kent Alm stated that his firm designed the Emergency Services Contract in a way that would be permissible in regards to the limitations set forth in the law.

Member Welsh commented on the portion of his letter which stated there is a Veolia employee spending hours in the lab. He expressed his dissatisfaction with anyone

other than District employees performing lab functions. The Manager responded that the District does not have any Veolia employees working as lab technicians; however, the District is coordinating laboratory reporting with Veolia as the monthly reports are prepared. She stated Veolia has provided input on the District's data collection and the Lab Supervisor has expressed her appreciation for this assistance.

The Board members discussed what direction Staff should take on this matter and Member Long responded that he felt lab operations should be left under the direction of the Manager-Engineer.

Member Welsh made a motion to direct District Counsel to give a written opinion as to whether Veolia Water employees can be allowed to perform any lab operations, collect samples, or to perform duties that should be assigned to District employees as per the scope of duties outlined in the Emergency Services Agreement. The motion died for lack of second.

Phil Tucker, CA Healthy Communities Network, discussed Veolia's expenditure prior to Veolia entering into the contract in September 2009. He discussed the referendum's certification by the Registrar of Voters and Veolia's continued operation. He asked if the Board has reviewed Veolia's invoices in view of the fact that the referendum is pending.

Dennis Fishwick, Novato resident, stated he does not feel the Manager has the authority to allow Veolia employees to operate in the District Lab. He referenced the San Anselmo sewage treatment facility. He stated he felt the District should remove Veolia and bring in the District's employees.

STRATEGIC PLAN UPDATE PROJECT 72808:

Consider approval of a contract with Bartle Wells Associates to update the Revenue Program for an amount not to exceed \$20,000. The Manager noted that Bartle Wells completed an update of the District's Revenue Program in 2005 and that it is time to update the program to forecast revenue and expenditures for the next five years. She pointed out that the District is planning to apply for federal and state grants and state revolving fund loans and in order to do this, an up to date revenue program must be completed. She stated she anticipates the Revenue Program will be completed in May 2010.

On motion of Member Long, seconded by Member Fritz, and carried unanimously, the Board approved a contract with Bartle Wells Associates to update the Revenue Program for an amount not to exceed \$20,000.

STAFF REPORTS:

California Association of Sanitation Agencies (CASA) Conference. The Manager gave a Power Point presentation and discussed her participation at the CASA mid-year conference.

Members Long, Fritz, and Di Giorgio discussed their participation at the conference, noting seminars on Fuel Cell research, the Delta and water legislation, and legislative topics that will be affecting sewer agencies in the near future.

North Bay Watershed Association Conference. The Manager noted that the North Bay Watershed Association will be holding their biannual conference on Friday, April 9th, in Petaluma. She reminded the Board members that the early registration discount deadline is January 31st. Members Di Giorgio, Welsh, Quesada, Fritz, and Long expressed an interest in attending.

MANAGER'S ANNOUNCEMENTS: None.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 8:12 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Consent Calendar: Collection System Improvements; Bel Marin Keys Force Main Replacement Project; Project No. 72706	MEETING DATE: March 22, 2010 AGENDA ITEM NO.:
RECOMMENDED ACTION: Approve payment to the County of Marin in the amount of \$26,000.00 for encroachment permit fees.	
SUMMARY AND DISCUSSION: At its February 22 nd meeting the District Board reviewed bids received and awarded the contract to Team Ghilotti of Petaluma for \$598,285.00. District staff has received the cost of the encroachment permit from the County of Marin Public Works Department in the amount of \$26,000.00. County of Marin staff calculated this amount by direct costs for plan checking plus the estimated time for field inspection based on the contract time allowed in the specifications for the contractor to complete the work. Marin County Code allows County staff to estimate fees based on 2 percent of the estimated cost at time of bidding for plan checking plus 3 percent of the bid cost for inspection fees. If fees were charged using this formula the cost of the encroachment permit would be \$35,862.10. Staff recommends issuing a check to the County of Marin in the amount of \$26,000.00 for encroachment permit fees.	
ALTERNATIVES: None.	
BUDGET INFORMATION: This work will be funded from the budget for Collection System Improvements, Project 72706, which has a current FY09-10 budget balance of \$1,689,563.00.	
DEPT.MGR.:	MANAGER:

Novato Sanitary District Check Register

March 22, 2010

Date	Num	Name	Credit
Mar 22, 10			
3/22/2010	50667	Barg, Coffin, Lewis & Trapp	117,745.25
3/22/2010	50708	Meyers, Nave, Riback, Silver &...	63,207.33
3/22/2010	50683	Covello Group, The	35,799.80
3/22/2010	50740	Sideman & Bancroft, LLP	30,652.76
3/22/2010	50682	County of Marin-Permit	26,000.00
3/22/2010	50726	Sideman & Bancroft, LLP	20,318.04
3/22/2010	50703	Latham & Watkins, LLP	19,424.94
3/22/2010	50673	Brown & Caldwell, Inc.	19,392.72
3/22/2010	50717	Olin Chlor Alkali Products	12,890.02
3/22/2010	50687	EDD	9,900.00
3/22/2010	50709	North Bay Construction, Inc.	9,679.51
3/22/2010	50734	W.R. Forde	9,670.00
3/22/2010	50661	Aerotek	8,321.00
3/22/2010	50716	Oakley Water Strategies, Inc.	7,535.00
3/22/2010	50723	Rauch Communication Consult...	7,134.44
3/22/2010	50729	Swanson McNamara Haller	6,032.90
3/22/2010	50688	Edd Clark & Associates, Inc.	5,743.75
3/22/2010	50725	SFE Global Inc.	4,920.00
3/22/2010	50672	Brenntag Pacific, Inc.	4,721.18
3/22/2010	50713	North Marin Water District	3,362.70
3/22/2010	50722	R3 Consulting Group	3,250.00
3/22/2010	50692	Fort Dearborn Life Insurance	3,213.26
3/22/2010	50689	EOA, Inc.	3,061.74
3/22/2010	50663	American Express-22062	2,597.09
3/22/2010	50736	Water Components & Building	2,323.27
3/22/2010	50700	Kaiser Permanente	2,285.12
3/22/2010	50675	Cagwin & Dorward Inc.	2,209.00
3/22/2010	50701	Koffler Electrical Mech, Inc.	2,022.55
3/22/2010	50733	Verizon California	1,849.04
3/22/2010	50707	Marin Mechanical II, Inc.	1,565.00
3/22/2010	50670	Bowens, Kenneth	1,560.00
3/22/2010	50693	G & K Services	1,358.56
3/22/2010	50720	Pini Hardware	1,083.40
3/22/2010	50705	Long, William C.	1,070.95
3/22/2010	50719	Pacific, Gas & Electric	1,014.78
3/22/2010	50697	IEDA, INC	1,000.00
3/22/2010	50662	Alliant Insurance Services, Inc	979.00
3/22/2010	50668	Bartle Wells Assoc, Inc	934.65
3/22/2010	50676	Cantarutti Electric, Inc	880.00
3/22/2010	50738	Whitney, Larry	880.00
3/22/2010	50696	HSBC	635.74
3/22/2010	50706	Manco	508.08
3/22/2010	50739	Lincoln Financial Group	500.00
3/22/2010	50694	Grainger	447.52
3/22/2010	50665	Ashbrook Simon-Hartley Opera...	421.26
3/22/2010	50686	Donald L. Blayney & Associates	384.08
3/22/2010	50680	Cintas Corporation	369.12
3/22/2010	50702	Lab Safety Supply, Inc.	356.32
3/22/2010	50730	Van Bebbler Brothers Inc.	295.39
3/22/2010	50735	WasteManagement	288.99
3/22/2010	50684	CWEA members	264.00
3/22/2010	50699	Jim-n-i Rentals	250.00
3/22/2010	50731	Verizon	237.23
3/22/2010	50732	Verizon Business	200.45
3/22/2010	50679	Central Marin Sanitation District	200.00
3/22/2010	50727	Southland Electrical Supply, Inc.	179.00
3/22/2010	50669	Black Box Network Services	159.81
3/22/2010	50714	Northgate Office Equip	159.63
3/22/2010	50674	Buck's Saw Service, Inc.	159.27
3/22/2010	50698	IOBP, LLC	117.00
3/22/2010	50710	North Bay Gas & Weld	108.00
3/22/2010	50691	Fluid Dynamics	105.00
3/22/2010	50690	Evergreen Oil, Inc.	90.00
3/22/2010	50711	North Bay Portables, Inc.	89.70
3/22/2010	50737	WEF Membership	85.00
3/22/2010	50664	American Water Works Associ...	82.00

03/19/10

Novato Sanitary District Check Register

March 22, 2010

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Credit</u>
3/22/2010	50712	North Marin Auto Parts	77.64
3/22/2010	50724	Royal Petroleum Company	74.12
3/22/2010	50671	Brand, Joel & Desha	70.00
3/22/2010	50678	CED Santa Rosa, Inc	67.70
3/22/2010	50666	Autoworld	66.62
3/22/2010	50681	Cook Paging	57.73
3/22/2010	50721	Quill Corporation	55.63
3/22/2010	50677	Carquest Auto Parts	45.65
3/22/2010	50715	Novato Brushless Car Wash	45.57
3/22/2010	50695	Home Depot	42.42
3/22/2010	50728	Staples Business Adv	35.15
3/22/2010	50718	One Stop Auto Service Inc.	31.08
3/22/2010	50685	Domain Registry of America	30.00
3/22/2010	50704	Lincoln Financial Group	
Mar 22, 10			<u>464,980.65</u>

03/19/10

**Novato Sanitary District
Check Register**

Project Acct. Disb.

March 22, 2010

Date	Num	Name	Credit
Mar 22, 10			
3/22/2010	2031	Zions Bank	651,135.21
3/22/2010	2030	Covello Group, The	126,081.89
Mar 22, 10			<u><u>777,217.10</u></u>

Novato Sanitary District
Payroll Register
January 2010

Ratification of January 2010 Payroll: \$154,990.26

Novato Sanitary District
Payroll Register
February 2010

Ratification of February 2010 Payroll: \$138,614.75

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Election Contest	MEETING DATE: March 22, 2010
	AGENDA ITEM NO.:
RECOMMENDED ACTION: None, information only.	
SUMMARY AND DISCUSSION: On March 8, 2010, Judge Verna A. Adams, Marin County Superior Court, ruled in favor of Bill Long and the Novato Sanitary District and against plaintiffs Suzan Sharpley and Bob Abeling in this election contest matter and confirmed the results of the November 3, 2009 District election. The Court ordered us to prepare a final order and judgment. Meyers Nave did so and submitted these to the Court and to opposing counsel. Copies of these documents are attached. When we get a signed judgment, we will prepare and file/serve a Notice of Entry of Judgment. The Notice of Entry of Judgment will conclude this case in the trial court and trigger plaintiff's time to file an appeal, if any. Estimated legal fees and costs to date, excluding expert fees Expert fees District staff Total:	
	\$ 71,147 \$34,748 <u>\$12,000</u> \$117,895
ALTERNATIVES: None.	
BUDGET INFORMATION: This work will be funded from the budget for Attorney fees, which has a revised budget amount of \$1,200,000.	
DEPT.MGR.:	MANAGER:

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MARIN COUNTY
SUPERIOR COURT

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**EXEMPT FROM FILING FEES
PURSUANT TO GOV. CODE § 6103**

Attorneys for Defendant WILLIAM LONG and
NOVATO SANITARY DISTRICT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN - UNLIMITED**

SUZAN SHARPLEY, ROBERT ABELING,
Contestants,

CASE NO. 09-6368

v.

**[PROPOSED] JUDGMENT DENYING
ELECTION CONTEST**

WILLIAM (BILL) LONG; NOVATO
SANITARY DISTRICT; and DOES 1-10,
Defendants.

Trial Date: February 22 & March 8, 2010
Time: 8:30 a.m.
Dept.: J
Judge: Hon. Verna A. Adams

Statement of Election Contest filed: December
21, 2009

BY FAX

1 The above-referenced election contest came on for trial on February 22 and March 8, 2010 in
2 Department J of the above-entitled court, the Honorable Verna A. Adams, Judge, Presiding, sitting
3 without a jury. Contestants Suzan Sharpley and Robert Abelung ("Contestants") appeared by their
4 attorney Dotty Le Mieux. Defendants William Long and Novato Sanitary District ("NSD" or "the
5 District") appeared by its attorneys Meyers, Nave, Riback, Silver & Wilson, by Kenton L. Alm and
6 Kimberly M. Drake.

7 Evidence both oral and documentary having been presented by both parties, the cause
8 having been argued and submitted for decision, and the Court having made written findings of fact
9 and conclusions of law in accordance with California Elections Code section 16603, attached
10 hereto as Exhibit A,

11 IT IS ORDERED, ADJUDGED, AND DECREED that judgment be entered as follows:

- 12 1. The Court denies the election contest; and
- 13 2. The Court confirms the results of the November 2009 Novato Sanitary District
14 election.

15 **IT IS SO ORDERED.**

16 Dated: _____
17

18 _____
19 HON. VERNA A. ADAMS
20 Judge of the Superior Court
21
22
23
24
25
26
27
28

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14 Contestants,

15 v.

**[PROPOSED] FINDINGS OF FACT AND
CONCLUSION OF LAW AFTER TRIAL
BY COURT PURSUANT TO ELECTIONS
CODE SECTION 16603**

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Statement of Election Contest filed: December
21, 2009

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 This is an election contest filed by Contestants Suzan Sharpley and Robert Abeling
3 (“Contestants”) on December 21, 2009, and amended by them on January 25th, 2010.
4 Contestants allege that the November 2009 election of William Long to the Board of Directors
5 of the Novato Sanitary District should be annulled and set aside because persons eligible to
6 vote in that election were not given an opportunity to do so.

7 Defendants, William Long (“Long”) and the Novato Sanitary District (“NSD” or “the
8 District”) acknowledge that as many as 69 eligible voters did not receive a ballot for the NSD
9 Board contest, but they claim that that fact has now been remedied and that it did not affect the
10 outcome of the election.

11 Contestants allege that many more than 69 eligible voters were not given the proper
12 ballots. According to Contestants, the number, if you add it all up, is over 1,600 such
13 individuals.

14 At the inception of the trial, the parties agreed, or stipulated, that there were
15 approximately 67 to 69 eligible voters who did not receive a ballot with the NSD Board
16 contest. These voters did receive ballots, but not with the NSD candidates.

17 Contestants agree to that much, but they assert that there are many additional voters
18 who should have voted in the NSD election who were not offered that opportunity. They
19 dispute that that fact did not affect the outcome of the election, and they further assert that the
20 irregularities here are so egregious as to have injuriously affected the rights of the voters so
21 that the election results should be nullified, even if it is not shown that the outcome of this
22 particular election would have changed.

23 The evidence revealed that the potential voters who Contestants allege were
24 “disenfranchised” fell into three categories, as follows:

25 First, the 67 to 69 voters who are within the District’s boundaries, who Defendants
26 acknowledge should have received but did not receive a ballot for the NSD election.

27 We have some information about those voters because they all received ballots, they
28 just did not receive ballots with the NSD election contest. Over Contestants' objection, the

1 Court heard testimony that of those 67 to 69 individuals, 28 to 33 actually voted, which means
2 34 to 41 of them did not vote in the November election, another two provisional ballots were
3 counted, and a third provisional ballot was not.

4 The second category advanced by Contestants is 1,461 voters who are not connected to
5 the public sewer and are not within the geographical confines of the District, but who receive
6 garbage pickup from Novato Disposal Service, which has a service contract with the District
7 for customers who are within the District. Contestants say they should have been allowed to
8 vote for the NSD Board. Defendants disagree.

9 The third category is 67 to 77 voters in Coast Guard housing at the old Hamilton Air
10 Force Base. Contestants say they should have been allowed to vote for the NSD Board.
11 Defendants disagree.

12 Contestant Suzan Sharpley testified that she is on the public sewer, and has been a
13 resident of the District for 34 years. She says her November ballot did not have the NSD
14 election on it.

15 Rick Langhals, from the Tax Assessor's Office, testified that no sewer district tax has
16 been collected from Contestant Sharpley in recent memory, although it should have been.

17 Contestant Sharpley testified that she has voted for NSD Directors in the past. When
18 NSD was not on her ballot this year, she called the Registrar of Voters, and they told her she
19 was out of the area. That was wrong.

20 Contestant Sharpley has apparently been receiving free sewer service for some years.

21 Contestant Robert Abeling testified that he is not on the public sewer, but he receives
22 garbage pickup service furnished by Novato Disposal Service in Santa Rosa. He proffered into
23 evidence two of his bills from Novato Disposal Service, Exhibits 5 and 7. He also testified, as
24 corroborated by Exhibit 6, that Novato Disposal Service has told him that their rates are set by
25 NSD per Section 27.210 of Ordinance No. 110.

26 Contestant Abeling thus believes that he is paying money for trash collection per
27 mandate of the NSD, although he does not pay any sewer tax, and does not live in the District.

28

1 Contestant Abeling admitted that in 2003, he was active in resisting annexation of his
2 residence to the City of Novato, in large part because he did not want to be part of the NSD
3 and he did not want to pay sewer tax.

4 Beverly James, General Manager of NSD, testified that NSD has a solid waste franchise
5 with Novato Disposal Service, and that was proffered into evidence as defense Exhibit B.
6 Paragraph 1.42 of that document clearly states that the service area for the NSD is the physical
7 area encompassed by the boundaries of the District, boundaries which Elaine Ginnold, from
8 the Registrar of Voters, described as looking “like a piece of lace.”

9 Ms. James explained that the authority over District boundaries is set by LAFCo, Local
10 Agency Formation Commission, and that NSD has no authority outside its boundaries.

11 NSD is often asked, according to Ms. James, whether those inside its District are
12 required to receive garbage service from Novato Disposal Service. The answer is “no,” she
13 says, but those individuals must self-haul their garbage if they opt out. She testified that those
14 outside NSD boundaries can choose whom they want to haul their garbage.

15 NSD, Ms. James says, cannot control the rate setting of any garbage carrier outside the
16 District’s boundaries. Ms. James testified that the Coast Guard housing is outside the District,
17 and that the District has no regulatory authority outside the service area.

18 NSD has a contract with the Coast Guard – it is an outside service agreement – received
19 in evidence as Exhibit C. Contrary to the statement in Exhibit 6, NSD never took action to set
20 rates outside its boundaries, according to Ms. James.

21 Elaine Ginnold, from the Registrar of Voters, testified that in the NSD election, out of
22 30,715 voters, 10,945 actually voted in November, 2009. Ms. Ginnold testified that there were
23 no complaints before the election, but we know that Contestant Sharpley complained, and that
24 there were two complaints on election day. Ms. Ginnold also says there are no registered
25 voters at Coast Guard housing, which this Court thinks may be inaccurate.

26 Under Elections Code section 16100, subdivision (e), Contestants allege that there were
27 errors sufficient to change the results of this election, as to Defendant Long, because certain
28 voters who were eligible to vote were not permitted to cast votes in the election. Contestants

1 also assert a violation of Elections Code section 16100(f), but they made no effort to prove that
2 there was such a violation, and the Court dismisses that claim for failure of proof.

3 Per Elections Code section 16204, “[a]n election shall not be set aside on account of
4 eligible voters being denied the right to vote, unless it appears that a sufficient number of
5 voters were denied the right to vote as to change the result.”

6 The California Supreme Court has repeatedly held that it is the duty of the court to
7 validate the election if possible. Contestants must prove that this election violated Section
8 16100, subdivision (e), by clear and convincing evidence. (““The contestant has the burden
9 of proving the defect in the election by clear and convincing evidence.’ (Smith v. Thomas
10 (1898) 121 Cal. 533, 536 [54 P.71]; Hawkins v. Sanguinetti (1950) 98 Cal.App.2d 278, 283
11 [220 P.2d 58]; Wilburn v. Wixson (1974) 37 Cal.App.3d 730, 737 [112 Cal.Rptr. 620].)”
12 (Wilks v. Mouton (1986) 42 Cal.3d 400, 404.)” (Gooch v. Hendrix (1993) 5 Cal.4th 266,
13 279.))

14 Thus, unlike most civil cases in which a preponderance of the evidence is sufficient, in
15 this case, the Contestants must prove their case by clear and convincing evidence. The clear
16 and convincing evidence standard has been described by the courts as: Clear, explicit and
17 unequivocal; or, so clear as to leave no substantial doubt; or, sufficiently strong to command
18 the unhesitating assent of every reasonable mind.

19 The Court agrees with Contestants -- that if there is evidence of malconduct by any
20 election official, or by any agent of the NSD, or any other public agency, that fact alone would
21 militate strongly in favor of voiding the election.

22 One of the leading cases to that effect is Anderson v. County of Santa Barbara (1976)
23 56 Cal.App.3d 780, at 788.

24 In the cases that so hold -- Gooch v. Hendrix, supra, involved widespread abuse of
25 absentee ballots by election persons who intimidated, bribed, and bullied voters into casting
26 absentee ballots for the candidate of their choice; and in Anderson v. County of Santa Barbara,
27 supra, certain precincts that were geographically and predominantly against a certain
28 referendum somehow did not manage to vote -- there was state action, malconduct, and the

1 election results were thrown out. In this case, there is no evidence of malconduct by any
2 election official, or by any agent of NSD, or by any other public local agency. There is clear
3 evidence that a mistake was made, and that it apparently is being corrected.

4 The Contestants also argue that the irregularities here are so egregious as to have
5 injuriously affected the rights of voters such that even if the outcome of the election was
6 unaffected by the errors with the ballots, the election should be voided.

7 In that regard, the Contestants cite three cases. In two of them, although the Court made
8 the observation quoted by the Contestants, the Court actually affirmed the lower court rulings,
9 which denied the election contests. (Atkinson v. Lorbeer (1896) 111 Cal. 419; Rideout v. City
10 of Los Angeles (1921) 185 Cal. 426.) In the third case, Tebbe v. Smith (1895) 108 Cal. 101, a
11 tainted election was thrown out.

12 In no reported case involving Elections Code section 16100, subdivision (e), or its
13 predecessors, did the Court void an election when it properly concluded that the results of the
14 election were unaffected by the errors.

15 That leaves the question of whether the results in this election were affected by the
16 errors within the meaning of Elections Code section 16204.

17 We know that 67 to 69 voters should have received ballots for the NSD election and did
18 not.

19 Contestants argue that the residents of the Coast Guard housing were “disenfranchised”
20 with regard to the NSD election within the meaning of Elections Code section 16204. This
21 area is owned by the U.S. Government, occupied by the Coast Guard, and provided service by
22 the NSD under a service contract.

23 This geographical area is outside the District. There is no factual dispute about that.
24 NSD cannot redefine its geographical area without going through the LAFCo process, and
25 LAFCo is not even a party to this lawsuit.

26 The Court understands that NSD is a resident voting district, not a landowner district, so
27 that all residents who live in the District should be able to vote even if they are renters, and not
28

1 landowners. Exhibit 10 is some evidence that at least some residents of the Coast Guard
2 housing can vote and are registered to vote, albeit not in NSD elections.

3 Contestants have failed to meet their burden of proving by clear and convincing
4 evidence that persons residing in Coast Guard housing, at the old Hamilton Air Force Base,
5 were improperly denied the opportunity to vote for the NSD Board, in view of the government
6 contract and the fact that they are not within the geographical confines of the District.

7 The Contestants argue that persons such as Contestant Abeling, who reside outside the
8 NSD service area, but who receive refuse pickup service from Novato Disposal Service, were
9 “disenfranchised” with respect to the NSD election, within the meaning of Elections Code
10 section 16204.

11 Although NSD has an exclusive franchise agreement with Novato Disposal Service for
12 service within the District, NSD has no jurisdiction over disposal outside the District, as
13 evidenced by the written agreement between NSD and Novato Disposal Service, and that is
14 very clear from Exhibit B. It is also clear from Exhibit B that only voters within the
15 jurisdictional boundaries of NSD are eligible to vote in the NSD election. Clearly Novato
16 Disposal Service provides trash service to persons outside of NSD’s jurisdictional boundaries,
17 persons such as Contestant Abeling. In such cases, Novato Disposal Service sets its own rates.
18 To describe Exhibit 6 -- a notice from Novato Disposal Service to Contestant Abeling, stating
19 that his rates are set by NSD -- as disingenuous would be overly polite. However, there is no
20 evidence that NSD had anything to do with that notice, and I cannot set aside an election based
21 on Exhibit 6.

22 If Novato Disposal Service continues to make such misleading statements, the Court
23 supposes another lawsuit might be in the offing.

24 The Court further notes that Contestant Abeling and his neighbors in Indian Valley are
25 not paying any sewer tax.

26 That leaves the 67 to 69 voters who should have been given a ballot for the NSD
27 election in November, 2009.

28

1 Contestants ask the Court to disregard the fact that of those voters, fewer than half
2 actually voted. They call that evidence speculative. The Court disagrees. Contestants state
3 that if candidates for the NSD Board had reached out to those voters, those voters might have
4 voted. Now that is speculative.

5 The Court notes that this is an election for three seats, for which a field of seven
6 declared candidates ran, plus write-ins, and there were write-in votes. The permutations are
7 considerable. A voter could bullet vote, a voter could vote for only two candidates, or three, or
8 not at all.

9 Then there is the issue of whether a person who voted skipped this portion of the ballot
10 altogether. Contestants ask the Court to disregard the fact that 35 percent of the eligible voters
11 for the District actually voted in that particular contest last November.

12 It really does not matter whether the Court disregards that or not. According to Dr.
13 Philip Stark's testimony, if all 69 of them had actually voted, there is only a less than 5 percent
14 chance that it would have affected the outcome of the election.

15 If, as the Court considers more reasonable, the 33 who actually voted for other
16 candidates or issues voted in this election as well, then the chance of a difference in the
17 outcome is less than 1 percent. Certainly not enough to change the outcome of the election.

18 If the Court throws in the Coast Guard, 77 voters according to Contestants and Exhibit
19 10, per Dr. Stark, the number still would have to be over 1,000 voters in order to approach
20 statistical plausibility.

21 Absent malconduct by state action, it is appropriate in a case like this to approach the
22 issue with a proportional analysis. (Russell v. McDowell (1890) 83 Cal. 70; Singleton v.
23 Kelley (1966) 242 Cal.App.2d 611; Hardeman v. Thomas (1989) 208 Cal.App.3d 153.)

24 The Court adopts that approach in this case. If the voters who should have gotten
25 ballots for the NSD contest got them, they would have voted in proportion to the votes that
26 were in fact cast, and it would not have affected the outcome of this election.

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The Court rejects Contestants' argument that unless the election was 100 percent accurate, it should be voided and set aside. If that were the standard, virtually no election result would be final.

To order a new election would, in the Court's view, do a disservice to the voters and the taxpayers of Novato.

Dated: _____

HON. VERNA A. ADAMS
Judge of the Superior Court

138819

1 **PROOF OF SERVICE**

2 I am employed in the City of Oakland and County of Alameda, California. I am over the age
3 of 18 years and not a party to the within action. My business address is Meyers, Nave, Riback, Silver
4 & Wilson, 555 12th Street, Suite 1500, Oakland, California 94607.

5 On March 12, 2010, I served the within:

6 • **[PROPOSED] JUDGMENT DENYING ELECTION CONTEST**

7 on the parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

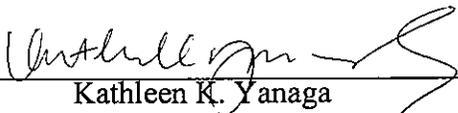
8 Dotty E. LeMieux, Esq.
9 Attorney at Law
10 8 Willow Street
11 San Rafael, CA 94901

Attorney for Contestants
Suzan Sharpley, Robert Abeling
Telephone: (415) 485.1040
Facsimile: (415) 485.1044

12 X **(BY FIRST CLASS MAIL)** I caused each such envelope, with postage thereon fully
13 prepaid, to be placed in the United States mail at Oakland, California. I am readily
14 familiar with the business practice for collection and processing of mail in this office; and
15 that in the ordinary course of business said document would be deposited with the U.S.
16 Postal Service in Oakland on that same day. I understand that service shall be presumed
17 invalid upon motion of a party served if the postal cancellation date or postage meter date
18 on the envelope is more than one day after the date of deposit for mailing contained in this
19 declaration.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is
21 true and correct.

22 EXECUTED at Oakland, California, on March 12, 2010.

23 
Kathleen K. Yanaga

24 1365990.1

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MARIN COUNTY
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2010 MAR 15 A 9:33

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1 also assert a violation of Elections Code section 16100(f), but they made no effort to prove that
2 there was such a violation, and the Court dismisses that claim for failure of proof.

3 Per Elections Code section 16204, “[a]n election shall not be set aside on account of
4 eligible voters being denied the right to vote, unless it appears that a sufficient number of
5 voters were denied the right to vote as to change the result.”

6 The California Supreme Court has repeatedly held that it is the duty of the court to
7 validate the election if possible. Contestants must prove that this election violated Section
8 16100, subdivision (e), by clear and convincing evidence. (“ “The contestant has the burden
9 of proving the defect in the election by clear and convincing evidence.’ (Smith v. Thomas
10 (1898) 121 Cal. 533, 536 [54 P.71]; Hawkins v. Sanguinetti (1950) 98 Cal.App.2d 278, 283
11 [220 P.2d 58]; Wilburn v. Wixson (1974) 37 Cal.App.3d 730, 737 [112 Cal.Rptr. 620].)”
12 (Wilks v. Mouton (1986) 42 Cal.3d 400, 404.)” (Gooch v. Hendrix (1993) 5 Cal.4th 266,
13 279.))

14 Thus, unlike most civil cases in which a preponderance of the evidence is sufficient, in
15 this case, the Contestants must prove their case by clear and convincing evidence. The clear
16 and convincing evidence standard has been described by the courts as: Clear, explicit and
17 unequivocal; or, so clear as to leave no substantial doubt; or, sufficiently strong to command
18 the unhesitating assent of every reasonable mind.

19 The Court agrees with Contestants -- that if there is evidence of malconduct by any
20 election official, or by any agent of the NSD, or any other public agency, that fact alone would
21 militate strongly in favor of voiding the election.

22 One of the leading cases to that effect is Anderson v. County of Santa Barbara (1976)
23 56 Cal.App.3d 780, at 788.

24 In the cases that so hold -- Gooch v. Hendrix, supra, involved widespread abuse of
25 absentee ballots by election persons who intimidated, bribed, and bullied voters into casting
26 absentee ballots for the candidate of their choice; and in Anderson v. County of Santa Barbara,
27 supra, certain precincts that were geographically and predominantly against a certain
28 referendum somehow did not manage to vote -- there was state action, malconduct, and the

1 election results were thrown out. In this case, there is no evidence of malconduct by any
2 election official, or by any agent of NSD, or by any other public local agency. There is clear
3 evidence that a mistake was made, and that it apparently is being corrected.

4 The Contestants also argue that the irregularities here are so egregious as to have
5 injuriously affected the rights of voters such that even if the outcome of the election was
6 unaffected by the errors with the ballots, the election should be voided.

7 In that regard, the Contestants cite three cases. In two of them, although the Court made
8 the observation quoted by the Contestants, the Court actually affirmed the lower court rulings,
9 which denied the election contests. (Atkinson v. Lorbeer (1896) 111 Cal. 419; Rideout v. City
10 of Los Angeles (1921) 185 Cal. 426.) In the third case, Tebbe v. Smith (1895) 108 Cal. 101, a
11 tainted election was thrown out.

12 In no reported case involving Elections Code section 16100, subdivision (e), or its
13 predecessors, did the Court void an election when it properly concluded that the results of the
14 election were unaffected by the errors.

15 That leaves the question of whether the results in this election were affected by the
16 errors within the meaning of Elections Code section 16204.

17 We know that 67 to 69 voters should have received ballots for the NSD election and did
18 not.

19 Contestants argue that the residents of the Coast Guard housing were “disenfranchised”
20 with regard to the NSD election within the meaning of Elections Code section 16204. This
21 area is owned by the U.S. Government, occupied by the Coast Guard, and provided service by
22 the NSD under a service contract.

23 This geographical area is outside the District. There is no factual dispute about that.
24 NSD cannot redefine its geographical area without going through the LAFCo process, and
25 LAFCo is not even a party to this lawsuit.

26 The Court understands that NSD is a resident voting district, not a landowner district, so
27 that all residents who live in the District should be able to vote even if they are renters, and not
28

1 landowners. Exhibit 10 is some evidence that at least some residents of the Coast Guard
2 housing can vote and are registered to vote, albeit not in NSD elections.

3 Contestants have failed to meet their burden of proving by clear and convincing
4 evidence that persons residing in Coast Guard housing, at the old Hamilton Air Force Base,
5 were improperly denied the opportunity to vote for the NSD Board, in view of the government
6 contract and the fact that they are not within the geographical confines of the District.

7 The Contestants argue that persons such as Contestant Abeling, who reside outside the
8 NSD service area, but who receive refuse pickup service from Novato Disposal Service, were
9 “disenfranchised” with respect to the NSD election, within the meaning of Elections Code
10 section 16204.

11 Although NSD has an exclusive franchise agreement with Novato Disposal Service for
12 service within the District, NSD has no jurisdiction over disposal outside the District, as
13 evidenced by the written agreement between NSD and Novato Disposal Service, and that is
14 very clear from Exhibit B. It is also clear from Exhibit B that only voters within the
15 jurisdictional boundaries of NSD are eligible to vote in the NSD election. Clearly Novato
16 Disposal Service provides trash service to persons outside of NSD’s jurisdictional boundaries,
17 persons such as Contestant Abeling. In such cases, Novato Disposal Service sets its own rates.
18 To describe Exhibit 6 -- a notice from Novato Disposal Service to Contestant Abeling, stating
19 that his rates are set by NSD -- as disingenuous would be overly polite. However, there is no
20 evidence that NSD had anything to do with that notice, and I cannot set aside an election based
21 on Exhibit 6.

22 If Novato Disposal Service continues to make such misleading statements, the Court
23 supposes another lawsuit might be in the offing.

24 The Court further notes that Contestant Abeling and his neighbors in Indian Valley are
25 not paying any sewer tax.

26 That leaves the 67 to 69 voters who should have been given a ballot for the NSD
27 election in November, 2009.

28

1 Contestants ask the Court to disregard the fact that of those voters, fewer than half
2 actually voted. They call that evidence speculative. The Court disagrees. Contestants state
3 that if candidates for the NSD Board had reached out to those voters, those voters might have
4 voted. Now that is speculative.

5 The Court notes that this is an election for three seats, for which a field of seven
6 declared candidates ran, plus write-ins, and there were write-in votes. The permutations are
7 considerable. A voter could bullet vote, a voter could vote for only two candidates, or three, or
8 not at all.

9 Then there is the issue of whether a person who voted skipped this portion of the ballot
10 altogether. Contestants ask the Court to disregard the fact that 35 percent of the eligible voters
11 for the District actually voted in that particular contest last November.

12 It really does not matter whether the Court disregards that or not. According to Dr.
13 Philip Stark's testimony, if all 69 of them had actually voted, there is only a less than 5 percent
14 chance that it would have affected the outcome of the election.

15 If, as the Court considers more reasonable, the 33 who actually voted for other
16 candidates or issues voted in this election as well, then the chance of a difference in the
17 outcome is less than 1 percent. Certainly not enough to change the outcome of the election.

18 If the Court throws in the Coast Guard, 77 voters according to Contestants and Exhibit
19 10, per Dr. Stark, the number still would have to be over 1,000 voters in order to approach
20 statistical plausibility.

21 Absent malconduct by state action, it is appropriate in a case like this to approach the
22 issue with a proportional analysis. (Russell v. McDowell (1890) 83 Cal. 70; Singletary v.
23 Kelley (1966) 242 Cal.App.2d 611; Hardeman v. Thomas (1989) 208 Cal.App.3d 153.)

24 The Court adopts that approach in this case. If the voters who should have gotten
25 ballots for the NSD contest got them, they would have voted in proportion to the votes that
26 were in fact cast, and it would not have affected the outcome of this election.

1 The Court rejects Contestants' argument that unless the election was 100 percent
2 accurate, it should be voided and set aside. If that were the standard, virtually no election
3 result would be final.

4 To order a new election would, in the Court's view, do a disservice to the voters and the
5 taxpayers of Novato.

6
7 Dated: _____

8
9 _____
10 HON. VERNA A. ADAMS
11 Judge of the Superior Court
12

13 138819
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1 **PROOF OF SERVICE**

2 I am employed in the City of Oakland and County of Alameda, California. I am over the age
3 of 18 years and not a party to the within action. My business address is Meyers, Nave, Riback, Silver
4 & Wilson, 555 12th Street, Suite 1500, Oakland, California 94607.

5 On March 12, 2010, I served the within:

- 6 • **[PROPOSED] FINDINGS OF FACT AND CONCLUSION OF LAW AFTER TRIAL**
7 **BY COURT PURSUANT TO ELECTIONS CODE SECTION 16603**

8 on the parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

9 Dotty E. LeMieux, Esq.
10 Attorney at Law
11 8 Willow Street
12 San Rafael, CA 94901

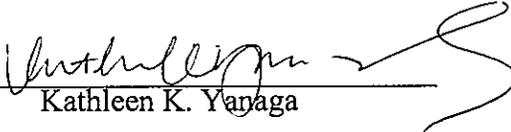
Attorney for Contestants
Suzan Sharpley, Robert Abeling

Telephone: (415) 485.1040
Facsimile: (415) 485.1044

12 **X** **(BY FIRST CLASS MAIL)** I caused each such envelope, with postage thereon fully
13 prepaid, to be placed in the United States mail at Oakland, California. I am readily
14 familiar with the business practice for collection and processing of mail in this office; and
15 that in the ordinary course of business said document would be deposited with the U.S.
16 Postal Service in Oakland on that same day. I understand that service shall be presumed
17 invalid upon motion of a party served if the postal cancellation date or postage meter date
18 on the envelope is more than one day after the date of deposit for mailing contained in this
19 declaration.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is
21 true and correct.

22 EXECUTED at Oakland, California, on March 12, 2010.

23 
24 Kathleen K. Yanaga

25 1365990.1



NOVATO SANITARY DISTRICT

500 DAVIDSON STREET • NOVATO • CALIFORNIA 94945 • PHONE (415) 892-1694 • FAX (415) 898-2279
www.novatosan.com

REVISED

FINAL BUDGET

FOR

FISCAL YEAR 2009-10

March 2010

**NOVATO SANITARY DISTRICT
2009-10 REVISED BUDGET
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SECTION I

**LETTER OF TRANSMITTAL
AND
OPERATING FUND SUMMARY SCHEDULES**



NOVATO SANITARY DISTRICT

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BOARD OF DIRECTORS

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DENNIS WELSH

BEVERLY B. JAMES
Manager-Engineer-Secretary

KENTON L. ALM
Legal Counsel

March 8, 2010

Honorable Board of Directors
Novato Sanitary District
Novato, California 94945

Dear Board Members:

The Revised District Budget for the 2009-10 fiscal year is presented for your consideration and approval. This letter provides an analysis of the budget and an overview of significant changes from the budget adopted in September 2009.

OVERVIEW OF SIGNIFICANT CHANGES FROM THE ADOPTED BUDGET:

The major issues that affect the Revised Budget include:

- Transition of the treatment facilities from contract operations. All of the significant variances for the Treatment Facilities are a direct result of the change back from contract operations with Veolia Water to an interim consulting agreement; rehiring of treatment plant operators; and expenses associated with the operation of the treatment plant.
- Increased legal fees for defense of the EPA criminal investigation; challenges related to contract operations and CEQA compliance; emergency measures and adoption of an interim consulting agreement; personnel issues relating to the facilities transition; contract referendum; and Board election protest.
- Election Expense. Additional election expenses will be incurred because of the Board election protest and contract referendum issues.
- Projected revenue has been decreased to reflect plummeting interest rates.

The issues that significantly affect the Capital Budget include:

- The Wastewater Facilities Upgrade Project will be completed ahead of schedule. Therefore, project funds allocated for fiscal year 2010-11 will be expended in 2009-10.

OPERATING BUDGET

The Revised 2009-10 Expenditure Budget is \$1,395,385 (15.36%) more than the 2009-10 budget adopted in September 2009. A detailed summary of all budget items showing the amount and percentage of

expenditures over or under original projections is included as Page ii in the Revised Budget. The most significant differences in expenditures between this revised budget and that adopted in September 2009 are:

- (1) **A decrease in Contract Operations (-\$1,691,285).** The cost of contract operations of the District's upgraded treatment facilities is decreased following the termination in December 2009 of the operations contract with Veolia Water.
- (2) **An increase in Employee Salaries (\$200,797).** The increase is primarily the result of employees transitioning from contract operations back to NSD employment.
- (3) **An increase in Employee Benefits (\$88,110).** Again, this increase is due to the transition of several employees from contract operations to NSD employment.
- (4) **An Increase in Retiree Health Benefits (\$53,730).** The employee transition also necessitated a recalculation of the cost of providing future retiree health benefits as required by GASB Statement 45 (post-employment benefits (OPEB)).
- (5) **An Increase in Operating Expenses (\$964,000).** Most of the operating expenses of the treatment facilities were included in the cost of contract operations with Veolia Water. With the termination of the contract, the District will be responsible for all operating costs. The following line items are affected:

Gasoline, Oil & Fuel	\$ 34,000
Operating Supplies	\$ 37,000
Operating Chemicals	\$250,000
Repairs and Maintenance	\$ 65,000
Gas & Electricity	\$510,000
Telephone	\$ 8,000
Permits & Fees	\$ 60,000
- (6) **An Increase in Other/Operational Assistance (\$705,568).** This increase is to cover costs of the interim consulting agreement with Veolia Water, contract operations technicians contracted through Aerotek, and other consultants needed for plant start-up. See Attachment 1.
- (7) **An Increase in Attorney Fees (\$922,902).** Attorney fees are increased to cover additional legal defense costs associated with the EPA investigation, challenges related to contract operations and CEQA compliance, emergency measures and adoption of an interim consulting agreement, personnel issues relating to the facilities transition, Veolia contract referendum issue, and Board election protest. See Attachment 2.

- (8) **An Increase in Election Expense (\$96,145).** The November 2009 Board election expense was \$19,395 higher than the \$40,000 originally budgeted because of a complete ballot recount requested by one of the candidates for office. In addition, \$76,750 has been allocated to cover election costs in June 2010 for the Veolia contract referendum issue and possible Board re-election depending on the outcome of an election protest hearing.

Figure 1 shows the breakdown of proposed operating expenditures by cost center.

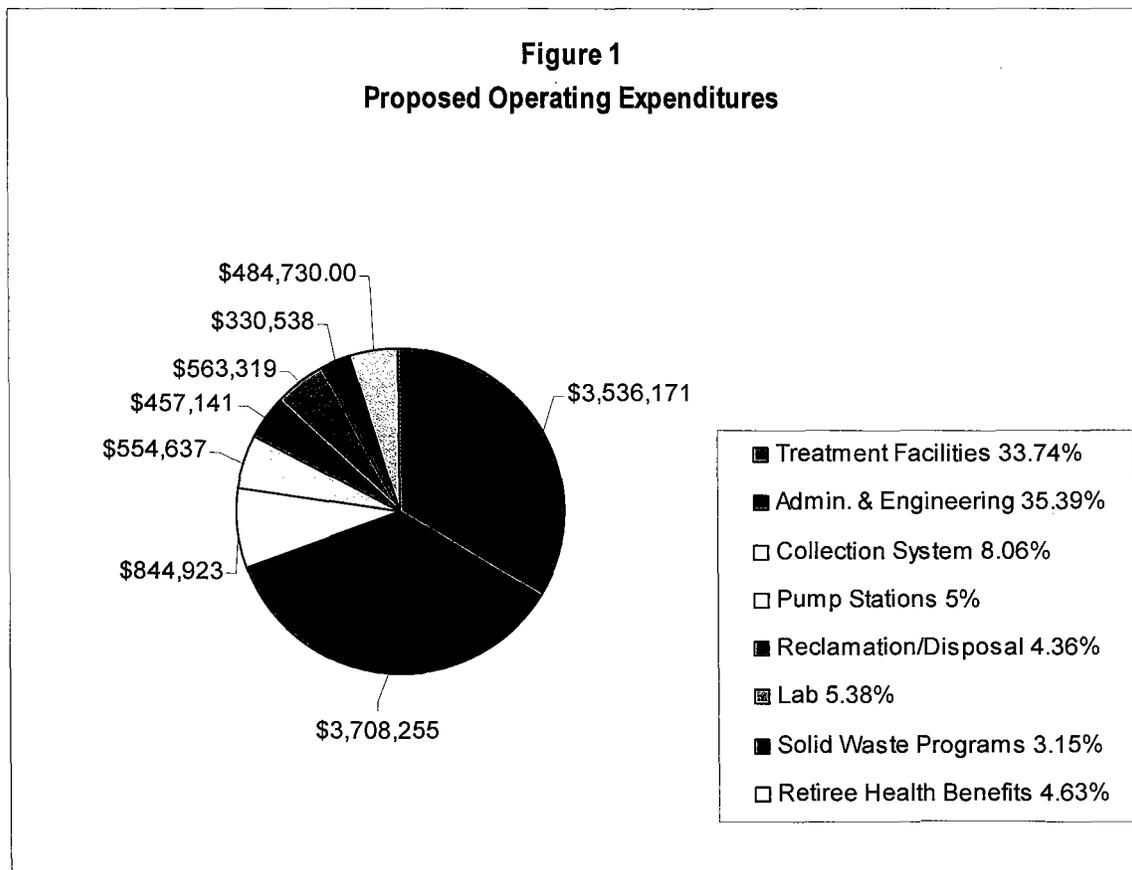


Figure 2 below shows proposed expenditures by expenditure type. Figure 2 shows that 41.96% of the budget involves personnel-related costs, including salaries, benefits, training, and memberships. The great majority of the remaining areas of expense are related either directly or indirectly to required maintenance and operation of facilities necessary to meet water quality and solid waste program mandates.

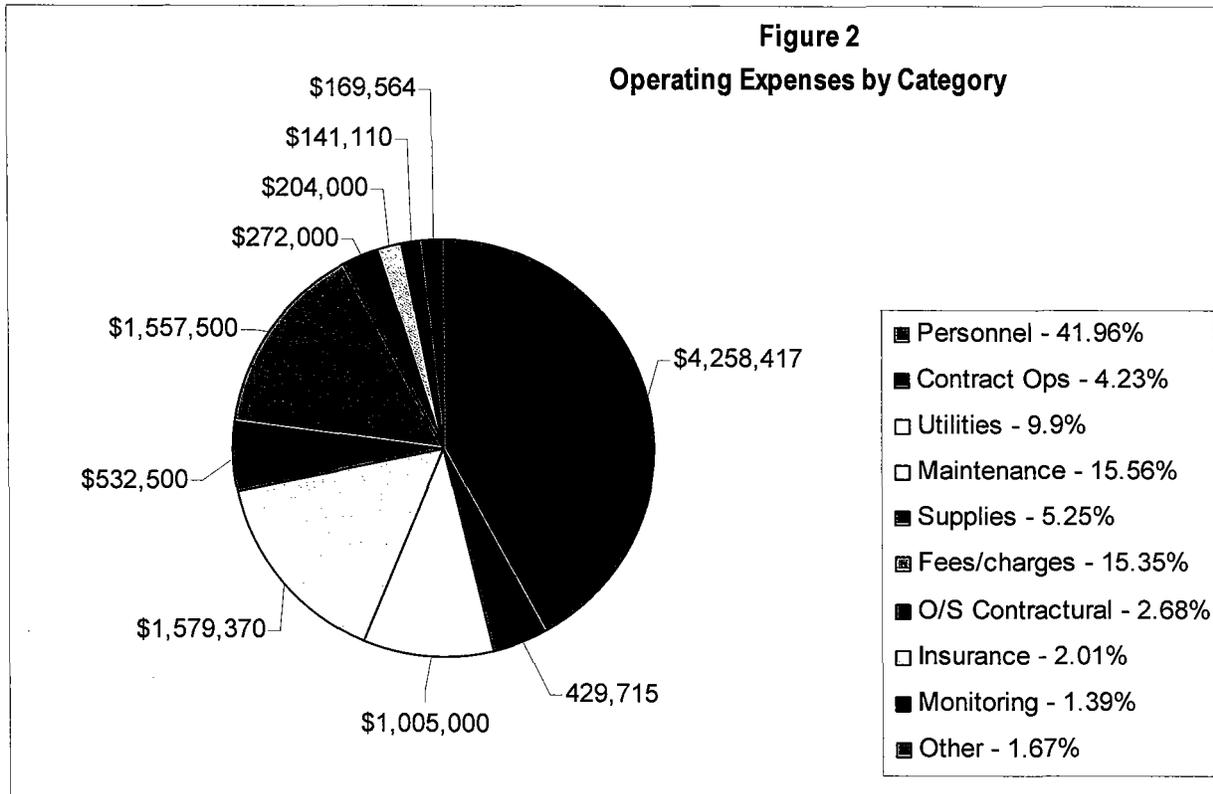
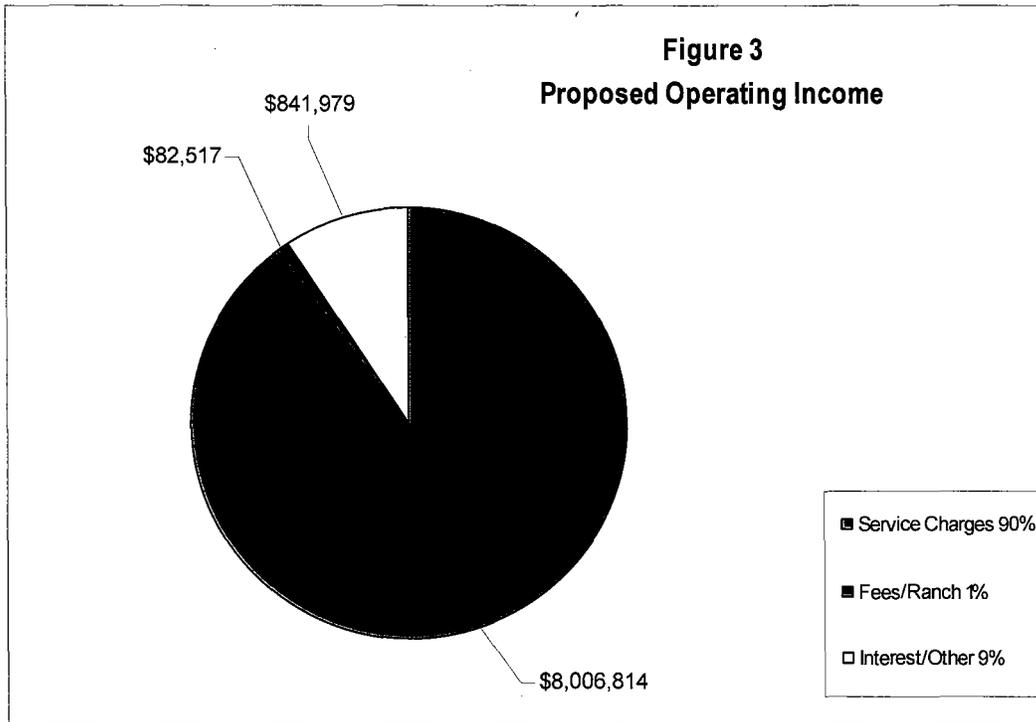


Figure 3 shows the breakdown of proposed operating revenues by source. Property taxes have been shifted to the Capital budget. The chart below reflects the increase in sewer service charges.



OPERATING SERVICE CHARGE RATE

The Operating Budget requires an operating service charge of \$281.00 per service unit. This represents an increase of \$82.00 per service unit, or 41% over the previous rate of \$199 per service unit. It should be noted that the District's sewer service charge rate increased by \$40 for fiscal year 2009-10, with the total increase allocated to the Operating Budget. In addition, \$42 per service unit has been transferred from the Capital Revenue Budget to the Operating Revenue Budget. All property tax revenue for 2009-10 will be allocated to the Capital Revenue Budget.

Table 1 shows the estimated fund flow based on actual 2008-09 expenditures and projected expenditures for 2009-10.

Table 1
FLOW OF OPERATING FUNDS FY 2008-09 – FY 2009-10

ANTICIPATED FLOW OF FUNDS	Actual 2008-09	Projected 2009-10
OPERATING		
Beginning Balance	6,611,702	7,829,747
Revenues Other Than SC/PT	1,018,708	924,496
Property Taxes	2,527,507	0
Service Charge Revenue	5,492,949	8,006,814
Fund Transfers		
From Self Insurance Reserve	77,909	50,000
To Self Insurance Reserve	(100,000)	0
From Rate Stabilization Fund	0	0
To Emergency Repair Reserve	0	0
From Southgate Reserve	0	0
From Capital Imp. Reserve	0	0
Expenditures	(7,799,028)	(10,479,714)
To reconcile P/Y Southgate transfers not made	0	
Ending Bal - Working Capital	7,829,747	6,331,343
Vehicle Replacement	231,565	276,565
Self-Insurance Reserve	151,915	103,415
Rate Stabilization Fund	600,000	600,000
Emergency Repair Reserve Fund	600,000	600,000
Southgate Reserve Fund	678,989	678,989
Total Operating Reserves	10,092,216	8,590,312
Operating Service Units	26,380	28,495
Operating Service Charge Rates	199	281
 Increase over Previous Year	 8.0%	 41.2%

SIF = Self-Insurance Fund
 RSF = Rate Stabilization Fund
 ERR = Emergency Repair Reserve
 SRF = Southgate Reserve Fund

Sincerely,



BEVERLY B. JAMES
 Manager-Engineer

Summary				
Contract Operations/Operations Assistance				Attachment 1
		Emergency	General	Plant
		Operational	Operational	Start-Up
		Assistance	Assistance	Assistance
Veolia Water September 9 - October 14, 2009			58,517.83	
Veolia Water January - June 2010		318,418.55		
Other Operational Assistance (Carollo, Aerotek)			254,231.37	
General Start-Up Assistance (Vendor TBD)				152,000.00
		318,418.55	312,749.20	152,000.00

Attorney Fees Summary - Acct. 66122			Attachment 2
ACH Illegal Activity			1,905.00
Contract Operations - General			3,909.50
Contract Operations - RFP and Veolia Contract			34,203.50
Board Meeting Matters, incl. attendance, travel, meeting preparation, agenda packet review			18,415.00
General			2,589.00
NBWA/NBWRA			4,550.00
River Watch			175.00
Research/In-house Costs			2,885.01
Public Records Act Requests	410.00		
Contract/CEQA Challenges	16,189.00		
Tolling Agreement	1,260.00		
Referendum/Potential Litigation	19,860.00		
Emergency Measures/Interim Agreement (including CEQA compliance)	10,178.00		
Board Election/Election Protest	7,457.50		
Personnel Matters associated with transition	10,219.50		65,574.00
EPA Investigation - Meyers Nave			12,623.85
EPA Investigation - Other legal defense			623,626.63
Total Attorney Fees July - Dec. 2009:			770,456.49
Projected January - June 2010			925,500.00
Total:			1,695,956.49
Minus Employee Defense Coverage under District's Liability Insurance Policy:			(500,000.00)
			1,195,956.49
Extraordinary Costs July - Dec. 2009	65,574.00		
Meyers Nave EPA Legal Defense	12,623.63		
Other EPA Legal Defense	623,626.63		
Insurance Payments through Dec. 2009	(85,039.59)		
	616,784.67		

SUMFINB	Novato Sanitary District	2009-10 BUDGET ADOPTED SEPTEMBER 2009										Today	08-Mar-10	Page VII
2009-10 Budget		Treatment Facilities	RECL	LM	Collection System	Pump Stations	Recycled Water	A-E	TOTAL	% OF TOTAL	OVER/UNDER BUDGET	OVER/UNDER BUDGET	%	
-000	Contract Operations	2,121,000							2,121,000	23.35%	2,121,000		N/A	
-010	Salaries and Wages	398,842	20,656	251,748	437,313	215,393	0	983,540	2,307,492	25.40%	(464,240)		-16.75%	
-020	Employee Benefits	173,496	8,985	112,142	192,799	93,696	0	465,171	1,046,290	11.52%	(190,413)		-15.40%	
-030	Directors' Fees							42,000	42,000	0.46%	4,200		11.11%	
-040	Election Expense							40,000	40,000	0.44%	40,000		100.00%	
-060	Gasoline, Oil & Fuel	6,000	10,000	2,000	15,000	4,000	0	8,000	45,000	0.50%	(43,225)		-48.99%	
-070	Insurance							154,000	154,000	1.70%	14,533		10.50%	
-071	Ins Claims Expense							50,000	50,000	0.55%	(50,000)		-50.00%	
-075	Agency Dues							45,000	45,000	0.50%	5,000		12.50%	
-080	Memberships							6,000	6,000	0.07%	(3,000)		-33.33%	
-090	Office Expense							25,000	25,000	0.28%	(2,000)		-7.41%	
-091	Software Maint	1,000	2,500	13,000	25,000	2,500	0	0	44,000	0.48%	(53,500)		-54.87%	
-100	Operating Supplies	8,000	3,500	30,000	17,000	10,000	0	9,000	77,500	0.85%	(51,500)		-39.92%	
-101	Operating Chemicals	50,000	0		0	4,000	0		54,000	0.59%	(276,500)		-83.66%	
-111	Radio Maintenance								0	0.00%	0		0.00%	
-112	Janitorial Services	14,000			.0	0			14,000	0.15%	(6,000)		-30.00%	
-113	Grounds Maintenance	1,000			0				1,000	0.01%	(4,000)		-80.00%	
-115	Sludge Disposal-Contractual	45,000	60,000					25,000	105,000	1.16%	0		0.00%	
-121	Accounting & Auditing							25,000	25,000	0.28%	0		0.00%	
-122	Attorney							277,098	277,098	3.05%	117,098		73.19%	
-123	Outside Consulting							272,000	272,000	2.99%	130,000		91.55%	
-124	IT/Misc Electrical							40,000	40,000	0.44%	(14,000)		-50.00%	
-130	Printing & Publication							12,000	12,000	0.13%	4,000		50.00%	
-150	Repairs & Maintenance	65,000	90,000	7,500	55,000	100,000	0	13,000	330,500	3.64%	(240,000)		-42.07%	
-151	Unusual Equipment Maint	0	75,000		0	0			75,000	0.83%	(105,000)		-58.33%	
-152	Small Tools	500	1,000		2,500	2,000			6,000	0.07%	(7,500)		-55.56%	
-153	TV Inspection/Outside Services				70,000				70,000	0.77%	0		0.00%	
-157	Ditch Dike Maintenance		25,000						25,000	0.28%	0		0.00%	
-160	Research & Monitoring				116,610				116,610	1.28%	20,000		20.70%	
-170	Travel, Mtgs & Train.							75,000	75,000	0.83%	0		0.00%	
-170(2)	Poll. Prev/Public Education			24,500					24,500	0.27%	(80,500)		-8.58%	
-191	Gas & Electricity	190,000	145,000		4,000	85,000	0		420,000	4.62%	(518,000)		-55.22%	
-192	Water	4,000	6,000		4,000	10,000			24,000	0.26%	1,500		6.67%	
-193	Telephone	5,000			1,000	25,000		12,000	43,000	0.47%	500		1.18%	
-200	Other	77,602			1,500				79,102	0.87%	69,357		711.72%	
-201	Perrinis & Fees	50,000	2,000	3,000	8,000	2,500	0	0	65,500	0.72%	(13,200)		-16.77%	
-202	Co. Collection Fees							57,000	57,000	0.63%	900		1.60%	
-250	Ser. Chg. System Exp							8,000	8,000	0.09%	500		6.67%	
-290	Vehicle Replacement	21,200	7,000	1,400	35,000	10,000	0	5,600	80,200	0.88%	0		0.00%	
-300	Capital Outlay	0	0	0	0	0		20,000	20,000	0.22%	(124,500)		-86.16%	
	SUBTOTAL:	3,231,641	456,641	561,900	864,112	564,089	0	2,644,409	8,322,792					
-021	Retiree Health Benefits							431,000	431,000	4.74%	255,255		145.24%	
-400	AB 939 Solid Waste Programs	0	0	0	0	0		330,538	330,538	3.64%	5,229		1.61%	
	TOTAL:	3,231,641	456,641	561,900	864,112	564,089	0	3,405,947	9,084,330	100.00%	542,094		6.35%	
		35.57%	5.03%	6.19%	9.51%	6.21%	0.00%	37.49%	100.00%					

2009-10 Budget Adopted 9/15/09

SUMFINB	Novato Sanitary District	2009-10 REVISED BUDGET										Today:	08-Mar-10	Page VIII
2009-10 REVISED BUDGET		Treatment Facilities	RECL	L-M	Collection System	Pump Stations	Recycled Water	A-E	TOTAL	% OF TOTAL	Over/Under Amount	Over/Under %		
-000	Contract Operations	429,715							429,715	4.10%	(1,691,285)	-79.74%		
-010	Salaries and Wages	600,922	20,656	251,748	423,941	208,807	0	1,002,215	2,508,289	23.93%	200,797	8.70%		
-020	Employee Benefits	262,163	8,985	112,142	186,982	90,831	0	473,295	1,134,399	10.82%	88,110	8.42%		
-030	Directors' Fees							50,000	50,000	0.48%	8,000	19.05%		
-040	Election Expense							136,145	136,145	1.30%	96,145	240.36%		
-060	Gasoline, Oil & Fuel	40,000	10,000	2,000	15,000	4,000	0	8,000	79,000	0.75%	34,000	75.56%		
-070	Insurance							154,000	154,000	1.47%	0	0.00%		
-071	Ins Claims Expense							50,000	50,000	0.48%	0	0.00%		
-075	Agency Dues							45,000	45,000	0.43%	0	0.00%		
-080	Memberships							6,000	6,000	0.06%	0	0.00%		
-090	Office Expense							35,000	35,000	0.33%	10,000	40.00%		
-091	Software Maint	7,000	2,500	13,000	25,000	2,500	0	0	50,000	0.48%	6,000	13.64%		
-100	Operating Supplies	45,000	3,500	30,000	17,000	10,000	0	9,000	114,500	1.09%	37,000	47.74%		
-101	Operating Chemicals	300,000	0		0	4,000	0		304,000	2.90%	250,000	462.96%		
-111	Radio Maintenance								0	0.00%	0	0.00%		
-112	Janitorial Services/Garbage Coll.	40,000			0	0			40,000	0.38%	26,000	185.71%		
-113	Grounds Maintenance	2,000			0				2,000	0.02%	1,000	100.00%		
-115	Sludge Disposal-Contractual	45,000	60,000						105,000	1.00%	0	0.00%		
-121	Accounting & Auditing							25,000	25,000	0.24%	0	0.00%		
-122	Attorney							1,200,000	1,200,000	11.45%	922,902	333.06%		
-123	Outside Consulting							272,000	272,000	2.60%	0	0.00%		
-124	IT/Misc Electrical							40,000	40,000	0.38%	0	0.00%		
-130	Printing & Publication							12,000	12,000	0.11%	0	0.00%		
-150	Repairs & Maintenance	130,000	90,000	7,500	55,000	100,000	0	13,000	395,500	3.77%	65,000	19.67%		
-151	Unusual Equipment Maint	0	75,000		0	0			75,000	0.72%	0	0.00%		
-152	Small Tools	3,000	1,500		2,500	2,000			9,000	0.09%	3,000	50.00%		
-153	TV Inspection/Outside Services				70,000				70,000	0.67%	0	0.00%		
-157	Ditch Dike Maintenance		25,000						25,000	0.24%	0	0.00%		
-160	Research & Monitoring			116,610				75,000	116,610	1.11%	0	0.00%		
-170	Travel, Migs & Train.								75,000	0.72%	0	0.00%		
-170(2)	Poll. Prev/Public Education			24,500					24,500	0.23%	0	0.00%		
-191	Gas & Electricity	700,000	145,000		4,000	85,000	0		930,000	8.87%	510,000	121.43%		
-192	Water	4,000	6,000			10,000			24,000	0.23%	0	0.00%		
-193	Telephone	13,000			1,000	25,000		12,000	51,000	0.49%	8,000	18.60%		
-200	Other/Operational Assistance	783,170			1,500				784,670	7.49%	705,568	891.97%		
-201	Permits & Fees	110,000	2,000	3,000	8,000	2,500	0	0	125,500	1.20%	60,000	91.80%		
-202	Co. Collection Fees							57,000	57,000	0.54%	0	0.00%		
-250	Ser. Chg. System Exp							8,000	8,000	0.08%	0	0.00%		
-290	Vehicle Replacement	21,200	7,000	1,400	35,000	10,000	0	5,600	80,200	0.77%	0	0.00%		
-300	Capital Outlay	0	0	1,419	0	0		20,000	21,419	0.20%	1,419	7.10%		
	SUBTOTAL:	3,536,171	457,141	563,319	844,923	554,637	0	3,708,255	9,664,446		1,341,655	14.77%		
	Refugee Health Benefits							484,730	484,730	4.63%	53,730	12.47%		
-400	AB 939 Solid Waste Programs	0	0	0	0			330,538	330,538	3.15%	0	0.00%		
	TOTAL:	3,536,171	457,141	563,319	844,923	554,637	0	4,523,523	10,479,714	100.00%	1,395,385	15.36%		
		33.74%	4.36%	5.38%	8.06%	5.29%	0.00%	43.16%	100.00%	100.00%				

Novato Sanitary District						Page 1
Revised 2009-10 Budget						
Operating Budget - EXPENDITURE SUMMARY						
		Budget 2008-09	Budget 2009-10	Expend Through December	2009-10 Budget	
					Revised	
Treatment Facilities, Lab. and Monitoring:						
Salaries/Benefits		1,841,895	936,228	670,137	0	1,226,976
Treatment Plant Contract Operations			2,121,000	349,715		429,715
Materials, Supplies and Ser.		1,928,885	736,312	681,145	0	2,441,380
Capital Outlay		56,000	0	1,419	0	1,419
Totals		3,826,780	3,793,540	1,702,416	0	4,099,490
RECLAMATION/DISPOSAL FACILITIES:						
Salaries/Benefits		65,386	29,641	14,461	0	29,641
Materials, Supplies and Ser.		480,500	427,000	236,269	0	427,500
Capital Outlay		63,000	0	0	0	0
Totals		608,886	456,641	250,730	0	457,141
PUMP STATIONS & COLLECTION SYSTEM:						
Salaries/Benefits		588,475	939,201	389,889	0	910,560
Materials, Supplies and Ser.		548,995	489,000	233,393	0	489,000
Capital Outlay		25,500	0	0	0	0
Totals		1,162,970	1,428,201	623,282	0	1,399,560
AB 939 SOLID WASTE PROGRAMS						
Salaries/Benefits		0	0	0	0	N/A
Materials, Supplies and Ser.		325,309	330,538	134,893	0	330,538
Capital Outlay		0	0	0	0	N/A
Totals		325,309	330,538	134,893	0	330,538
ADMINISTRATION AND ENGINEERING:						
Salaries/Benefits		1,512,679	1,448,711	803,396	0	1,475,510
Retiree benefits/GASB 45 funding		175,745	431,000	100,527	0	484,730
Materials, Supplies and Ser.		929,867	1,175,698	1,123,492	0	2,212,745
Capital Outlay		0	20,000	0	0	20,000
Totals		2,618,291	3,075,409	2,027,415	0	4,192,985
Grand Totals		8,542,236	9,084,330	4,738,736	0	10,479,714
TODAY	08-Mar-10					

Operating Budget - REVENUE SUMMARY

Account Number	Item	Budget 2008-09	Actual Revenue 2008-09	Budget 2009-10	Revenue Thru December	2009-10 Budget	
							Revised
41010	Service Chgs (1)	5,693,197.00	5,492,949	8,006,814	4,375,656		8,006,814
41020	County Ser Chg Collect Fees	47,200	0	0	0		0
41030	Pub Sewer Plan Chk/Insp Fees	2,500	12,412	2,500	7,239		7,500
41040	Conn Permi/ Insp Fees	25,000	10,977	25,000	6,256		25,000
41050	Property Tax Allocation (2)	1,841,000	2,527,507	0	0		0
41060	Interest Earn	250,000	224,428	200,000	73,542		150,000
41070	Annex Fees Leg/File/Engr	0	0	0	0		0
41080	Engr/AdminChgs	175,000	163,731	175,000	0		175,000
41090	Non-Domestic Permit Fees (3)	2,000	4,019	4,000	3,316		4,000
41100	Garbage Franchise Fee	45,000	45,000	45,000	0		45,000
41105	AB939 Collector Fees	271,862	271,862	277,299	0		277,299
41107	Oil/Bev/Tire Grants/ JPA Reimb. Fees (4)	59,278	60,845	63,080	0		63,080
41110	Sludge Disp Charges(NMWD)	0	0	100	0		100
41130	Ranch Income	82,517	82,517	82,517	0		82,517
41135	Recycled Water Fac.	102,544	74,736	20,000	0		20,000
41140	Other Rev (5)	160,000	63,428	75,000	23,054		75,000
41142	Asset Disposal	0	4,752	0	0		0
TOTALS		8,757,098	9,039,164	8,976,310	4,489,063	0	8,931,310

(1) Service charge revenue is based on the assumption that operating service charges will increase from \$199 to \$281. All of the property tax income is being transferred to the Capital Budget.

(2) Property tax revenue projection based on County of Marin property tax assessment rolls and increased growth. Property tax revenue this year has been allocated to the Capital Improvement Project budget.

(3) Includes application fees, permits, and monitoring charges.

(4) Oil/Bev/Tire Grants \$22,725; JPA Reimb. Fees \$40,355.

(5) Other revenue includes septic tank hauling fees and other miscellaneous revenue.

APPROPRIATIONS LIMITATION

The appropriations limitation, pursuant to Article XIII B of the California Constitution, will be determined prior to submission of the final budget in August.

FLOW OF FUNDS - OPERATING AND WORKING CAPITAL RESERVE FUNDS

		2009-10 Budget	
		Adopted Budget	Revised Budget
OPERATING FUND			
	FUND BALANCE 6/30/08	0	0
	Actual Revenues 2008-09	9,185,215	9,039,164
	Actual Expenditures 2008-09	(8,033,381)	(7,799,028)
	Transfer from Self-Insurance Fund for Claims	76,500	77,909
	Transfer to Self-Insurance Reserve Fund	(100,000)	(100,000)
	Transfer to Working Capital Reserve Fund	(1,128,334)	(1,218,045)
	FUND BALANCE 6/30/09	0	0
	Anticipated Revenues 2009-10	8,976,310	8,931,310
	Anticipated Expenditures 2009-10	(9,084,330)	(10,479,714)
	Anticipated Transfer from Self-Insurance Fund for Claims	50,000	50,000
	Anticipated Transfer to GASB 45 Fund	0	0
	Anticipated Transfer from Southgate Reserve Fund	0	0
	Anticipated Transfer to/from Working Capital Reserve Fund	58,020	1,498,404
	ANTICIPATED FUND BALANCE 6/30/10	0	0
WORKING CAPITAL RESERVE FUND			
	FUND BALANCE 6/30/08	6,611,702	6,611,702
	Transfer from Operating Fund 2008-09	1,128,334	1,218,045
	Transfer to Rate Stabilization Reserve	0	0
	Transfer to Emergency Repair Reserve	0	0
	FUND BALANCE 6/30/09	7,740,036	7,829,747
	Anticipated Transfer to/from Operating Fund 2009-10	(58,020)	(1,498,404)
	ANTICIPATED FUND BALANCE 6/30/10	7,682,016	6,331,343
	TODAY 08-Mar-10		

**SUMMARY OF FUNDS TO BE RAISED
FROM TAXES AND SERVICE CHARGES**

		2009-10 Budget	
		Adopted Budget	Revised Budget

	Proposed Operating Fund Expenditure Budget	9,084,330	10,479,714
	Proposed Capital Improvement Portion of 2009-10 Service Charge Revenues	5,157,414	5,157,414
	Working Capital Reserve	7,682,016	6,331,343
Less:	Anticipated Operating Fund Revenues Other than Taxes and Service Charges	(969,496)	(924,496)
	Est. Transfer to Capital Impvt Reserve (Southgate)	0	0
	Est. Transfer to Self-Insurance Fund for Claims	(50,000)	(50,000)
	Est. Operating Working Capital Reserve Fund Balance 6/30/10	(7,740,036)	(7,829,747)
	Est. Property Tax Allocation 2009-10	0	0

	13,164,228	13,164,228
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Comparison of Total Funds Raised From Taxes and Charges

	2008-09	2009-10
Property Tax Allocation	1,841,000	2,275,000
Service Charge Revenues:		
Operating	5,693,197	8,006,814
Capital Improvement	6,433,341	5,157,414
Service Charge Collection Fees	47,200	0
Totals	14,014,738	15,439,228

SECTION II

OPERATING FUND BUDGET

Operating Budget - TREATMENT FACILITIES

Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expends Thru December	2009-10 Budget	
							Revised
61010	Salaries/Wages	1,032,811	1,015,034	398,842	376,710		600,922
61020	Employee Benefits	449,272	420,191	173,496	120,589		262,163
61060	Gas, Oil & Fuel	42,500	31,425	6,000	2,593		40,000
61091	Software Maint	7,500	4,820	1,000	1,204		7,000
61100	Oper Supplies	50,000	45,781	8,000	12,894		45,000
61101	Oper Chemicals	309,000	307,936	50,000	72,103		300,000
61112	Janitorial Svs/Garbage	20,000	13,558	14,000	15,344		40,000
61113	Grounds Maint	5,000	4,242	1,000	1,215		2,000
62115	Sludge Disp. - Contract	30,000	45,856	45,000	23,205		45,000
61150	Repairs and Maintenance	250,000	259,150	65,000	57,006		130,000
61151	Unusual Eq Maint	70,000	10,480	0	0		0
61152	Small Tools	3,500	2,767	500	1,388		3,000
61191	Gas & Elect	720,000	686,975	190,000	212,148		700,000
61192	Water	4,000	2,359	4,000	1,321		4,000
61193	Telephone	9,000	12,678	5,000	6,303		13,000
61200	Other/Operational Assist.	7,250	116,244	77,602	132,749		783,170
61201	Permits & Fees	68,000	45,491	50,000	42,437		110,000
61290	Vehicle Repl	21,200	21,200	21,200	0		21,200
61300	Capital Outlay	36,000	8,232	0	0		0
Total - TREATMENT FACILITIES		3,135,035	3,054,418	1,110,641	1,079,210	0	3,106,456
TODAY	8-Mar-10						

Novato Sanitary District							Page 7
Revised 2009-10 Budget							
Operating Budget - WASTEWATER RECLAMATION/DISPOSAL FACILITIES							
Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expend Thru December	2009-10 Budget Revised	
63010	Salaries/Wages	45,565	44,152	20,656	8,608		20,656
63020	Employee Benefits	19,821	18,470	8,985	5,853		8,985
63060	Gas, Oil & Fuel	12,500	9,183	10,000	2,786		10,000
63091	Software Maint	2,500	2,410	2,500	0		2,500
63100	Oper Supplies	6,000	3,212	3,500	1,271		3,500
63101	Oper Chemicals	2,500	0	0	0		0
63115	Sludge Disposal	75,000	54,979	60,000	58,000		60,000
63150	Repairs & Maintenance	120,000	87,467	90,000	56,395		90,000
63151	Unusual Eq Maint	100,000	46,802	75,000	27,413		75,000
63152	Small Tools	2,500	573	1,000	1,216		1,500
63157	Ditch/Dike Maintenance	25,000	0	25,000	1,728		25,000
63191	Gas & Elect	120,000	140,760	145,000	76,768		145,000
63192	Water - Recl	6,000	2,186	6,000	9,009		6,000
63201	Permits & Fees	1,500	1,584	2,000	1,683		2,000
63290	Vehicle Repl	7,000	7,000	7,000	0		7,000
63300	Capital Outlay	63,000	4,116	0	0		0
Total - RECLAMATION/DISP. FACILITIES		608,886	422,894	456,641	250,730	0	457,141
UNUSUAL EQUIP. MAINT :							
	Pump Repairs (PPS 7)					25,000	
	Irrigation Valve Replacement					50,000	
TODAY	8-Mar-10						

Novato Sanitary District							Page 8
Revised 2009-10 Budget							
Operating Budget - LABORATORY AND MONITORING							
Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expend Thru December	2009-10 Budget Revised	
64010	Salaries/Wages	220,363	230,603	251,748	114,570	251,748	
64020	Employee Benefits	95,858	91,518	112,142	58,268	112,142	
64060	Gas, Oil & Fuel	2,625	1,601	2,000	739	2,000	
64091	Software Maint	5,000	334	13,000	6,570	13,000	
64100	Oper Supplies	35,000	27,493	30,000	17,763	30,000	
64150	Repairs & Maintenance	7,500	8,203	7,500	6,477	7,500	
64160	Research & Monitoring (Contractual)	96,610	96,360	116,610	50,918	116,610	
64170	Pollution Prev/Public Ed	105,000	78,221	24,500	13,957	24,500	
64200	Other	0	0	0	0	0	
64201	Permits & Fees	3,000	2,359	3,000	2,811	3,000	
64290	Vehicle Repl	1,400	1,400	1,400	0	1,400	
64300	Capital Outlay	20,000	6,411	0	1,419	1,419	
Total - LABORATORY AND MONITORING		592,356	544,503	561,900	273,492	0	563,319
REPAIRS AND MAINTENANCE:		Air conditioning (\$1,000); weights & balance (\$1,000); glassware washer (\$1,000); microscope maintenance (\$500); autoclave preventive maintenance (\$700); Lab. truck (\$3,300).					
RESEARCH AND MONITORING:		Contract studies (\$15,000); Mo metals (\$12,000); Non-domestic monitoring (\$16,800); sludge regs. (\$4,510); Pretreatment (\$4,000); Reclamation monitoring (\$5,100); Priority pollutants (\$19,200); Blending tests (\$10,000); Consulting fees - sludge report, etc. (\$10,000) Pollution prevention: L. Whitney (\$20,000)					
POLLUTION PREVENTION:		Includes CMSA (\$20,000), EOA (\$2,500), Misc (\$2,000)					
SOFTWARE MAINTENANCE:		Industrial Waste Pollution Prevention Software				8,000	
		LAB Upgrade				5,000	
TODAY	8-Mar-10						

Novato Sanitary District							Page 10
Revised 2009-10 Budget							
Operating Budget - COLLECTION SYSTEM							
Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expend Thru December	2009-10 Budget	
							Revised
60010	Salaries/Wages	334,145	314,783	437,313	167,616		423,941
60020	Employee Benefits	145,353	137,315	192,799	97,131		186,982
60060	Gas, Oil & Fuel	15,000	9,109	15,000	4,210		15,000
60091	Software Maint	75,000	18,899	25,000	1,250		25,000
60100	Oper Supplies	17,000	14,923	17,000	5,337		17,000
60101	Oper Chemicals	0	0	0	0		0
60113	Grounds Maint.	0	0	0	0		0
60150	Repairs & Maintenance	55,000	47,526	55,000	21,348		55,000
60151	Unusual Eq Maint	0	0	0	0		0
60152	Small Tools	2,500	1,721	2,500	133		2,500
60153	Outside Services	70,000	39,579	70,000	69,820		70,000
60191	Gas & Elect	0	0	0	0		0
60192	Water	4,000	3,045	4,000	2,095		4,000
60193	Telephone	2,000	916	1,000	658		1,000
60200	Other (Garbage Coll.)	2,495	1,246	1,500	1,122		1,500
60201	Permits & Fees	2,000	7,199	8,000	7,823		8,000
60290	Vehicle Repl	35,000	35,000	35,000	0		35,000
60300	Capital Outlay	12,500	11,933	0	0		0
Total - COLLECTION SYSTEM		771,993	643,192	864,112	378,543	0	844,923
UNUSUAL EQUIP. MAINTENANCE							
TODAY	8-Mar-10						

Operating Budget - ADMINISTRATION AND ENGINEERING

Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expend Thru December	2009-10 Budget	
							Revised
66010	Salaries/Wages	1,032,529	1,005,155	983,540	504,259		1,002,215
66020	Empl Benefits	480,150	421,233	465,171	299,137		473,295
66021	Retiree Health Benefits	175,745	148,185	180,000	100,527		188,730
66021	GASB 45			251,000			296,000
66030	Director's Fees	37,800	40,381	42,000	22,275		50,000
66040	Election Exp	0	0	40,000	0		136,145
66060	Gas, Oil & Fuel	11,000	6,826	8,000	2,544		8,000
66070	Insurance	139,367	131,049	154,000	162,460		154,000
66071	Ins Claims Exp	100,000	77,909	50,000	820		50,000
66075	Agency Dues	40,000	42,813	45,000	20,570		45,000
66080	M'Ships/Certification	9,000	8,088	6,000	2,840		6,000
66090	Office Expense	27,000	21,105	25,000	15,569		35,000
66091	Software Maint.	0	0	0	0		0
66100	Engr Supplies	8,000	8,514	9,000	3,241		9,000
66121	Accounting/Audit	25,000	22,150	25,000	21,200		25,000
66122	Attorney Fees	160,000	156,846	277,098	685,417		1,200,000
66123	O/S Contractual	142,000	132,615	272,000	82,180		272,000
66124	IT/Misc. Electrical	54,000	37,555	40,000	32,420		40,000
66130	Print & Publ	8,000	7,789	12,000	7,829		12,000
66150	Repairs & Maintenance	13,000	10,126	13,000	6,348		13,000
66170	Trav, Mtgs & Trn	75,000	62,691	75,000	15,365		75,000
66193	Telephone	11,500	11,554	12,000	6,025		12,000
66201	Permits & Fees	0	0	0	0		0
66202	Co. Collection Fees	56,100	56,164	57,000	36,149		57,000
66250	Ser Chg Sys Exp	7,500	0	8,000	240		8,000
66290	Vehicle Repl	5,600	5,600	5,600	0		5,600
66300	Capital Outlay	0	0	20,000	0		20,000
Total - ADMINISTRATION AND ENGINEERING		2,618,291	2,414,349	3,075,409	2,027,414	0	4,192,985
O/S CONTRACTUAL		Misc. engineering (incl. O/S mech/elect.) (\$25,000); Public Outreach (\$25,000) Standard specs. and drawings (\$25,000); records retention(\$10,000); labor relations (IEDA ongoing services inc. MOU development for 09-10 (\$12,000); misc. labor relations (IEDA) (\$5,000); NPDES permit assistance (\$60,000); safety (\$110,000)					
CAPITAL OUTLAY		Copier Computers					
TODAY	8-Mar-10						

Operating Budget - PERSONNEL DETAIL

Number	Position	Dept.	Pay Range	Total 2009-10 Salaries
1.00	Manager-Engineer.....	A/E		168,132
1.00	Deputy - Manager Engineer.....	A/E	MC122.5	148,128
1.00	Senior Engineer.....	A/E	MC116.5	104,858
1.00	Field Services Superintendent.....	A/E	MC117	113,232
0.75	Administrative Services Manager.....	A/E	MC117.5	87,048
1.00	Administrative Secretary.....	A/E	MC106	60,048
0.89	Finance Officer.....	A/E	MC112.5	81,462
1.00	Staff Engineer.....	A/E	47	81,864
1.00	Construction Inspector.....	A/E	44.5	72,492
1.00	Information System Specialist II.....	A/E	43.5	64,965
1.00	Laboratory Supervisor.....	L/M	MC115.5	105,276
2.00	ECA I.....	L/M	43	124,777
1.00	Collection System Superintendent.....	C/S	MC115	102,708
0.25	Collection System Leadworker.....	C/S	47	20,466
6.00	Collection System Worker II.....	C/S	40.5	342,833
1.00	Collection System Worker I.....	C/S	38.5	47,118
0.75	Operations Leadworker.....	TPF	47	61,398
2.25	WWTP Operator II.....	TPF	44.50	163,107
1.08	Mechanical Maintenance Technician II.....	TPF	43.5	74,789
1.00	Instrument Technician/Electrician.....	TPF	46.5	78,652
0.25	Wastewater Facilities Manager.....	TPF	MC118.5	30,468
0.17	WWTP Operator I.....	TPF	43	11,226
0.25	Mechanical Maintenance Leadworker.....	TPF	46	19,491
0.50	Reclamation Specialist.....	Reclam.	43	20,656
1.00	Engineering Intern.....	A/E	N/A	5,000
2.00	Collection System Interns.....	C/S	N/A	47,410
0.40	Temporary Electrician.....	TPF	N/A	51,635
1.00	Lab. Intern.....	L/M	N/A	12,000
	Allowance for Overtime.....	C/S		35,000
	Allowance for Overtime.....	A/E		5,000
	Allowance for Overtime.....	L/M		5,000
	Allowance for Standby Duty Pay.....	C/S		21,000
	Allowance for Overtime.....	TPF		20,000
	Allowance for Standby Duty Pay.....	TPF		20,000
	CCSR.....	C/S		1,500
	Subtotal			2,408,739
	Allowance for Possible COLA - represented group.....	3.20%		36,239
	Allowance for Possible COLA - across the board.....	0.30%		6,419
31.54				2,451,397
	Administration and Engineering (A/E)	=	1,002,215	
	Laboratory and Monitoring (L/M)	=	251,748	
	Treatment Facilities	=	544,030	
	Collection System	67%	=	423,941
	Pump Stations	33%	=	208,807
	Reclamation Facilities	=	20,656	
	Total/Check			2,451,397
NOTE:	Added Collection System Leadworker eff. 10/09			
	Eliminated 2 Maintenance Worker positions			
TODAY	8-Mar-10			

SECTION III

VEHICLE REPLACEMENT FUND

Operating Budget - VEHICLE REPLACEMENT FUND DETAIL

		2009-10 Budget	
		Prelim	Final
FLOW OF FUNDS			
	FUND BALANCE 6/30/08	146,613	146,613
	Sale of Vehicle/s:		
	1997 Ford Ranger	2,100	2,100
	1999 Dodge 4 x 4	2,300	2,300
	1997 Ford Taurus sedan	1,100	1,100
	Minus Commissions	(748)	(748)
	Contributions from Operating Fund		
	Accounts 2008-09:	80,200	80,200
	Purchase of Vehicles:		
	FUND BALANCE 6/30/09	231,565	231,565
	Sale of Vehicles:		
	1990 Ford Van	800	800
	1992 Ford diesel truck with crane	4,000	4,000
	Anticipated Contributions from Operating		
	Accounts 2009-10	59,000	80,200
	Planned Purchase of Vehicles:		
	1 Crane truck	(40,000)	(40,000)
	ANTICIPATED FUND BALANCE 6/30/10	255,365	276,565
	TODAY 08-Mar-10		

SECTION IV

SELF-INSURANCE RESERVE FUND

FLOW OF FUNDS - SELF-INSURANCE RESERVE FUND

		2009-10 Budget	
		Prelim	Final
	FUND BALANCE 6/30/08	127,906	127,906
	Interest Earned on Fund		
	Balance	1,918	1,918
	Transfer to Operating Fund to		
	Reimburse Fund for Claims	(76,500)	(77,909)
	Transfer from Operating Fund to		
	Self-Insurance Reserve Fund	100,000	100,000
	FUND BALANCE 6/30/09	153,324	151,915
	Anticipated Interest Earned on Fund		
	Balance	1,500	1,500
	Anticipated Transfer to Operating Fund		
	from Insurance Fund for Claims	0	(50,000)
	ANTICIPATED FUND BALANCE 6/30/10	154,824	103,415
	<p>** The District has general and automobile liability coverage in the amount of \$10,000,000 with a \$25,000 deductible through the California Sanitation Risk Management Authority (CSRMA). Coverage for Errors and Omissions is included in the CSRMA pooled liability insurance program.</p> <p>The District also has a property insurance policy through CSRMA to cover buildings, structures and equipment. This policy provides \$40,000,000 coverage with a \$25,000 deductible.</p> <p>The self-insurance reserve fund has been set up to cover possible District claims falling within the deductible amounts on these policies.</p>		
	TODAY 08-Mar-10		

SECTION V

**RATE STABILIZATION,
EMERGENCY REPAIRS,
AND
SOUTHGATE RESERVE FUNDS**

FLOW OF FUNDS - RATE STABILIZATION AND EMERGENCY REPAIRS RESERVE FUNDS

		2009-10 Budget	
		Prelim	Final
RATE STABILIZATION FUND**			
FUND BALANCE 6/30/08		600,000	600,000
Contribution to/from Operating Fund to Rate Stabilization Fund 2008-09		0	0
FUND BALANCE 6/30/09		600,000	600,000
Anticipated Contribution to/from Operating Fund to Rate Stabilization Account 2009-10		0	0
ANTICIPATED FUND BALANCE 6/30/10		600,000	600,000
EMERGENCY REPAIR RESERVE FUND**			
FUND BALANCE 6/30/08		600,000	600,000
Contribution to/from Operating Fund to Emergency Repair Reserve Fund 2008-09		0	0
FUND BALANCE 6/30/09		600,000	600,000
Anticipated Contribution from Operating Fund to Rate Stabilization Account 2009-10		0	0
ANTICIPATED FUND BALANCE 6/30/10		600,000	600,000
**	In October 2001, the District Board adopted an Operating Reserve Fund Policy that included establishing a Service Charge Rate Stabilization Fund in the amount of \$600,000 and an Emergency Repair Reserve Fund in the amount of \$600,000.		
TODAY 08-Mar-10			

SECTION VI

CAPITAL IMPROVEMENT BUDGET

CAPITAL IMPROVEMENTS BUDGET - REVENUE SUMMARY

Account Number	Item	Budget 2008-09	Actual Revenue 2008-09	Budget 2009-10	Revenue Thru December	2009-10 Budget	
							Revised
51010	Service Chgs (1)	6,433,341	6,194,177	5,157,414	2,809,609		5,157,414
51010	Property Taxes (2)	0	0	2,275,000	1,157,207		2,275,000
51020	Connection Charges (1,102,500	647,101	450,000	809,242		450,000
51030	Collector Sewer Charges	4,000	0	4,000	3,366		4,000
51040	Special Equal Charges	4,000	1,250	4,000	11,253		4,000
51050	Trunk Sewer Charges	0	0	0	0		0
51060	Interest Earn	500,000	474,484	500,000	47,007		500,000
51070	Other Revenue	0	19,545	0	0		0
TOTALS		8,043,841	7,336,557	8,390,414	4,837,684	0	8,390,414

(1) Service charge revenue is based on transferring \$42 from Capital service charges to operating to balance the transfer of property taxes from operating to capital. Capital service charges are now \$181.

(2) Due to the uncertainty and variability of property tax revenue it has been moved to the capital budget.

(3) Connection fee \$7,350/edu @ 150 new connections

CAPITAL IMPROVEMENTS BUDGET							Page 21
Revised 2009-10 Budget							
Account Number	Item	Budget 2008-09	Actual Expend 2008-09	Budget 2009-10	Expends Thru December	2009-10 Budget	
							Revised
72011	Admin. Bldg. Remodel	25,000	288	0	0		0
72110	Drainage PS #3 & #7 Outfall Rehabilitation	150,000	0	150,000	0		150,000
72111	SCADA Phase II & IIA	40,000	670	40,000	5,793		40,000
72403	Pump Station Rehabilitation	4,000,000	2,083,532	2,000,000	587,684		2,000,000
72406	Dechlor. Station Relocation	0	0	5,000	0		5,000
72508	N. Bay Water Recycling Auth.	140,000	79,368	50,000	104,529		363,763
72509	NTP Soil & Groundwater Invest.	20,000	7,218	3,000	0		9,000
72604	Laboratory Improvements	20,000	10,806	25,000	0		25,000
72607	WWTP Upgrade - Contract A1	150,000	81,554	50,000	18,305		36,000
72608	WWTP Upgrade - Contract A2	50,000	23,484	20,000	0		20,000
72609	WWTP Upgrade - Contract B	35,000,000	30,562,515	18,000,000	14,459,450		24,000,000
72611	Bayside Sewer	10,000	0	10,000	0		10,000
72612	Southgate Sewer	3,000	0	3,000	0		3,000
72706	Collection System Improvements	2,000,000	644,371	3,000,000	842,461		2,000,000
72707	Hamilton Wetlands/Outfall monitoring and planning	10,000	1,335	5,000	0		5,000
72708	Cogeneration	50,000	0	50,000			50,000
72801	Annual Minor Projects	50,000	6,308	50,000	0		50,000
72802	Annual Sewer Adj. for City Proj.	75,000	11,646	60,000	5,833		60,000
72803	Annual Collection System Repairs	250,000	109,190	200,000	119,213		200,000
72804	Annual Reclamation Facilities Improvements	350,000	187,207	260,000	125,741		260,000
72805	Annual Treatment Plant & Pump Station Improvements	200,000	35,139	260,000	83,930		260,000
72808	Strategic Plan Update	75,000	0	75,000	0		375,000
78500	Interest - Zions Bank	1,302,270	1,302,270	1,302,270	651,135		1,302,270
TOTALS		43,970,270	35,146,901	25,618,270	17,004,073	0	31,224,033
TODAY	08-Mar-10						

Revised 2009-10 Budget

FLOW OF FUNDS - CAPITAL IMPROVEMENT AND CAPITAL IMPROVEMENT RESERVE FUNDS

		2009-10 Budget	
		Adopted	Revised
CAPITAL IMPROVEMENT FUND			
	FUND BALANCE 6/30/08	0	0
	Actual Revenues 2008-09	7,336,557	7,336,557
	Actual Expenditures 2008-09	(35,146,901)	(35,146,901)
	Transfer to Zions Bank Credit Line Fund for 2008-09 Interest Payments	(1,302,270)	(1,302,270)
	Transfer from Capital Improvement Reserve Fund 2008-09	29,112,614	29,112,614
	FUND BALANCE 6/30/09	0	0
	Anticipated Revenues 2009-10	8,390,414	8,390,414
	Anticipated Expenditures 2009-10	(25,618,270)	(31,224,033)
	Transfer to Zions Bank Credit Line Fund for 2008-09 Interest Payments	(1,302,270)	(1,302,270)
	Transfer from Capital Improvement Reserve Fund 2009-10	18,530,126	24,135,889
	Transfer from Southgate Reserve Fund	0	0
	ANTICIPATED FUND BALANCE 6/30/10	0	0
CAPITAL IMPROVEMENT RESERVE FUND			
	FUND BALANCE 6/30/08	(2,419,351)	(2,419,351)
	Transfer to Capital Improvement Fund 2008-09	(29,112,614)	(29,112,614)
	Transfer from SRF Loan	31,297,761	31,297,761
	FUND BALANCE 6/30/09	(234,204)	(234,204)
	Anticipated Transfer from SRF Loan	27,197,761	27,197,761
	Anticipated Transfer to Capital Improvement Fund 2009-10	(18,530,126)	(24,135,889)
	ANTICIPATED FUND BALANCE 6/30/10	8,433,431	2,827,668
TODAY	08-Mar-10		

SECTION VII

FLOW OF FUNDS –

LINE OF CREDIT & STATE REVOLVING FUND

		2009-10 Budget	
		Prelim	Final

<u>Zions Bank - Line Of Credit</u>			
FUND BALANCE 6/30/08		30,006,231	30,006,231
Principal Payment 2008-09		0	0
Interest payments 2008-09		(1,302,270)	(1,302,270)
Transfer from Capital Improvement Fund 2008-09		1,302,270	1,302,270
FUND BALANCE 6/30/09		30,006,231	30,006,231
Principal Payment 2009-10		(5,000,000)	(5,000,000)
Est. Interest payments 2009-10		(1,302,270)	(1,302,270)
Transfer from Capital Improvement Fund 2009-10		1,302,270	1,302,270
ANTICIPATED FUND BALANCE 6/30/10		25,006,231	25,006,231
<u>State Revolving Fund Loan</u>			
FUND BALANCE 6/30/08		0	0
SRF deposits 2008-09		26,297,761	26,297,761
Anticipated additional SRFdeposits 2008-09		5,000,000	5,000,000
Anticipated Transfer to Capital Improvement Reserve Fund		(31,297,761)	(31,297,761)
FUND BALANCE 6/30/09		0	0
Anticipated SRF deposits 2009-10		27,197,761	27,197,761
Anticipated Transfer to Capital Improvement Reserve Fund		(27,197,761)	(27,197,761)
ANTICIPATED FUND BALANCE 6/30/10		0	0
TODAY	08-Mar-10		

Novato Sanitary District

SCHEDULE FOR APPROVAL OF 2010-11 PRELIMINARY AND FINAL BUDGET, APPROPRIATIONS LIMIT, AND SEWER SERVICE CHARGES

March 22, 2010	<u>Regular Board Meeting</u> : Approval of schedule for adoption of 2010-11 Preliminary and Final Budget, Appropriations Limit, and Sewer Service Charges.
April 26, 2010	<u>Regular Board meeting</u> : Budget workshop.
April/May	Staff prepares proposed 2010-11 Preliminary Budget.
May 10, 2010	<u>Regular Board meeting</u> . Revenue Program review.
May 24, 2010	<u>Regular Board meeting</u> . Determination of maximum rate increase if needed, authorization to prepare and publish a Proposition 218 Notice, and scheduling of public hearing for July 26 th .
June 11, 2010	<u>Deadline for publishing and mailing Proposition 218 Notice and Notice for Public Hearing on Collecting on County Tax Tolls, and Adoption of Sewer Service Charge Ordinance.</u>
June 14, 2010	<u>Regular Board Meeting</u> : Initial presentation of 2010-11 Preliminary Budget.
June 28, 2010	<u>Regular Board Meeting</u> : Board considers adoption of 2010-11 Preliminary Budget.
July 12, 2010	Publish second public hearing notice in the IJ.
July 26, 2010	Regular meeting. Public Hearing on Rate Increase under Proposition 218. Public hearings on 2010-11 service charge rates, collection on County tax rolls, and adoption of sewer service charge ordinance.
July 30, 2010	Publication of Sewer Service Charge Ordinance.
July 31, 2010	State Department of Finance provides growth factors for calculation of the District's 2010-11 appropriations limit.
August 10, 2010	Deadline for providing sewer service charge information to County of Marin.
August 24, 2010	<u>Regular Board Meeting</u> : Board establishes 2010-11 appropriations limit, approves Final Budget, and adopts resolution fixing tax allocation for 2010-11.

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Administration - District Policy Handbook	MEETING DATE: March 22, 2010 AGENDA ITEM NO. :
RECOMMENDED ACTION: Consider adoption of District Policies.	
SUMMARY AND DISCUSSION: The following proposed District policy is presented for Board consideration: # 5060 - Minutes of Board Meetings.	
ALTERNATIVES: N/A	
BUDGET INFORMATION: No budget impact.	
DEPT. MGR. :	MANAGER'S APPROVAL:

NOVATO SANITARY DISTRICT

POLICY HANDBOOK

POLICY TITLE: Minutes of Board Meetings

POLICY NUMBER: 5060

5060.1 The Secretary of the Board of Directors shall keep minutes of all regular and special meetings of the Board.

5060.1.1 Copies of a meeting's minutes shall be distributed to Directors as part of the information packet of a regular meeting of the Board, at which time the Board will consider approving the minutes as presented or with modifications. Once approved by the Board, the official minutes shall be kept in a secure location.

5060.1.2 If an audio tape recording of regular and special meetings of the Board of Directors is made, the device upon which the recording is stored shall be kept in a secure location for a minimum of 30 days. Audio recordings shall be available to members of the public if a request is made. Such request shall be made with adequate prior notice and the District shall make a playback machine available upon such request.

5060.1.3 Motions, resolutions or ordinances shall be recorded in the minutes as having passed or failed, and individual votes will be recorded unless the action was unanimous. All resolutions and ordinances adopted by the Board shall be numbered consecutively. In addition to other information that the Board may deem to be of importance, the following information (if relevant) shall be included in each meeting's minutes:

- Date, place and type of each meeting;
- Directors present and absent by name;
- Administrative staff present by name;
- Call to order;
- Time and name of late arriving Directors;
- Time and name of early departing Directors;
- Names of Directors absent during any agenda item upon which action was taken;
- Summary record of staff reports;
- Summary record of public comment regarding matters not on the agenda, including names of commentators;
- Summary record of Board comments;
- Approval of the minutes or modified minutes of preceding meetings;
- Approval of financial reports;
- Complete information as to each subject of the Board's deliberation;
- Record of the vote of each Director on every action item for which the vote was not unanimous;

Resolutions and ordinances described as to their substantive content and sequential numbering;
Record of all contracts and agreements, and their amendment, approved by the Board;
Approval of the annual budget;
Approval of all polices, rules and/or regulations;
Approval of all dispositions of District assets;
Approval of all purchases of District assets; and,
Time of meeting's adjournment.

For the section of the agenda devoted to Board and public comments, there is no legal requirement to enter any written or verbal comment into the minutes on request, whether from the public or a Board Member. Therefore, as stated above, summary records only will be recorded into the minutes.

DRAFT

NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

TITLE: Wastewater Operations Committee Report	MEETING DATE: March 22, 2010 AGENDA ITEM NO.:
RECOMMENDED ACTION:	
SUMMARY AND DISCUSSION: The Wastewater Operations Committee met on March 15, 2010 to review the operation of the Wastewater Treatment and Collection System Facilities. The attached report provides the Wastewater Operations and Maintenance Report for February 2010 and the Collection System summary for 2009. The next phase of the Wastewater Treatment Facility upgrade is scheduled to come online on April 12, 2010. This will require an increase in operations assistance to prepare Standard Operating Procedures, document training, and free staff to attend training.	
ALTERNATIVES: None.	
BUDGET INFORMATION:	
DEPT.MGR.:	MANAGER:



March 19, 2010 (Revised)

Ms. Beverly James
Manager - Engineer
Novato Sanitary District
500 Davidson Street
Novato, CA 94545

Subject: Veolia Water Operations Report – February 2010

Dear Ms. James:

We are pleased to provide this updated activity report for February 2010.

As always, please give me a call at 415-798-6075 should you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "John Bailey".

John Bailey
Project Manager

cc: Attachments

**MONTHLY OPERATIONS REPORT
FEBRUARY 2010**

Prepared for

**NOVATO SANITARY DISTRICT (NSD)
WASTEWATER TREATMENT PLANT
500 Davidson Street
Novato, CA 94545**

Prepared by

Veolia Water West Operating Services, Inc. (VWWOS)

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TREATMENT PLANT PERFORMANCE SUMMARY:

February 2010:

Parameter	Monthly Performance February 2010	
	Novato WWTP	Ignacio WWTP
Flow, MGD (monthly average)	7.29	
Influent BOD ₅ , mg/L (monthly average)	160	172
Influent TSS, mg/L (monthly average)	221	162
Effluent BOD ₅ , mg/L (monthly average)	24	
Effluent TSS, mg/L (monthly average)	44	
Effluent BOD ₅ - % Removal	83	
Effluent TSS - % Removal	80	
Ammonia mg/L (monthly average)	4.43	
Total Permit Exceedances NPDES	9	

The following table represents the reportable violations experienced in February.

Date	Parameter	Value	Limit	Flow (million gallons/day)	
				Grab (Inst)	Average
2/26	Enterococcus	2419.6 mpn	276 mpn	9.4 mgd	
2/27	Enterococcus	288 mpn	276 mpn	13.6 mgd	
Monthly	TSS % Removal	80%	85%		7.29 mgd
Week #4	TSS Weekly Max	84 mg/L	45 mg/L		9.35 mgd
Week #5	TSS Weekly Max	66 mg/L	45 mg/L		8.90 mgd
Monthly	TSS Monthly Ave	44 mg/L	30 mg/L		7.29 mgd
Monthly	BOD % Removal	83%	85%		
2/27	Copper Daily Max	69 ug/L	19 ug/L		11.30 mgd
2/28	Copper Daily Max	36 ug/L	19 ug/L		8.90 mgd

Discussion of Violations:

Enterococcus is a bacteriological test that determines the effectiveness of the disinfection process. Disinfection is accomplished by application of chlorine (sodium hypochlorite) to the wastewater. Factors such as solids in the wastewater, contact time, and biological and/or chemical demand impact the process. Both Enterococcus violations occurred during the blending event. High solids, high demand, and short contact times were all factors.

TSS (total suspended solids) weekly average; TSS is the solid fraction of wastewater made up of mostly organic material and microorganisms found in raw sewage and treated wastewater. Large sedimentation tanks (clarifiers) create a quiescent environment that allows solids (TSS) to settle and be removed from the wastewater. The failure of the secondary clarifier mechanism on February 1st put it out of service until February 16, 2010

which adversely impacted the plant's ability to remove solids for half of the month. Very high flows on February 5, 6, 26, & 27; 10.6 mgd, 12.1 mgd, 10.1 mgd, & 11.3 mgd respectively, further resulted in higher than typical TSS values.

TSS and BOD percent removal relates to the amount of solids or BOD removed from the wastewater from start to finish expressed as a percentage. Key factors that affect percent removal are concentration of BOD and TSS in the influent and plant performance relative to effluent quality. Poor plant performance due to excessive flows and failure of one of the secondary clarifiers resulted in a failure to meet percent removal for both BOD and TSS.

TSS monthly average: similar to the TSS descriptions above, poor plant performance during blending plus the impact of the out-of-service secondary clarifier resulted in an exceedance of the monthly average.

Copper daily maximum: Copper concentrations were likely driven by high TSS concentrations in the effluent as described above.

OPERATIONS & MAINTENANCE STATUS / REVIEW:

Key events for the period:

General:

- February 1st, secondary clarifier mechanism was found to be locked up. The clarifier had not been taken down for maintenance since the mid 1990's and the valve used to isolate the clarifier was inoperable. A pneumatic plug was installed to stop flow to the clarifier. The clarifier was drained and cleaned of debris, primarily rags. The collector mechanism appeared slightly bent. No other problems were observed. The system was tested and returned to service on February 16th.
- February 1st, fourteen consecutive days of blending ended at 1400 hours (Note: blend period was January 18th – February 1st)
- February 3rd – Leak discovered in outfall pipe downstream of dechlorination. Discharge diverted from bay to reclamation area to facilitate repair
- February 7th – Discharge to bay was restored
- February 16th – Secondary clarifier back in service
- February 26th – High flows blending initiated 1518 hours; ended March 1st at 1100 hours
- Veolia project manager and assistant project manager are attending Tuesday construction meetings to provide input. Construction and training schedule is provided to operations and maintenance staff at the morning meetings, posted, and noted on monthly schedule for staff.
- KPI Report from Job Plus CMMS provided at weekly client meetings

NOTE:

* One mgd equals 694 gallons per minute.

** Blending – Occurs during sustained high influent flow.

1. Flow less than 9 receives full secondary treatment.
2. Flow in excess of 9 but less than 16 mgd receives preliminary treatment (screening and grit removal) and primary sedimentation prior to filtration.
3. Flow in excess of 16 mgd is routed directly to gravity filters and receives no preliminary or primary treatment.

All flows described under 2 and 3 above are blended with the fully treated 9 million gallons prior to disinfection via chlorination.

CONSTRUCTION UPDATE:**Activities of Note**

- Training on new plant equipment and processes is well underway.
- Process test #3 is presently scheduled for April 12th

ADMINISTRATION:

- February 2010 invoice submitted on 3/2/10
- Biosolids Annual Report for 2009 sent in on 2/19/10

SAFETY AND TRAINING:**Safety & Regulatory Training**

- Monthly plant safety inspections for Novato WWTF completed on 2/18/10
- First Aid CPR Training conducted on February 23, 2010
- No lost time accidents reported during the month of February 2010
- Five Minute Tailgate training is held daily with the O&M staff

Skills & Technical Training

- Skills Assessment – On hold pending discussion with the Union
- Activated Sludge Training – “Back to Basics”, Ed Dix – Conducted on February 2, 2010
- Utility Water and Effluent Pumps February 19, 2010
- Automatic Backwash Strainer conducted February 22, 2010
- UV Bridge Crane conducted February 23, 2010
- Diesel Fuel Systems Equipment Training conducted on February 24, 2010

PUBLIC RELATIONS:

- No odor complaints received in February 2010 Novato or Ignacio WWTP

VWVOS EMERGENCY AGREEMENT:

- Operations ongoing under the Emergency Agreement
- VWVOS will provide NSD laboratory staff access to HACH WIMS process control computer software program in early 2010 to streamline the monthly reports.

MISCELLANEOUS

Veolia Support Staff On Site (Various Times)

John O'Hare
Ed Dix

Laboratory and Regulatory
Process Control Management Plan

WORK ORDER STATISTICS

February 1, 2010 - February 28, 2010

	DUE	CLOSED	OPEN
Preventative Work Orders	236	196	40
Corrective Work Orders	22	22	0
Totals	258	218	40

Preventative Maintenance Hours	150.1
Corrective Hours	56.58
Total Hours	206.68

Novato Sanitary District

Collection System Report For 2009

	Total Year to Date
Employee Hours Worked	
Regular Time Worked on Coll. Sys., hrs	8,409
Regular Time Worked on Pump Sta, hrs	4,203
Regular Time Worked on Other, hrs	315
Vacation/Sick Leave/Holiday, hrs	3,676
Overtime Worked on Coll. Sys., hrs	604
Overtime Worked on Pump Sta, hrs	447
Overtime Worked on Other, hrs	27
After Hours Callouts, number	18
Service calls, normal hours, number	50
Average S. C. response time (mins)	23
Productivity	
Rodder 3203 Ft. Cleaned	71,874
Truck 3205V Ft. Cleaned	197,059
Truck 3206V Ft. Cleaned	171,724
Camera Ft. Videod	63,488
Work Orders Completed	1,975
Total Footage Cleaned	440,830
Percent of Total System Cleaned	38%
Percent of Total System Videod	5%
Stoppages	
Minor (under 1000 gallons-no surface water impact)	22
Major (over 1000 gallons or surface water impact)	6
Total Overflow for Year, Gallons	16,559
Benchmarks	
Average Ft. Cleaned/Hour Worked	44
Total Stoppages/100 Miles	12.73
Average spill response time (mins)	20
Callouts/100 Miles	30
Overtime/100 Miles	275
Overflow, Gallons/100 Miles	7527