

Mon. Sept 4, 2006

Dear Judy,

Thank you for sending the CD that details the proposed EBMD project on Olympic Blvd. We are even more concerned now with regard to the numerous trees that would be in jeopardy on your alternate site.

Enclosed, you will find the notice given to all the residents of Freeman Rd & Freeman Ct. We would definitely like a meeting on site if possible, before the Sept. 18th deadline, preferably early in the week of Sept 11-15. to allow for response.

I will have been in touch with you already to discuss this date and time.

Sincerely,
Rebecca Christensen
3311 Freeman Rd
Walnut Creek, CA
94595

Proposed Pumping Plant EBMUD - 1500 2000 sq. ft.

Comments/Letters
must be received
prior to Sept 18th

- Original site - S. side of Olympic
next to gas station at end
of Newell in empty court area

Alternate site - N. side of Olympic -
Lot behind Lees, Christensen's; Johnson's
Property

* - This is the site EIR is recommending
despite trees and further reports needed

Send E Mails to: wttip@ebmud.com

Reports
→ EBMUD.COM
Water Treatment Program
(EIR / Chpt. 6 pg. 6-40)
(Environmental Impact Report)

Project Rep:
Judy Zawadi
EBMUD
Mail Stop 701
375 14th St
Oakland, CA 94607-4240
510-287-1191
JZawadi@ebmud.com

All residents on the S. side of Olympic are objecting to this project - impact is on one home, minimal trees, basically open space
- Max/ were notified

2. Only the Lees & Christensen's were originally contacted about this alternate site proposal on 8/29 w/ a deadline of Sept 18th

3. No considerations have been made to the numerous ¹⁰⁵⁵ heritage oaks behind our properties & the digging depths of 6 ft plus for a 1500-2000 sq. foot plant to install water lines out to Blvd. Way. Obviously, tree roots will be cut & these huge oaks will die if they do this -

We saw what happened w/ the drainage lines installed from the project on the hillside. We ended up losing 4 oak trees -

4. Across the street, they lose a minimal amt. of trees and have no residential impact short of one home, east side of that home. It is basically open land at that court site.

5. No reports have been issued or disclosed with regard to the homes and drug lab that were on this property prior to a batement. EPA and Hazardous Removal agencies discovered chemicals that were being dumped & drained on to this land from the underground drug lab. According to the DEA that raided this property and seized the drug making equipment, they discovered many 50 gal drums of chemicals that were leaking.

6. We risk losing some if not all of these 100 ft. plus, tagged heritage oaks should this project be approved. The damage would be not be evident for several years - once it's too late. This happened when the Olympic Village Market Plaza went in. Do the laws with regard to not building w/in the canopy of these trees apply? What about spring issues.

7. Property Values - will they be affected throughout the neighbor hood? Ours, the Lee's & the Johnson's certainly will be

8. If a neighborhood meeting could be arranged with Judy Zarnick, Project Rep, would you be interested in attending? If so, please contact Becky Christensen at 935-1874, ASAP as we only have until Sept. 18th to mail, EMail and arrange this meeting. (3)

9. It's a busy time of year for all of us and I'm not quite sure why there was a delay in notifying this side of Olympic that would be affected by this project and the potential loss of trees; property values. I will notify you as to date; time, depending on the response and may actually ask for this meeting to be on site. We are also going to investigate how they can put this on a property that has R-10 zoning. The current owners have had difficulty in building and/or selling this land because it supposedly cannot be rezoned for commercial due to the narrowing of Olympic Blvd. lanes that affect the exit and entrance to this property. If any of you have

④

input or knowledge about these laws, it would be most helpful. It could be that EBRUP is pulling an Eminent Domain and these zoning laws don't apply.

10. Last but not least, we are very concerned about the noise that this plant will generate. According to Sudy, they do not operate at full capacity during the day and peak time hours. Therefore, this plant will be in full operation during the evening, night and early AM hours. I can't begin to imagine the impact that would have on our "quality" of life and the installation of a sound wall across the back of our properties is probably prohibitive due to the trees. This issue in particular, affects all of us in this area.

- Obviously, I am adamantly opposed to this project in every respect. I do not want a pumping plant in my backyard. I do not want the noise drowning on when I try to use my backyard or sleep at night. And I especially, do not want to risk

The loss of these beautiful trees that enhance our neighborhood, despite any reports or promises Edmund may make. We've all seen the history of these "promises" from prior projects. The end result... the trees die and are taken out, if not before they fall, potentially on our homes.

Hope to hear from you soon!

becky : Jon Christensen
3311 Freeman Rd.
Walnut Creek, CA 94595
(925) 935-1874
FAX (925) 937-7929

If you wish to view one of these plants in a neighborhood, there is one located at
4022 Walnut Blvd.
W.C.

They are in full operation after 6:00 PM

2.83 Rebecca Christensen

- RC-1 EBMUD staff is not recommending selection of the Tice Pumping Plant Alternative Site. Although selection of sites is undertaken by the decision-making body, EBMUD is proposing to design and construct the new Tice Pumping Plant at the preferred site.
- RC-2 Comment noted.
- RC-3 EBMUD met with local residents at the alternative site on September 12, 2006. The commenter sent a second letter, Letter RC1, dated September 13, 2006, which discusses this meeting.
- RC-4 Refer to **Response RC-1**. The comment also summarizes issues raised in other comments in the letter (refer to responses below).
- RC-5 Consistent with requirements of the California Environmental Quality Act (CEQA), the District issued a Notice of Availability on June 23, 2006 indicating that the WTTIP DEIR had been published. EBMUD generally tries to notify landowners that could be affected by District projects. When the District discovered that individual notices were not sent to the residents of Freeman Road, an effort was made to contact landowners. District staff met with residents on Freeman Road at their request on September 12, 2006.
- RC-6 Refer to **Response AH-2**. Tree issues, including potential damage, were considered in the DEIR in Section 3.6, Biological Resources. Table 3.6-5 (DEIR p. 3.6-31) sets forth measures to minimize potential damage trees.
- RC-7 EBMUD staff is recommending the proposed site on the south side of Olympic Boulevard for Board approval. Refer to **Response AH-2**.
- RC-8 EBMUD understands that a methamphetamine laboratory was illegally operated at the alternative site, and that the laboratory and associated structures have since been demolished and removed. The environmental database review conducted for the Tice Pumping Plant did not identify the former drug lab referred to in this comment as an environmental case. EBMUD has not performed a "Phase 2" environmental screening assessment of the soils and groundwater at the site. In the event that EBMUD pursues the development of the alternative site, an environmental screening assessment will be performed on the on-site soils and groundwater.
- RC-9 See **Response AH-2**.
- RC-10 The Contra Costa County code (Chapter 816-4) prohibits work within the dripline of heritage trees without a permit (many of the trees at the alternative site are considered heritage trees). This chapter does not require a permit for or prevent trimming, pruning, or maintenance of a heritage tree as long as it is not destroyed or substantially changed

in form or shape. Please note, however, that pursuant to California Government Code Section 53091, EBMUD, as a local agency, is not subject to building and land use zoning ordinances (such as tree ordinances) for projects involving facilities for the production, generation, storage or transmission of water. It is, however, the practice of EBMUD to work with host jurisdictions and neighboring communities during project planning and to conform to local environmental protection policies to the extent possible. See **Response AH-2** for details of the mitigation measures pertaining to protected trees included in the DEIR. These measures incorporate many permit requirements of Contra Costa County (and other jurisdictions) to minimize impacts to heritage and otherwise protected trees.

RC-11 Please see **Response RC-10**.

RC-12 Refer to Section 2.1.5, Master Response on Social and Economic Costs, regarding property values.

RC-12a This meeting occurred on September 12, 2006.

RC-12b Refer to previous responses.

RC-12c Please refer to **Response HOA-9**. As a local agency engaged in a project to improve water treatment and transmission, EBMUD is not required to comply with local zoning for projects like the Tice Pumping Plant. For more information on this issue, refer to Section 2.1.3 of this Response to Comments document, Master Response on EBMUD Obligations to Comply with Local Ordinances, Obtain Local Agency Approvals and Permits, and Pay Local Agency Fees.

RC-13 Regarding noise impacts at the alternative site for the Tice Pumping Plant, refer to **Response DGB-3**. EBMUD is proposing to design and construct the new Tice Pumping Plant at the preferred site. Therefore project specific studies are not currently planned for the alternative site.

RC-14 See **Response RC-1**, above.

September 13, 2006

EBMUD
mail Stop 701
375 11th St.
Oakland, CA
94607-4240

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SEP 18 2006

PLANNING DIVISION

As residents of Freeman Rd and Freeman Court in Walnut Creek, we are adamantly opposed to the alternate site on North Olympic Blvd being proposed for the Tice Valley water pumping plant, by EBMUD.

We were never notified in writing, or otherwise, of any pumping plant project and were not notified until Aug. 29, 2006 of this alternate but "preferable" site. All residents in the area of the original site on South Olympic Blvd. have been on board and stated their opposition since November 2005.

Myself and one other resident on Freeman Rd. received a phone call on Aug. 29, 2006 and were told of this plan and the use of land that lies directly behind 3 homes, including mine. We were also told that if we had any opposition to this alternate site, we must submit our letters no later than Sept. 18, 2006 -

2 1/2 weeks from first notification. Not only are we appalled at the oversight on the part of EBMUD, we also feel we have not been given the opportunity of "fair and due process" to state our objections. South Olympic has had 10 months to do what we are struggling to do in 2 1/2 weeks.

Our reasons for opposition to the use of the North Olympic site are stated below and we have had unanimous support in our small but active neighborhood of twenty-plus homes.

1. Trees -

The alternate site on North Olympic is a long, fairly narrow lot completely surrounded by large oak trees. Many of these trees stand at over 100 ft. and are tagged heritage oaks. It is known that oak trees have a very shallow root system. Should the roots of these trees be cut in the construction and excavation of this land, those trees will die. We have already seen this happen on this lot. The potential for them to fall on any of the five homes surrounding this lot is tremendous. The potential for loss

of life if this were to happen, is self evident. We cannot afford to lose these trees under any circumstances and the jeopardy that they and the property owners are placed in for this project, is undeniable. No current arborist report has been done for this site. No consideration for code and canopy requirements in Contra Costa County are being acknowledged if they put a twenty foot, 2000 sq. ft. building on this land. This is twice the height of the existing home on this property should the height of the plant be ten feet, this obviously requires ten feet of subterranean excavation. The trees will be damaged and ultimately die with either construction plan.

2. Proposed Site - South Olympic

This original site was determined to be appropriate for this plant. It is open space at the dead end / open court at the end of W. Newell Ave. It does not affect any homes as there are no residents that live on the property line of this site. There are minimal trees under 30 ft. and low shrubs that

now occupy the area. This is an ideal location as it has absolutely no impact on any residents. It does not infringe on any property lines. It will not damage any 100 ft., 300 year old heritage oak trees. And it will not affect the safety of any homes and the families who live in them.

3. Noise -

The hours of operation for this plant are from 6:00 PM to 6:00 AM.

Unfortunately, no matter how minimal, the noise generated from this plant will be heard by the residents who use their backyards in the evening and sleep during these hours.

4. EIR -

We are unclear as to how a recommendation can be made to declare the North Olympic site, though alternate, as preferable. No EIR has been done on this site prior to the Sept. 18, 2006 deadline and we have no opportunity to review any reports that may follow afterwards. Once again, where does "fair and due process" apply for those of us surrounding

the North Olympic area? How can they even consider this site without these reports? There has been no recognition of the creekbed set backs that exist on this property.

No Environmental Impact Report has been done on this land that once housed a drug lab 5-7 years ago. This lab was dumping toxic chemicals on to the land and many leaking 50 gallon drums of chemicals were removed when this meth lab was taken down by the DEA. Now they want to put a water pumping plant on this land? Had we been notified in a timely manner of this proposed project, these issues would have been brought to light with an appropriate amount of time to investigate. Unfortunately, not the case and this issue definitely requires further review.

We are in hopes that the Board of EBMD will strongly take these four factors in to consideration prior to their decision later this year. The risks to use the alternate site at North Olympic Blvd. far outweigh any risks on the original site at South Olympic Blvd.

with open space. We do not have as many residents in our area as does the South Olympic site but we certainly have the most to lose should this water pumping plant go in at North Olympic Blvd. We hope that you will agree.

Thank you for your time, consideration and the opportunity to express our concerns.

Sincerely,
Rebecca Christensen
3311 Freeman Rd.
Walnut Creek, CA
94595

Addendum to Rebecca Christensen Letter Dated September 13, 2006

Tice Pumping Plant

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PLANNING DIVISION

Comments in opposition of Alternative Proposed Site on the North Side of Olympic Blvd. in the Vicinity of 2424 Olympic Blvd. Versus the Original Fully Analyzed Site on the South Side of Olympic

In general the comparison does not make sense my mind, open land not immediately next to homes or businesses resulting in small shrub and scrub oak removal versus a site surrounded on three sides by residential property with potential damage to very large and very old heritage oak trees. Following is a summary of points and issues:

- Construction access and area disruption on land at the end of court, on a side road off of Olympic, has to be substantially better or less damaging than the alternative site on Olympic Blvd. at a turn in the road, just past a major intersection, that is the main artery for traffic in the area.
- Site access for EBMUD employees after the completion of the project for plant and site maintenance would suffer the same consequences.
- There is a lack of complete EIR information and arborist reports to properly evaluate the site and for affected neighbors to review. There are not details plans on the alternative site as to location, pictures before and after, hazardous materials testing (site had a structure that burned down about 5 years ago that was an illegal meth. drug lab closed down by the DEA), water table analysis, etc.
- The owner of the property was contacted, but the residents of Freeman Road and Freeman Court, three homes of which line the alternative site, were not notified of the plans for the plant (due to EBMUD oversight) until two and one half weeks before the deadline to submit comments. This provided effectively no time to properly assess and get expert opinions, such as arborists and land use attorneys.
- The placing of what is effectively a commercial plant on a vacant lot at the end of a street about 120 feet from one residence versus the alternative of a site immediately on the property line of four residences, does not make sense. Additionally, any negative effect on neighboring residential property values is magnified many, many times over.
- Trees on the alternative site are 100+ feet tall and over 200 year old tagged heritage oaks. They are part of a row of such interdependent trees that span the length of Freeman Road to Freeman Court, which is immediately parallel to the north side of the alternative site. The construction on the site will require construction within drip lines of some of these heritage oaks which is in direct conflict with county rules for any other development use. The residents of the area have experienced, first hand, the destruction of other oak trees in the area when the shopping mall at the corner of Tice Valley and Olympic was built and

when a storm drain was installed at the alternative site, after being told that measures would be taken to eliminate such an outcome.

- Construction at the alternative site may very likely result in creation of time bombs of death, destruction and very significant neighboring property value declines if one or more of the large oak trees fell at all, and particularly on a neighboring residence.
- I can not tell from my reading of the draft EIR if the site is even wide enough to handle the plant and access roads, at all, even if the trees were not a factor when considering County creek set back rules.
- This resident does not want a 20 foot tall building across his back yard fence with any noise generation in the evening hours when I want to enjoy the peace and privacy my back yard
- When you review the address of local residences submitting opposition to the plant alternative site, you will note a united, emotionally charged, politically active, neighbor hood of residences on Freeman Court and the end of Freeman Road.
- EBMUD does not have another local site of the same proposed size, 10, above ground, for the neighboring residents to see and hear. Placing the plant underground at the alternative site would not work due to tree issues, water tables, etc.

Petition of Residents

Rebecca & Jon Christensen
 3311 Freeman Rd.
 Walnut Creek, CA. 94595
 Rebecca Christensen

Elizabeth & Richard Lee
 3303 Freeman Rd.
 Walnut Creek, Ca 94595
 Elizabeth Lee

Richard & Elizabeth Lee
 3303 Freeman Road
 Walnut Creek, CA 94595
 Richard Lee

JON CHRISTENSEN
 3311 FREEMAN RD
 WALNUT CREEK, CA 94595
 Jon Christensen

Kate Lyon + Adam Lyon
 3300 Freeman Rd.
 Walnut Creek, CA 94595

Petition of Residents (2)

John + Virginia Cockrell
3346 Freeman Rd
Walnut Creek, Ca 94595

Virginia M. Cockrell

John T. Corbill

Stephen J. Fowle
3351 Freeman Rd
Walnut Creek



JOAN A. THAYER

3351 FREEMAN RD.

WALNUT CREEK, CA 94595

JIM NATION ~~Jim NATION~~

JAN NATION ~~Jan NATION~~

3306 Freeman Rd

Walnut Creek, CA 94595

Robert H. Hudziak

3370 Freeman Rd

Walnut Creek CA 94595

Don Plutzer

Petition of Residents

Rebecca & Jon Christensen
 3311 Freeman Rd.
 Walnut Creek, CA. 94595
 Rebecca Christensen

Mike & Karen Perry
 3383 Freeman Rd
 Walnut Creek 94595

MP

Marney Ackerman
 3375 Freeman Rd
 Walnut Creek 94595

Marney Ackerman

David Ackerman
 3375 Freeman Rd.
 Walnut Creek, Ca 94595

John & Ann Theodoropoulos

12 Freeman Ct
 Walnut Creek, CA 94595

Petition of Residents (2)

Gene L Bozorth
3380 Freeman Rd W.C. 94595
935-4292

Donald Bozorth

William Greif

3386 Freeman Rd
Walnut Creek CA 94595
930-9873



Lisa Greif
3386 Freeman Rd.
WC 94595



Bill Boselli
3399 Freeman Rd
WCCA 94595

Tracy Broback
3304 Freeman Rd
Walnut Creek, CA
94595

T Broback

Matt Broback
3304 Freeman Rd
WC, CA 94595

Matt Broback

Jim & Mary Beall Neighbor

3314 Freeman Rd
Walnut Creek, Ca 94595
Mary Beall Neighbor

Mary Beall Neighbor
3314 Freeman Rd.
WC Calif 94595

Robert Ford
3322 Freeman Rd.
Walnut Creek, CA 94595

Gail R. Ford
3322 Freeman Rd.
Walnut Creek, CA 94595

Donna; Tim Crawford
3330 Freeman Rd.
Walnut Creek CA. 94595
Donna Crawford

Tim & Donna Crawford
3330 Freeman Rd
Walnut Creek CA 94595
Tim Crawford

Kim Henderson
3338 Freeman Rd.
Walnut Creek, CA 94595
Kim Henderson

ADAM HENDERSON
3338 FREEMAN RD
Walnut Creek, CA 94595
Adam Henderson

RICHARD ROWNOW
3343 FREEMAN RD
WALNUT CREEK CA 94595
Richard Rownow

Petition of Residents (2)

SUZANNE YOUNG 48 FREEMAN CT WALNUT CREEK, CA 94595
(925) 906-9752

Sarah Johnson Sarah Johnson
3319 Freeman Rd.
Walnut Creek, CA.
94595

Mike Johnson M Johnson
3319 Freeman Rd.
Walnut Creek CA 94595

Petition of Residents

Comment Letter RC1

1. Rebecca & Jon Christensen
3311 Freeman Rd.
Walnut Creek, CA. 94595
Rebecca Christensen

2.84 Rebecca Christensen

- RC1-1 The commenter's opposition to the alternative site for Tice Valley Pumping Plant is acknowledged. EBMUD staff is not recommending selection of that site. However, approval of WTTIP projects and project locations is at the discretion of the EBMUD Board of Directors.
- RC1-2 Refer to **Response RC-5**.
- RC1-3 Refer to **Response RC-5**.
- RC1-4 Refer to **Response RC-5**.
- RC1-5 See **Response AH-2**.
- RC1-6 EBMUD staff is recommending the proposed site on the south side of Olympic Boulevard for EBMUD Board approval.
- RC1-7 The commenter's opposition to this alternative location for the Tice Pumping Plant is noted. District staff are not recommending this alternative site. As noted in **Response DGB-3**, this pumping plant will not be allowed to exceed the 45-dBA nighttime noise limit at the closest residential receptors regardless of the location. See **Response DGB-3** for more discussion.
- RC1-8 The Tice Pumping Plant alternative site was evaluated in Chapter 6 of the DEIR. Refer to **Response RC1-1**.
- RC1-9 See **Response MJ-4**.
- RC1-10 Refer to **Response RC1-8**. As the alternative site is not being recommended for approval, no additional study of soil contaminant impacts will be conducted at this time.
- RC1-11 Refer to **Response RC1-2**.
- RC1-12 As part of the CEQA analysis on this complex project, EBMUD must balance a variety of competing considerations. The number of neighboring residences was among the considerations for this project component. This is one of the reasons EBMUD staff is recommending the proposed site south side of Olympic Boulevard for approval by the EBMUD Board of Directors.
- RC1-13 See **Response AH-3** regarding the DEIR's analysis of potential traffic and circulation impacts (and associated mitigation measures), and the use of Olympic Boulevard, associated with construction of the Tice Pumping Plant (both the proposed and alternative sites).

- RC1-14 See **Response AH-3** regarding the DEIR's analysis of potential traffic and circulation impacts (and associated mitigation measures), and the use of Olympic Boulevard, associated with construction of the Tice Pumping Plant. As described on DEIR pp. 3.8-7 and 3.8-8, the various project facilities (including the Tice Pumping Plant), once installed, would only require maintenance activities similar to those needed under existing conditions. The level of traffic associated with those maintenance activities would be insignificant compared to that of the facility construction, and the impact of accessing either the proposed or the alternative site would be less than significant.
- RC1-15 Refer to **Response AH-2** regarding potential impacts to trees; refer to **Response RC-8** regarding the former illegal methamphetamine laboratory; and refer to Section 2.1, Master Response on Social and Economic Costs, regarding economic property values.
- RC1-16 Refer to **Responses RC1-1** and **RC1-2**. A meeting was held with residents on Freeman Road on September 12, 2006 and a period of over 60 days was provided for comments on the DEIR.
- RC1-17 Refer to **Response RC1-12**.
- Refer to **Response AH-2**.
- RC1-19 Refer to **Response AH-2** regarding trees and mitigation of impacts.
- RC1-20 As discussed in the DEIR, the alternative site has sufficient space for a pumping plant without adversely affecting the creek.
- RC1-21 EBMUD acknowledges the concerns about visual and noise effects of alternative Tice Pumping Plant site. Refer to **Responses RC1-7** and **DGB-3** for additional discussion.
- RC1-22 EBMUD acknowledges the opposition from residents on Freeman Court and Freeman Road.
- RC1-23 Comment noted. EBMUD is considering the preferred site and alternatives for the Pumping Plant.
- RC1-24 These are the attached signatures of residents.



MorganMillerBlair
A LAW CORPORATION

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DANIEL A. MULLER
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September 18, 2006

WATER DISTRIBUTION

SEP 18 2006

PLANNING DIVISION

VIA FACSIMILE & U.S. MAIL

Judy Zavadil, Sr. Project Manager
East Bay Municipal Utility District
P.O. Box 24055, MS701
Oakland, CA 94623-1055

Re: Comments on Draft EIR for EBMUD's Water Treatment and
Transmission Improvements Project
(Our File No.: 10426-001)

Dear Ms. Zavadil:

This office represents Robert and Clarita Wooldridge in matters related to the East Bay Municipal Utility District's ("EBMUD") Water Treatment and Transmission Improvements Project (the "Project"). This letter is intended to provide comments on the draft Environmental Impact Report ("DEIR") for the Project.

By way of background, Mr. and Mrs. Wooldridge own the residential parcel located at 162 Lombardy Lane in Orinda (the "Wooldridge Property") which is identified in the DEIR as a proposed site for a water pump station, called the "Happy Valley Pumping Plant" ("HVPP") in the DEIR. It appears from the DEIR, that the Wooldridge Property may also be proposed for use as a staging site for construction equipment and vehicles during the rather lengthy construction of the HVPP and related water pipeline work within the Lombardy Lane/Sleepy Hollow area.

My clients have owned their parcel for 30 years. They lived for many years next door, at 164 Lombardy Lane, before relocating for business reasons back East. They retained the Wooldridge Property with the heartfelt intention of building their home upon return to California. Having returned, the Wooldridge's are actively engaged in the steps leading to constructing their home on their property during the next year. Their undeveloped parcel is a predominantly level site, which is unusual in the Sleepy Hollow area of Orinda. As explained herein, in addition of depriving Mr. and Mrs. Wooldridge of the opportunity and long-held desire to return to their home town, locating the proposed HVPP on the Wooldridge Property would be highly undesirable and improper from practical and cost standpoints, as well as from a CEQA-compliance perspective. Basically, as a threshold matter, the DEIR does not explain the need for the HVPP and pipeline, and further does not explain (if these improvements are truly needed) why the alternative pumping station site, at Miner Road, was not the "preferred" alternative.

Ms. Judy Zavadil
EBMUD
Comments on WTTIP DEIR
September 18, 2006
Page 2

As part of our comments, and except as specifically noted otherwise herein, we hereby reiterate the comments on the DEIR (1) that were submitted on behalf of the City of Orinda by the Shute, Mihaly & Weinberger law firm, dated September 11, 2006, (2) that were within my clients' prior comment letter dated August 1, 2006, (3) that were in Wayne and Jo Alice Canterbury's comment letter dated July 28, 2006, (4) that were submitted by Jim and Francoise Cervantes, dated July 28, 2006, and (5) that were submitted by Mike and Sally Rubinstein on July 17, 2006 and last week. (Several, but not all, of these submittals are attached.) Except as noted, the comments in those other letters or e-mails, and the related submittals, are hereby incorporated by reference, as if fully set forth herein.

As noted in the aforementioned comment letters, Orinda's elected officials and residents have expressed serious concerns with the disproportionate impact of the Project on the City's residents and neighborhoods. City officials and residents alike have looked to the DEIR for a clear and compelling description of why the Project is needed, and as a focus of this letter - why the HVPP and pipeline are needed - and what can be done to avoid severe community disruption and environmental impacts during and after construction. Unfortunately, the DEIR fails to clearly explain why the Project components (especially the HVPP and pipeline) are necessary. Nor does the DEIR adequately consider alternative sites or nationally recognized alternative technologies that could help avoid the serious impacts on Orinda and its residents caused by the Project.

For these reasons, the Wooldridge's cannot support the aspects of the Project that are detrimental to their property. Involuntary acquisition of all or portions of their property, traffic congestion, road closures, noise, visual blight, and biological impacts from Project components affecting the Lombardy Lane area are unacceptable, and are not adequately analyzed under CEQA. The DEIR thus should be revised to include consideration of real alternatives that will not so negatively affect the Wooldridge's and their neighbors. To the extent the need were to be demonstrated adequately for the improvements proposed along Lombardy Lane, there very well may be other feasible locations for expanding the capacity of EBMUD's water treatment and distribution system. There are almost certainly other feasible treatment technologies that would enable EBMUD to maintain compliance with applicable regulations without subjecting the community to serious disruptions.

As detailed below, the DEIR fails to adequately disclose or analyze the significant environmental impacts of the Project, and also fails to provide adequate mitigation for the impacts it does identify. Moreover, the DEIR does not contain sufficient information about the Project's components, its growth inducing and cumulative effects, and the feasibility of alternatives to permit a reasoned and informed decision. As a result, the DEIR fails to meet the standards set forth in the California Environmental Quality Act ("CEQA"; Pub. Res. Code § 21000 et seq.) and the CEQA Guidelines (Tit. 14, Cal. Code Regs., § 15000 et seq.). The DEIR must be revised and recirculated before any action may be taken on the Project or any of its

Ms. Judy Zavadil
EBMUD
Comments on WTTIP DEIR
September 18, 2006
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component parts. Furthermore, as part of any such revision and recirculation, **the HVPP and associated pipeline should be removed entirely as a project component, or – at a minimum – the HVPP itself should be relocated off of the Wooldridge’s site to the alternative site analyzed in the DEIR, on Miner Road, where the land owners are apparently willing to sell to EBMUD, and causing fewer impacts to the Lombardy Lane neighborhood.**

I. The DEIR Does Not Adequately Describe the Project or its Necessity

The inclusion in an EIR of a clear and comprehensive description of the proposed project is critical to meaningful public review. County of Inyo v. City of Los Angeles, 71 Cal. App. 3d 185, 193 (1977) (Inyo II). The DEIR fails to provide an adequate Project description in several key respects.

First, the DEIR's descriptions of "project-level" actions are confusing and lack necessary detail. The DEIR's complex organization forces readers to cross-reference between multiple sections and volumes in order to obtain a complete description of any particular Project element. The need for extensive cross-referencing limits the usefulness of the DEIR as an informational document, and thus undermines CEQA's core purpose.

Second, and more importantly, the DEIR does not clearly or consistently correlate the Project's numerous objectives and purposes ("need") with the Project's individual elements or components. Put differently, it does not clearly state how each facility or component is needed to further any particular objective or goal. Instead, the DEIR describes a number of purposes and objectives, and a number of potentially interrelated actions or facilities, at a vague and general level that does not permit the decision-maker to undertake an informed balancing of needs for the components, in light of their benefits and environmental costs. This lack of correlation between the Project and its purposes renders the DEIR fundamentally deficient as an informational document.

For example, the DEIR suggests that aspects of the Project are necessary to comply with state and federal regulations, but it does not explain how the regulations dictate particular facilities or upgrades. The DEIR lacks a clear summary of federal and state regulations governing EBMUD's water treatment and distribution activities. The purpose and need sections (Section 2.2.2, p. 2-14, and following) mention various regulations in general terms, but do not contain specific citations or information about which state or federal agencies are responsible for determining compliance. A section clearly explaining the regulatory scheme governing EBMUD's operations, and identifying the agencies responsible for its enforcement, would be extremely helpful to both the public and decision-makers in evaluating the need for particular Project components. As a result, the public and decision-makers can only speculate as to whether many of the actions evaluated in the DEIR will ever be necessary.

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Table 2-3, which purports to summarize the need addressed by each specific water treatment improvement action, contradicts the text of the DEIR. Table 2-3 states that the proposed clearwell, pipeline, pumping plant, and electrical substation are necessary to address the requirements of the state NPDES permit for the Orinda WTP (p. 2-17). The text of the DEIR, however, does not cite the NPDES permit as requiring installation of a clearwell, pipeline, pumping plant, or electrical substation; rather, the need for these proposals is described as stemming from either water demand requirements or infrastructure upgrades. (pp. 2-14, 2-21 - 2-22.) As a result of these contradictions, the DEIR fails to explain clearly why any of these project components are necessary. Nowhere does the DEIR explain in one coherent passage how the various Project components are interrelated, why they are all necessary, and whether there are any alternatives that would fulfill the Project objectives. Without any correlation between particular improvements and relevant needs, it is impossible for decision-makers or the public to determine why these improvements are necessary. The DEIR should be revised to present this information in a clear, meaningful, and unified form.

Especially of concern to the Wooldridge's and other residents along Lombardy Lane, is the DEIR's failure to clearly explain why particular distribution system improvements - namely the new pumping plants, pipelines, and reservoir proposed for locations in Orinda - are necessary. Table 2-3 contains only a single reference to the entire "Distribution System," and then identifies several general reasons why improvements to this system are necessary. (p. 2-17.) Other potential justifications for these improvements scattered throughout the document are stated in similarly general terms. As to the HVPP and pipeline affecting the Wooldridge's and their neighbors, the DEIR's discussion is particularly unclear and inadequate. Section 2.6.5 (pp. 2-74 - 2-75) merely states that the proposed pumping facility:

"would be part of the Las Aromas Pressure Zone, which is supplied by the Bryant Pressure Zone (north of Highway 24). There is currently inadequate pumping capacity to supply the Las Aromas Pressure Zone during maximum-day demand conditions; an additional 3.2 mgd is required to meet maximum demand conditions in 2030. The proposed project would meet existing and anticipated future demand in this area and would supply the Happy Valley Reservoir." (p. 2-74.)

The DEIR then describes the design and construction characteristics of the proposed HVPP and pipeline, *as if it is a foregone conclusion that such facilities are the only alternative for solving the alleged deficiency.* Also, as to the alleged deficiency itself, presumably driving a need for the facility, the above language suggests that *the alleged deficiency might not actually be a current problem, but might only arise upon "build-out" in the year 2030.* However, there is no mention of what amount of development (in an essentially built-out area) is anticipated by

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the year 2030 that would create the deficiency. It is also unclear what is meant by the above statement that these facilities “would supply the Happy Valley Reservoir.” How is such supply necessary?

Further, it is notable that the supposed “need” for the HVPP and pipeline does not appear to be driven in any way by the aforementioned regulatory requirements, which are the proffered reason or cause for many of the other aspects of the proposed Project. This makes it all the more likely that something can be scaled back or eliminated as to this part of the Project. By failing to describe the need for the HVPP and pipeline, and thus allow consideration of alternatives to meet such need, the DEIR does not comport with CEQA.

We strongly believe that further elaboration of these issues may well result in a conclusion that the severe impacts on the Wooldridge’s and their neighbors (discussed below) may be avoided or significantly decreased by either eliminating the HVPP and pipeline Project components, or by using various alternative means for achieving EBMUD’s true needs. The documents we have received from EBMUD pursuant to our Public Records Act request strongly suggest that the HVPP and pipeline are not crucial components of the overall Project. For example, an EBMUD memo dated February 17, 2005, notes that the Project, previously called the “Lamorinda Water System Improvement Plan” had as its objectives to “reliably and efficiently meet current and future demands and to meet current and foreseeable future regulations with a margin of safety. Other objectives include WTP facility and transmission system infrastructure improvements *to improve upon current operating efficiencies and security.*” (Emphasis added.) This suggests varying reasons for the Project’s components, and that some components are more “necessary” than others. Since, as noted above, regulatory issues are not driving the HVPP and pipeline proposal, and it is wholly unclear what future demands may occur in what seems to be an essentially “built out” neighborhood – and thus demand may not increase substantially - then the “need” for the HVPP and pipeline may stem from a desire, rather than need, to improve operating efficiencies and security, which are perhaps not truly necessary. (Further discussion of this issue is also contained below, in Section III relating to the DEIR’s alternatives analysis.)

In sum, as a result of the above omissions and contradictions, the DEIR fails one of its most basic purposes: explaining why the Project is necessary overall, and in particular why the HVPP and pipeline are necessary.

II. The DEIR Does Not Adequately Disclose, Analyze, or Mitigate the Project’s Potentially Significant Environmental Impacts

An EIR must be detailed and complete, and must reflect a good faith effort at full disclosure. (CEQA Guidelines § 15151.) The document should provide a sufficient degree of

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analysis to inform the public about the proposed project's adverse environmental impacts and to allow decision makers to make intelligent judgments. (*Id.*) In reviewing the legal sufficiency of environmental review documents, the courts have emphasized that an EIR must support with rigorous analysis and substantial evidence the conclusion that environmental impacts will be insignificant and will be adequately mitigated. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) As set forth below, the DEIR fails to comply with these standards.

A. The DEIR Inadequately Analyzes and Mitigates Land Use Impacts

First, the DEIR combines three topics - land use, agriculture, and recreation - into one "Land Use, Planning, and Recreation" section (Section 3.2, p. 3.2-1 et seq.). These topics are typically analyzed separately.

Secondly, Section 3.2 does not adequately address the Project's potentially significant conflicts with land use policies or neighboring land uses. As to this issue, the DEIR's thresholds of significance are incomplete and inadequate. The CEQA Guidelines establish a threshold of significance for projects that conflict with plans, policies, and regulations of "a local agency with jurisdiction over the project" that were adopted for the purpose of avoiding or mitigating environmental impacts. (CEQA Guidelines, App. G, § IX(b).) Although the DEIR cites Appendix G as a source of thresholds of significance, this particular threshold is not discussed. Omission of this threshold is inappropriate under CEQA. A number of local agencies have jurisdiction to issue discretionary approvals for the Project (see p. 2-91 (Table 2-13)). Those decisions must be consistent with local general plans. (See *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1182-86.) The DEIR describes a number of potential conflicts with dozens of local land use policies, most of which were plainly adopted for environmental purposes, and states that "actual determinations of project consistency" will be made by local jurisdictions "during project implementation." (p. 3.2-13.) These conflicts, however, are not merely problems to be addressed "during project implementation" by local agencies, but also potentially significant environmental impacts that must be disclosed, analyzed, and mitigated *by the lead agency* prior to project approval. While some sections of the DEIR explicitly incorporate local standards as thresholds of significance (see e.g., p. 3.6-23 (local tree protection ordinances), p. 3.10-5 (local noise ordinances)), this approach should be applied consistently throughout the DEIR.

B. The DEIR Inadequately Analyzes and Mitigates Impacts Related to Aesthetics and Visual Resources

The DEIR does not properly account for either the short-term or long-term visual impacts of the various elements of the Project. Critical analyses and visual representations are missing, making it impossible to evaluate the DEIR's conclusions. (See *Oro Fino Gold Mining Corporation v. County of El Dorado*, 225 Cal.App.3d 872,885 (1990).) The DEIR also fails to

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consider the significance of short-term construction-related visual impacts. (See CEQA Guidelines § 15126.2(a).) As a result, this section of the DEIR is not supported by substantial evidence and does not reflect a good-faith effort at full disclosure of its impacts. In these respects, the DEIR violates CEQA.

First, the DEIR does not adequately analyze conflicts with local plans and policies regarding visual resources. The DEIR states that a number of factors, including "conformance with public policies regarding visual quality," guided significance determinations for the Project's visual impacts. (p. 3.3-17.) The DEIR does not explain in detail how these factors were evaluated, however, and generally omits any specific discussion of local scenic policies.

Secondly, the DEIR inappropriately discounts potentially significant construction-related visual impacts. The DEIR's discussion of construction-related visual impacts is cursory and conclusory. The document lacks any site-specific analysis of particular construction projects. It also fails to explain its conclusion that all construction-related impacts will be less than significant. Nor does the DEIR explain how or whether the existing level of development at any particular location affects the determination of significance. This lack of analysis and support undermines the document's informational purpose.

At best, the DEIR suggests that these impacts are all less than significant because they are all temporary. (p. 3.3-23.) This conclusion is not supported by the information in the DEIR. While all of the construction projects are "temporary," many are expected to last for several years. (See e.g., p. 2-58 (Table 2-8) (estimating four to six years for construction of Alternative 2 project-level improvements at Orinda WTP, and two to three years for construction of the Aqueduct).) **Similarly, pipeline projects through residential neighborhoods, such as the HVPP and pipeline, will take more than a year to complete.** (App. B, at B-23 (Table B-HVPP-2).) Notably, the duration of an impact is not a factor set forth in either the CEQA Guidelines or the DEIR itself for determining the significance of a visual impact. (See CEQA Guidelines, App. G, § I; DEIR, p. 3.3-17.) Indeed, an EIR must "giv[e] due consideration to both the short-term and long-term effects" of a project. (CEQA Guidelines § 15126.2(a).) The DEIR thus fails to support its conclusion that any of these impacts will be less than significant.

The DEIR also does not reveal whether night lighting would be required during dewatering phases at other construction sites (specifically the clearwells and backwash basins at the Orinda WTP and the HVPP and pipeline near Lauterwasser Creek). The DEIR should be revised to include an analysis of these construction impacts and appropriate mitigation measures.

Third, the DEIR does not adequately disclose or mitigate long-term visual impacts. In general, the DEIR's visual impacts analysis is incomplete and misleading. Visual simulations are either omitted entirely from the DEIR or not representative of how the facilities will actually

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appear to the public. Due to these omissions and misrepresentations, Orinda residents who have examined this portion of the DEIR have come away with the opinion that the document is deliberately misleading. We strongly suggest that EBMUD attempt to remedy this situation by providing additional information regarding visual impacts, including complete and detailed vegetation plans, tree markings, and story poles for all physical structures (including tanks, fences, and other improvements).

As to the HVPP and pipeline aspects of the Project, the DEIR's visual simulations are incomplete and potentially misleading. Although the view of the proposed pumping station site (at the Wooldridge's Property) from Lombardy Lane is certainly important, the maps and photographs of the area also show a residence immediately adjacent to the site; it appears that the new pumping plant would be located within 50 feet of the back yard and swimming pool at this residence. (Fig. 3.3-HVPP-1; Map C-HVPP-1.) Map C-HVPP-1 shows that existing vegetation between the pumping plant and the residence will be removed, and the landscaping plan (Figure 3.3-HVPP-3) shows no replacement vegetation in this location. All of this information contradicts the DEIR's conclusion that existing trees and future landscaping will screen views from adjacent residences. (p. 3.3-42.) Again, the DEIR's conclusions regarding the significance of this impact are unsupported.

C. The DEIR Inadequately Discloses, Analyzes, and Mitigates Impacts Related to Hydrology and Water Quality

First, the DEIR's reliance on existing permits, conditions, and regulations is inadequate to ensure that impacts will be less than significant. The DEIR relies extensively on existing federal and state regulations and permits in concluding that water quality impacts will be less than significant. Some of these permits pertain to construction at the various facilities, while others pertain to post-construction operations. In several instances, however, it is not clear from either the DEIR or the permits themselves that promises of compliance are sufficient to avoid or lessen significant impacts.

For example, the DEIR relies on the Regionwide General NPDES Permit for Discharges from Surface Water Treatment Facilities for Potable Supply ("Regionwide General Permit") in concluding that impacts from chloraminated discharges and changes in impervious surfaces will be less than significant. (p. 3.5-38, 3.5-42.) This permit will expire in August of 2008, prior to the start of construction at several locations (including the Orinda WTP). As a result, it is impossible to evaluate the conditions under which a majority of the Project will be constructed.

Secondly, the DEIR's proposed mitigation measures are inadequate to support its conclusions. Regarding erosion from construction, for example, the DEIR defers development of site-specific plans for preventing discharges from construction in or near a number of watercourses throughout the Project area. There appear to be special risks of water pollution at

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the Orinda WTP, which is immediately adjacent to San Pablo Creek, the HVPP, at the confluence of Lauterwasser Creek and a seasonal drainage, and the HVPP pipeline, which crosses Lauterwasser Creek and three other drainages. The HVPP and pipeline sites lack a stormwater system, and construction will occur roughly 50 feet uphill from the nearest watercourse.

The DEIR discusses these potential discharges in only the most general terms, and contains little information regarding particular risks at most locations. Nor does the DEIR propose specific mitigation measures, or even quantifiable performance standards, for the Project locations. Instead, the DEIR merely promises compliance with Section 01125 of the EBMUD construction specifications, which in turn requires preparation of a number of water quality control plans and compliance with applicable regulations. Because the Project's impacts are not disclosed in particular terms, the feasibility or effectiveness of mitigation measures to lessen those impacts cannot be assessed. Mitigation cannot be deferred in this manner.

The DEIR also fails to clarify whether Section 01125 is offered as a mitigation measure. On the one hand, the DEIR seems to rely on Section 01125 in concluding that construction-related impacts, although potentially significant, will be less than significant after mitigation. (See, e.g., p. 3.5-24 (Table 3.5-2); p. 3.5-25.) On the other hand, compliance with Section 01125 - and with the numerous other plans and provisions seemingly encapsulated within that section, such as Stormwater Pollution Prevention Plans and Best Management Practices - is not mentioned in either of the mitigation measures proposed for Impact 3.5-1. (pp. S-36, 3.5-31.) If the DEIR is relying on Section 01125 in concluding that impacts can be avoided or mitigated to insignificance, it must identify Section 01125 as a mitigation measure, establish quantifiable and enforceable performance standards, and include them in a mitigation monitoring plan.

Third, the DEIR provides an inadequate basis for issuance of necessary permits by responsible agencies. The HVPP pipeline will require County encroachment permits for creek crossings, which in turn will require evidence of compliance with California Department of Fish & Game and Army Corps of Engineers regulations. The Department of Fish & Game, as a responsible agency, will need to rely on the DEIR in making its own determination regarding issuance of a streambed alteration agreement. The information presented concerning the location and design of stream crossings, however, is insufficient for the Department's purposes. (See Fish & Game Code §§ 1602, 1603.) Nor may CEQA compliance be deferred until the Department actually receives an application for a streambed alteration agreement. CEQA requires analysis of the whole of the action, and does not permit such "piecemeal" analysis of environmental impacts.

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Fourth, the DEIR does not adequately address water quality degradation from dewatering discharges. Relying solely on compliance with Section 01125 and other applicable regulations, the DEIR impermissibly concludes that this impact will be less than significant (and that no mitigation is required) at all locations. (p. 3.5-24 (Table 3.5-2).) Yet the DEIR also states that discharges from the Orinda WTP and the Aqueduct could "adversely affect water quality" in San Pablo, Lauterwasser, and Lafayette Creeks, implying that this would be a significant impact without mitigation. (p. 3.5-32, 3.5-33.) This contradictory treatment results from the DEIR's improper deferral of analysis of both impacts and mitigation measures. For example, the detailed hydrologic study necessary to determine the volume and quality of water pumped during Aqueduct construction will not be performed until after Project approval. (p. 2-64.) The DEIR must analyze and disclose these impacts, and prepare enforceable, specific mitigation measures.

The DEIR also fails to analyze the potential for discharges from dewatering at other locations. Dewatering of subsurface soil is among the mitigation measures proposed to address the potential for soil liquefaction, and dewatering may also be necessary where pipelines cross creeks. (pp. 3.4-32, 3.5-34.) In this respect the DEIR fails to analyze the secondary environmental impacts of mitigation measures as required by CEQA. (CEQA Guidelines § 15126.4(a)(1)(D).)

D. The DEIR Inadequately Discloses, Analyzes, and Mitigates Impacts on Biological Resources

First, the DEIR inadequately discloses impacts and improperly defers development of mitigation measures as to the Project's biological impacts. The DEIR inadequately describes mitigation measures to address degradation of streams, wetlands, and riparian areas. For example, trenching across streams and associated removal of riparian vegetation "would result in significant effects." (p. 3.6-34.) The mitigation measure proposed to reduce this impact, however, is vague. It is not clear that "confining activities to areas above or below the stream crossing," or using jack-and-bore construction "where feasible," will reduce these impacts. (p. 3.6-39.) The DEIR must fully disclose impacts, and develop adequate mitigation, at particular stream crossings along each alignment.

By the same token, the DEIR impermissibly defers preparation of a complete wetland delineation until some later date, and then only if impacts to "potentially jurisdictional features" cannot be avoided or minimized. (p. 3.6-40.) A number of Project facilities will be constructed either adjacent to or across streams and riparian areas; it is therefore highly unlikely that all impacts to these jurisdictional features can be avoided or minimized. The DEIR promises that required permits and agreements will be obtained from the Army Corps of Engineers and the Department of Fish and Game; as previously discussed, however, the document does not describe jurisdictional impacts in enough detail to enable informed decision-making by responsible agencies. A wetland delineation, showing the location of

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jurisdictional features and detailing impacts, should have been prepared as part of the DEIR.

Secondly, the DEIR also fails to analyze secondary environmental impacts of proposed mitigation. Measure 3.6-2d recommends placing energy dissipation devices "such as riprap" in creeks to minimize erosion. Although energy dissipation is necessary for overflow discharges, riprapping a creekbed can adversely affect instream habitat for aquatic species by removing natural stream structure and altering flow regimes. This impact should have been disclosed in the DEIR.

Third, the DEIR contains inadequate information about the life cycles and breeding patterns of sensitive wildlife species, rendering evaluation of proposed mitigation measures difficult. The DEIR's general discussion of bat species, for example, provides insufficient background for evaluation of the specific buffer zones and seasonal limitations proposed in Measure 3.6-5. Similarly, the DEIR contains no information on the feasibility or potential success of wood rat nest relocation, nor does it reveal how successful relocation of California yellow-legged frog nests might be. The DEIR also repeatedly assures that a good deal of construction disturbance will be "temporary and primarily linear," although the document also admits that direct mortality of some species will occur. (p. 3.6-56.) It is thus clear that construction disturbance will result in direct mortality; the "linear" orientation and "temporary" duration of construction activities do not reduce the significance of this impact. In order to support findings regarding significant impacts to these sensitive species, both before and after mitigation, the DEIR must present substantially more information.

Finally, the DEIR also calls for the removal of protected oak trees on the Wooldridge Property, if it is used for the HVPP. Some of these trees are more than 150 years old and contribute to the air quality and the aesthetics of the neighborhood. If the Wooldridge Property is used not only for the HVPP itself, but also for staging of heavy construction equipment and vehicles, the damage to protected trees will likely be substantial.

E. The DEIR Inadequately Discloses and Analyzes Impacts and Mitigation Measures Related to Traffic and Circulation

Like the City of Orinda, the Wooldridge's and their neighbors are especially concerned about the traffic and circulation impacts resulting from simultaneous and overlapping construction of various Project elements within the City limits, and along Lombardy Lane in particular. The DEIR recognizes that encroachment permits from the City will be required for various portions of the Project, including the HVPP and pipeline. (p. 2-91 (Table 2-13).) An encroachment permit requires specific findings that an encroachment is necessary and will not have an adverse effect on the public interest, safety, health, welfare, other property, or the environment in general. (Orinda Mun. Code § 12.08.040(C)(1), (2).) As discussed herein, the DEIR does not clearly establish that these encroachments are necessary. Moreover, the DEIR fails to disclose or analyze traffic and circulation impacts in sufficient detail and routinely

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downplays the significance of road closures and detours associated with pipeline projects. As a result, the DEIR not only fails to meet the requirements of CEQA, but also provides an insufficient basis for granting the apparently required encroachment permits.

The DEIR fails to substantiate its assumptions regarding vehicle capacity of area roads. All two-lane roads are assumed to be able to carry 15,000 vehicles per day, and all four-lane roads are presumed capable of carrying 25,000-30,000 vehicles per day. The DEIR provides no specific source for these assumptions, which seem especially dubious when applied to the narrow residential streets most adversely affected by roadway trenching activities. The DEIR lists only four references, two of which are web sites containing bus schedules, and the other two of which are Caltrans web sites containing traffic counts for *state highways*. (p. 3.8-26.) A prominent notice on the Caltrans site states that "We do not collect traffic count information on locally maintained streets." (Traffic and Vehicle Data Systems Unit Home, at <http://www.dot.ca.gov/lhqltraffops/saferesr/trafdatalindex.htm>.) The DEIR must substantiate its assumptions that local streets are not already beyond their capacity before reaching any conclusion regarding the significance of traffic impacts or the effectiveness of mitigation.

The DEIR also omits any project-specific analysis of construction-related traffic impacts at several sites in Orinda. Although a few "examples" of "noticeable" project-related traffic increases are provided, the DEIR fails to discuss impacts at the Orinda WTP, HVPP and pipeline, and Sunnyside sites. (p. 3.8-13.)

The DEIR also fails to recognize that traffic conditions do not remain static. Construction of various Project elements will continue for many years into the future, yet the DEIR contains no projection of future traffic conditions or roadway capacity. This is a serious omission, one that could require the production of substantial additional data and recirculation of the DEIR.

Most importantly, the DEIR also fails to address fully the impacts of pipeline projects along residential roads. For example, project construction traffic for the HVPP pipeline would use narrow roads through residential neighborhoods, and residents will be required to follow lengthy and circuitous detour routes during daytime hours for as long as two years. (p. 3.8-21.) The DEIR does not contain any information about current capacities, traffic counts, or impacts resulting from either construction or detour traffic on these predominantly residential roads. This information is sufficiently substantial to require recirculation of the DEIR.

Additionally, the mitigation for these impacts is entirely deferred and improperly delegated; under Measure 3.8-1, the *contractor* will be responsible for formulating traffic management plans sufficient to reduce impacts to insignificance. (pp. 3.8-13 - 3.8-14.) Although the contractor must "submit" these plans to the "agencies having jurisdiction over the

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affected roads," it is not clear that those agencies will have any approval authority. Nor does it appear that EBMUD, as lead agency, will ever evaluate the traffic plans to ensure that they contain measures sufficient to address site-specific concerns. This is an improper deferral and delegation of the lead agency's responsibility and authority to mitigate significant impacts. Furthermore, this deficiency infects the entire traffic section of the DEIR, because all but one of the other traffic mitigation measures simply require implementation of Measure 3.8-1.

Also, there are "line of sight" issues affecting traffic safety along Lombardy Lane at the proposed HVPP site on the Wooldridge Property. This site is located on a partially blind curve that contributes to safety concerns, which are not discussed or analyzed in the DEIR.

Finally, the DEIR also relies on vague and deferred "internal coordination" measures in addressing the collective fire risk posed by a number of projects in Orinda, despite the potential of serious problems stemming from reduced emergency vehicle access. The City and Lombardy Lane residents are alarmed by the potential for catastrophic fire caused by simultaneous construction projects in areas of high wildland fire risk, as well as delays in emergency vehicle response caused by construction traffic and road closures. Local fire officials from the Moraga Orinda Fire District and Contra Costa County need to be involved in this coordination process from the beginning in order to respond effectively to emergencies and protect life and property.

F. The DEIR Inadequately Analyzes and Mitigates Significant Noise Impacts

First, the DEIR uses improper thresholds of significance regarding noise impacts. By focusing narrowly on speech interference and local noise ordinances, **the DEIR's thresholds of significance for noise do not accurately reveal noise impacts.** Under CEQA, a substantial increase in ambient noise levels in the project vicinity "above levels existing without the project" is a significant impact, whether that increase is permanent, temporary, or periodic. (CEQA Guidelines, App. G, § XI(c), (d).) Under CEQA, therefore, a substantial increase in noise at a normally quiet location may still be significant, even if it is not so loud as to make conversation impossible or violate noise ordinances. The DEIR's omission of this threshold underestimates some of the Project's more significant impacts.

The DEIR's use of the Leq measurement - which averages acoustical energy over a 24-hour period (p. 3.10-1) - in evaluating the significance of noise from haul trucks is also inappropriate. (p. 3.10-35.) Haul truck noise is experienced as a periodic impact, not as a constant impact, and is therefore **best evaluated by comparison of each event with prevailing ambient noise levels rather than an Leq level that tends to flatten out periodic events.**

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Secondly, the DEIR fails to justify its conclusions regarding significance of noise impacts. The DEIR's noise analysis suffers from a number of significant omissions and possible errors, especially concerning the effectiveness of mitigation measures at various locations in Orinda. In particular, the DEIR's analyses of noise impacts at the HVPP and along the pipeline route are of significant concern to both the City and the Lombardy Lane residents. The proposed HVPP site at the Wooldridge Property is surrounded by residences and other sensitive receptors, some as close as 50 feet. (p. 3.10-25.) According to Table 3.10-6, noise at the HVPP construction site, even after controls are applied, will exceed the 70-dBA exterior speech interference threshold by between five and 11 dbA. (DEIR at 3.10-14, 3.10-25.)

The DEIR concludes that a noise barrier would be "adequate to reduce construction noise to a less-than-significant level" (p. 3.10-25), **but this conclusion is doubtful for at least two reasons.** First, depending on feasible locations and designs for noise barriers, this measure may not reduce noise levels below the speech interference threshold. The DEIR does not provide enough information about barrier placement and design to support its conclusion. Second, the DEIR uses the wrong threshold of significance. Ambient daytime noise levels in the vicinity of the pumping plant average 54 dbA on weekends. (p. 3.10-6 (Table 3.10-2).) Even if a noise barrier fitted with sound-absorbing material were somehow able to achieve a 15 dbA reduction at the site, and allowing for a 1-3 dbA increase in ambient noise levels on weekdays, construction noise at the site would still reach 66 dbA-roughly *double* current average ambient levels. (p. 3.10-1 (10-dBA increase in continuous noise is perceived as a doubling of loudness).) Therefore, even under the most optimistic noise mitigation scenario, the project would still cause a "substantial temporary or periodic increase in ambient noise levels in the project vicinity," and would thus remain significant under the CEQA Guidelines. (CEQA Guidelines, App. G, § XI(d).)

Noise impacts along the HVPP pipeline route, and the pipeline portion of the Aqueduct, would also remain highly significant even after application of all proposed mitigation measures. Again, sensitive receptors are located within 25 feet of the Aqueduct pipeline and within 50 feet of the HVPP pipeline; noise levels at both locations after controls are applied are expected to exceed the 70-dBA speech interference threshold. (p. 3.10-12 (Table 3.10-5).) The DEIR incorrectly concludes that these impacts will be mitigated to a less-than-significant level at both locations. (p. 3.10-23, 3.10-25.) Such conclusions cannot be sustained by the facts. According to the DEIR, Measure 3.10-1 b, which adjusts construction hours for consistency with the Orinda noise ordinance, will adequately mitigate impacts at both locations. (Id.) This measure, however, does nothing to reduce the actual noise of construction below the speech interference threshold of significance. Moreover, sound barriers are *not* proposed as mitigation measures for pipeline projects. (p. 3.10-33 (Measure 3.10-1e).) In addition, jack-and-bore construction - which involves pile driving - may be used at stream crossings along pipeline projects to avoid aquatic impacts. (p. 3.6-34, 3.10-30.) Pile driving produces much more noise than any of the impact activities analyzed for the pipeline routes. (Compare p. 3.10-10 (Table 3.10-4) with p. 3.10-12 (Table 3.10-5).) Therefore, the noise level along both pipeline routes will exceed not only

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ambient noise levels without the project, but also the much higher speech interference threshold used by the DEIR. Accordingly, the DEIR's conclusion that impacts will be mitigated to a less-than-significant level is without foundation.

Finally, **operational noise impacts** at all of the pumping plant sites are of considerable concern to Orinda residents and in particular to the Wooldridge's and their neighbors. The DEIR concludes that noise from transformers and pumps at the pumping plant sites, including the HVPP site, will be less than significant, but reaches this conclusion on the basis of general promises to locate vents so as to direct noise away from sensitive receptors. (p. 3.10-45 - 3.10-48.) **All of these pumping plants are located in residential areas and are surrounded by sensitive receptors.** Incorporation of measurable decibel limits at each of these receptors, and adoption of a monitoring program to ensure that the limitations of Orinda's noise ordinance will not be exceeded, are necessary to support any conclusion that operational noise impacts will be less than significant.

III. The DEIR's Alternatives Analysis is Flawed and Is Insufficient to Support a Reasoned Choice

Every EIR must describe a range of alternatives to the proposed project and its location that would feasibly attain the project's basic objectives while avoiding or substantially lessening the project's significant impacts. CEQA § 21100(b)(4); CEQA Guidelines § 15126(d). A proper analysis of alternatives is essential for EBMUD to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. CEQA § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126(d); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal. App. 3d 433, 443-45 (1988). As stated in Laurel Heights Improvement Association v. Regents of University of California, "[w]ithout meaningful analysis of alternatives in the DEIR, neither the courts nor the public can fulfill their proper roles in the CEQA process [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." 47 Cal. 3d 376, 404 (1988). The DEIR's discussion of alternatives in the present case fails to live up to these standards.

First, the DEIR fails to consider a sufficient range of alternatives that would avoid significant impacts relating to the HVPP and pipeline. As noted above, the DEIR's discussion of the purported "need" for the HVPP and pipeline does not provide sufficient information to determine whether the HVPP and pipeline can be eliminated or redesigned to address the impacts that would likely be caused.

Secondly, even if the HVPP and pipeline were truly needed, the DEIR cannot logically have concluded that the Wooldridge Property is the preferred location for the HVPP, when the DEIR's own data shows the opposite. In this regard, the text of the DEIR, at page 6-35, is just plain wrong. It states that "overall, although some impacts

Ms. Judy Zavadil
EBMUD
Comments on WTTP DEIR
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(e.g., impacts to protected trees) would be less under [the Miner Road] alternative, the Happy Valley Pumping Plant Alternative [at Miner Road] is not considered environmentally superior to the proposed project [e.g., using the Wooldridge Property as the pumping station site]." This conclusion is completely contradicted by Table 6-5, which outlines the differences in the two sites' impacts. Table 6-5 shows that for 9 categories of impacts, using the Miner Road site would cause less severe impacts. By contrast, impacts at the Miner Road site are only "better" than the Wooldridge Property under 5 categories of impacts. Thus, the DEIR's own data shows the Miner Road alternative is environmentally superior, compared to using the Wooldridge Property.

Given the above, the Wooldridge's do not fully agree with the City of Orinda's comments, to the effect that substantially similar impacts would be created by locating the HVPP at either the Wooldridge Property or the alternative Miner Road site owned by the Urban family. While the alternative site (along Miner Road) for the HVPP is still close to residences and likely to cause some significant traffic and noise impacts (p. 6-33, 6-35), using the Miner Road site would require a significantly shorter and smaller diameter pipeline, is located twice as far from the nearest residence (100 feet rather than 50 feet), would reduce impacts to protected trees, and would cause less danger in terms of "line of site" traffic safety concerns. Again, the data in Table 6-5 shows that the Miner Road site should be deemed environmentally superior.

The DEIR actually downplays the details regarding why the Miner Road site would be superior. As to traffic, for example, utilizing the Miner Road site would lessen impacts by virtue of its closer proximity along truck routes and "lesser penetration" within the Sleepy Hollow neighborhood. During construction of the HVPP, whichever site is chosen may serve as a corporate/construction site to park earth-moving and other large vehicles and store equipment and materials. Using the Miner Road site would shorten the distance trucks would have to travel from Camino Pablo and thereby lessen the traffic. Also, the Miner Road property can be accessed via Miner Road and Camino Sobrante.

By contrast, to reach the Wooldridge Property utilizing Miner road during construction, trucks and equipment for the Project would have to traverse an additional distance, possibly one mile, past forty-plus homes that front these streets. That section of road services two arterial roads leading to Sleepy Hollow School and the Sleepy Hollow Swim & Tennis Club, which are both heavily used by parents transporting children to the school and recreational facility. The DEIR contains no discussion of such substantial disruption to the fabric of the Sleepy Hollow neighborhood.

Furthermore, from "cost of acquisition" and "construction cost" perspectives, the Miner Road site is manifestly preferable to the Wooldridge Property. As noted above, the Wooldridge's intend to build a residence on their land, and oppose any acquisition of any portion of their property. The Wooldridge Property is a large, buildable parcel, and its owners, nearby neighbors, and residents in the Sleepy Hollow community oppose siting the HVPP there. The

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Wooldridge's are unwilling to sell any portion of the property to EBMUD voluntarily. If EBMUD was forced to take the property via eminent domain, the owners would be entitled to just compensation, and litigation related to the taking of the property via eminent domain or related to an environmental dispute could continue for many years, thus delaying the start of the proposed Project. Also, taking any portion of the site and locating a loud, visually intrusive pumping station on it, would cause severe "severance damages" to the remainder, causing a "part take" to be essentially a "full take", in terms of acquisition costs.

By contrast, the acquisition of the Miner Road property would be much less costly for EBMUD for many reasons, but the key reason being that the owners have no objection to the property's acquisition by EBMUD (see attached e-mail from Mr. Urban to EMBUD, dated August 8, 2006), and although they would be entitled to full value for the property, the price resulting from a voluntarily negotiated sale of part of their property would be much less costly than a fully buildable site acquired through eminent domain and which could result in extensive litigation.

As to construction costs, we understand that there would be roughly 450+/- fewer feet of pipeline needed if the Miner Road site is used, meaning 450 fewer feet of ripped up/blocked roadway. Also, if the Miner Road site is used, the diameter of much of the pipeline would be 12" diameter instead of 16" diameter along most of the route, as compared to the required 16" diameter pipeline if the Wooldridge Property were used, as this portion of the Project brings water from a lower pressure/elevation zone up to a higher pressure/elevation zone. As shown in maps C-HVPP-1, -2, and -3, the pipeline would start at the downhill end, around Oak Arbor Road, and bring lower pressure zone water located in a pipe at Oak Arbor Road, up through Miner Road and Lombardy Lane to the corner of Lombardy and Van Ripper, where there is an existing 12" pipe that is the "beginning" of the upper pressure zone area. That location - the corner of Van Ripper/Lombardy Lane - is where the pipeline would end if the Miner Road site were used. That is roughly 450 feet shorter than if it has to go past Van Ripper along Lombardy to the Wooldridge Property.

As to pipe diameter, we understand that water in the lower pressure zone is typically carried in a 16" line, and that when it reaches the pump station, the water's pressure is increased and carried in the upper pressure zone in a 12" line. So, where the pump station is located is where the "incoming" 16" line is changed to an "outgoing" 12" line. If the Miner Road site is where the pump station is located, the incoming section of pipe carrying the lower pressure zone water (16") would end at the Miner Road pump station, and would then be put into an outgoing 12" line to travel up the balance of its route to the Lombardy/Van Ripper corner where it would tie into the existing 12" line. Conversely, if the Wooldridge Property were used for the pump station, the lower pressure water in the larger 16" line must go all the way to the Wooldridge Property (roughly 400-450 feet beyond the Van Ripper/Lombardy corner), with only a short section of 12" higher pressure zone water pipe needed as the outgoing line (from the pump station) to tie into the existing 12" line within Lombardy Lane. This diameter issue suggests a

Ms. Judy Zavadil
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lower cost, in terms of construction, if a smaller diameter pipe is needed under the Miner Road pump station scenario.

In sum, CEQA requires an EIR to consider alternatives that will avoid or substantially lessen such impacts. By considering the Miner Road site as an alternative to the HVPP, the DEIR makes some headway, but we agree with the City's comments, to the extent that the DEIR fails to consider a reasonable range of alternatives relating the HVPP and pipeline, that would eliminate more impacts, which remain even if the Miner Road site were used. In a memorandum entitled "California Environmental Quality Act Contracts" from EBMUD staff to the EBMUD Board of Directors, dated June 23, 2005, in which staff explained the need to hire specialized consultants, at an ultimate cost of almost \$2 million, for the Project's CEQA work, staff stated that "CEQA is a complex law with a simple purpose: to assure that decision-makers understand and account for the environmental consequences of a project. *CEQA prohibits the approval of projects if there are feasible alternatives or mitigation measures that would substantially lessen significant environmental effects.* Thus, a project with significant environmental impacts may be approved if the local agency finds that all alternatives or mitigation measures are infeasible and discloses its reasoning." (Emphasis added.) Clearly, there is insufficient discussion in the DEIR regarding feasible alternatives and mitigation measures.

Notably, in another staff memo of the same date, entitled "Water Treatment and Transmission Master Plan Update", staff discussed many aspects of the proposed Project, but there is no mention in the memo's text regarding the HVPP and pipeline. It is shown on the diagram of proposed projects, but is not discussed in the memo's discussion of "Pressure Zone Projects", nor in the listing of "significant pressure zone projects". It appears the HVPP and pipeline portion of the Project is more akin to a "minor" pressure zone component, perhaps even an optional one.

In sum, we strongly urge EBMUD to rethink and explain the true need for the HVPP and pipeline, given the severe impacts to the Lombardy Lane neighborhood. *If and only if* the facilities are *truly* required, and if they *cannot* be redesigned to avoid either of the two proposed sites for a pumping station, *then the Miner Road site clearly should be adopted rather than the Wooldridge Property*, after CEQA requirements have been fully satisfied.

IV. The DEIR Must Be Revised and Recirculated

For the foregoing reasons, the DEIR does not comply with CEQA. Due to the many omissions outlined herein, preparation of an adequate document would require significant new information. This would necessitate recirculation of the DEIR. (CEQA Guidelines § 15088.5(a).)

Ms. Judy Zavadil
EBMUD
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If you have any questions about any of the foregoing, please do not hesitate to discuss them with me at any time.

Very truly yours,

MORGAN MILLER BLAIR

A handwritten signature in cursive script, appearing to read "Daniel A. Muller".

DANIEL A. MULLER

Attachments

Baker, Sue

From: Baker, Sue on behalf of Water Treatment Transmission Improvements Program
Sent: Wednesday, August 16, 2006 2:23 PM
To: 'wttip@esassoc.com'; Kirkpatrick, William
Cc: Zavadil, Judith; McGowan, Timothy; Harlow, Nora
Subject: Comment WTTIP DEIR - Ted Urban
Follow Up Flag: Follow up
Flag Status: Completed

*Thank you,
Sue Baker x1104*

From: Ted Urban [mailto:lidadeds@comcast.net]
Sent: Tuesday, August 08, 2006 5:29 PM
To: Water Treatment Transmission Improvements Program; wayne@canterburyraub.com
Cc: Lida and Ted Urban; Aundra Urban
Subject: Fw: EBMUD

o Judith Zavadil
rom Ted Urban
ugust 8, 2006

ear Judith,

I have forwarded you a copy of Wayne Canterbury's letter so that you are aware that I am familiar with his representations regarding our property on Miner Road. I was approached by Nora Harlow several months ago who made me aware that our property was being considered as an alternative site for a pump station for EBMUD. She asked me if I would consider the sale of a portion of our property if approached by EBMUD for a pump station and sent me a CD of the EIR. I indicated that I would give it some thought and when she called back several weeks later to indicate that there might be some objection from residents adjoining the proposed Lombardy site I told her that we would be receptive to a sale at fair value. She then said that she would be meeting with engineering on the site and asked if I could attend but I was not available. I haven't heard back from her at this point.

The representation made by Wayne Canterbury of our interest is accurate to my knowledge and his assessment of the pros and cons of the two properties are also accurate. I'm not sure who is in charge of this decision at EBMUD but if you, Nora or someone else in property acquisition needs to contact me on this matter you can reach me at (925)254-6092,

Respectfully,

Ted Urban

--- Original Message -----

From: Wayne Canterbury

To: Ted Urban

Cc: Robert Wooldridge

Sent: Tuesday, August 08, 2006 5:02 PM

Subject: EBMUD

ed:

8/16/2006

Enclosed is my letter to EBMUD. The lead engineer on the project is Judith Zavadil. Her email address is wttip@ebmud.com. When I spoke to her today on the subject, she seemed to hold the notion that you were not inclined to sell, but that Bob Wooldridge, owner of the Lombardy lot, is. I replied that I believed the opposite was true in both respects. Any effort that you and Bob can make to set the record straight might be helpful.

Best regards,
Wayne

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Canterbury & Raub
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San Francisco, CA 94104
Off. Tel.: 415 227-1681
Off. e-Fax: 415 651-9039
Res. Off. Tel.: 925 253-0249
Mobile: 415 272-4235
wayne@canterburyraub.com

WAYNE AND JO ALICE CANTERBURY

156 LOMBARDY LANE
ORINDA, CA 94563
925 254-4284
925 253-0249
wayne@canterburyraub.com
JoAlice777@Yahoo.com

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
P.O. Box 24055, MS701
Oakland, CA 94623-1055

Re: Happy Valley Pumping Plant
Water Treatment and Transmission Improvement Project

This letter is written in response to EBMUD's request to comment on the draft EIR for the Water Treatment and Transmission Improvement Project.

My wife, Jo Alice, and I object to the Happy Valley Pumping Plant component of the project insofar as it calls for the installation of a pumping plant on Lombardy Lane near Van Ripper Road. Our home adjoins the proposed site to the west. Two of our bedrooms are oriented near the boundary line.

We have read the draft EIR and considered the elements of the plan as you kindly explained them at the site visit you attended earlier this month. We understand EBMUD's explanation for the need to upgrade service in the Happy Valley area, but believe that the Lombardy site is unsuitable for the pumping plant.

Fortunately, the alternative site for the plant identified by EBMUD on Miner Road at Camino Sobrante offers a plainly better choice in virtually all respects. The parcel is owned by the Ted Urban family. I have spoken to Ted on the matter and he informed me that he would agree to sell the property to EBMUD.

Lombardy Site

The Lombardy property is owned by Bob and Carlotta Wooldridge. It comprises almost two acres and is one of the choicest buildable lots in Orinda. It is densely covered with natural vegetation and populated by several ancient oak trees. Two creeks converge at its southern end. The immediate neighborhood is uniquely quiet, particularly at night.

Miner Road Site

The Miner Road site is an open grassy field. It is the southern part of a parcel divided by a steeply banked creek and heavy foliage. A home is situated on the northern

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
July 28, 2006
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side. The site cannot be subdivided or easily put to any use that would serve the residence. The two houses flanking the property are sited a considerable distance from the lot. Their garages, drives, and walls and fences separate the lot from their living areas.

Proposed Pumping Plant

The pumping plant will consist of two industrial pumps and a large electric transformer *that will operate at night*. The pumps would be housed in a structure approximately 60 feet by 40 feet in size. A drive and parking area would surround the facility. During the estimated 2-year construction stage of the project, the site would serve as a corporate yard and used to park earth-moving and other large vehicles and store equipment and materials.

Summary of Objections and Reason for Selecting The Miner Road Site

1. Noise

The character of the Lombardy Lane area is defined by its tranquility, particularly during the late night and early morning hours. The EIR acknowledges that substantial noise would be emitted by the pump and the transformer. It does not comment on the cumulative effect of the two noises, one of which would likely be a hum and the other a whine. The proposed siting of the pumps is within feet of the bedroom of George and Perry Linton, the neighbors to the immediate east of the proposed site.

The use of the Miner Road site, by contrast, would have little noise impact on the surrounding community, as the two adjacent houses buffered from the pump and transformer sounds by the placement of their garages.

2. Traffic and Safety

In order to reach the Lombardy Lane site from Miner Road, trucks and equipment would have to travel the additional one-mile distance past more than 40 homes fronting the street. That stretch of road services the two arterial roads leading to Sleepy Hollow School and the Sleepy Hollow Swim & Tennis Club, both of which are heavily used by parents transporting children to the facilities. The Lombardy Lane site, itself, is located on a partially blind curve that presents additional safety concerns.

Use of the Miner Road property would shorten the distance that trucks and equipment would travel from Camino Pablo and have less impact on school and swim club traffic. Additionally, it can be accessed by both Miner Road and Camino Sobrante.

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
July 28, 2006
Page 3 of 3

3. Trees

The EBMUD plan for Lombardy Lane calls for the removal of at least two heritage oaks. These trees are more than 150 years of age and contribute to the beauty of the neighborhood. No trees of any note would have to be removed at the Miner Road site. Additional trees and landscaping could be installed at the site following construction.

4. Acquisition Cost

The Lombardy Lane site is a large, premier, buildable, parcel. Its owners are unwilling to sell it to EBMUD voluntarily. They would be entitled to the full value in the event EBMUD forced the sale through use of its eminent domain powers. An environmental or acquisition dispute could be litigated for years.

The Miner Road parcel is considerably smaller and has limited use. While the Urbans would be entitled to full value, there is no question that the price resulting from a voluntarily negotiated sale would be much more favorable to EBMUD and its rate payers.

In summary, use of the Lombardy Lane site for the pumping plant is inappropriate and strongly opposed by the owners and residents in the Sleepy Hollow community. The Miner Road property is in almost every respect uniquely suitable for the proposed use and its owners do not object to its acquisition. The EIR itself identifies the Miner Road site as a viable alternative. Given these circumstances, we urge EBMUD to adopt the alternative site for installation of the Happy Valley pumping plant.

Thank you for your consideration.

Very truly yours,

Wayne Canterbury

Jo Alice Canterbury

cc: EBMUD Board of Directors
Mayor and Council Members
City of Orinda
Emmanuel Ursu,
Planning Department, City of Orinda

Baker, Sue

From: Zavadil, Judith
Sent: Monday, August 14, 2006 10:15 AM
To: Water Treatment Transmission Improvements Program; Kirkpatrick, William
Subject: FW: Please see attached letter

From: Wayne Canterbury [mailto:wayne@canterburyraub.com]
Sent: Monday, August 14, 2006 8:08 AM
To: Zavadil, Judith
Cc: Emmanuel Ursu; aworth@ci.orinda.ca.us; vsmith@ci.orinda.ca.us; Bill Judge; Laura Abrams; Steve Glazer
Subject: Please see attached letter

Wayne S. Canterbury
Canterbury & Raub
101 Montgomery Street, Suite 2050
San Francisco, CA 94104
Off. Tel.: 415 227-1681
Off. e-Fax: 415 651-9039
Res. Off. Tel.: 925 253-0249
Mobile: 415 272-4235
wayne@canterburyraub.com

8/14/2006

WAYNE AND JO ALICE CANTERBURY

156 LOMBARDY LANE
ORINDA, CA 94563
925 254-4284
925 253-0249
wayne@canterburyraub.com
JoAlice777@Yahoo.com

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
P.O. Box 24055, MS701
Oakland, CA 94623-1055

Re: Happy Valley Pumping Plant
Water Treatment and Transmission Improvement Project

Dear Ms. Zavadil,

This confirms our conversation following my July 29 letter objecting to the use of the Lombardy Lane site for installation of a the Happy Valley pumping plant, in which you noted that the size of the proposed pump enclosure is 30 x 40 feet, not the 40 x 60 that I had understood. This information is encouraging, as the smaller footprint would render the plan all the more compatible with the *Miner Road* location.

Very truly yours,

WS Canterbury

Wayne S. Canterbury

cc: EBMUD Board of Directors
Mayor and Council Members
City of Orinda
Emmanuel Ursu,
Planning Department, City of Orinda

ROBERT AND CLARITA WOOLDRIDGE

1072 CAMINO VERDE CIR.
WALNUT CREEK, CA 94597
925-519-7979
REW@HERSHEYSMILL.COM

RECEIVED
AUG 07 2006
SECRETARY'S OFFICE

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
P.O. Box 24055, MS701
Oakland, CA 94623-1055

WATER DISTRIBUTION
AUG 8 - 2006
PLANNING DIVISION

Re: Happy Valley Pumping Plant
Water Treatment and Transmission Improvement Project

This letter is written in response to EBMUD's request to comment on the draft EIR for the Water Treatment and Transmission Improvement Project.

We have owned the site, on which EBMUD proposes to locate the Happy Valley Pumping Plant, for 30 years. My wife and I lived on the site next door at 164 Lombardy Lane until 1982 at which time our work required us to relocate to the East Coast. We retained the site at 162 Lombardy, with the intention to build our home upon return to California. We have now returned and intend to have a home constructed for our home, during the next year. As you are probably aware, a level building site in the Sleepy Hollow area of Orinda on which to build our home is virtually non-existent. In addition to the adverse consequence of depriving my wife and me to return to our home town of Orinda, the location of the Lombardy site is undesirable or the improper location for reasons presented below. The comments made below are some of our comments presented in response to the DEIR prepared for EBMUD.

We have read the draft EIR and considered the elements of the plan as you kindly explained them at the site visit you attended earlier this month. We understand EBMUD's explanation for the need to upgrade service in the Happy Valley area, but believe that the Lombardy site is unsuitable for the pumping plant.

Fortunately, the alternative site for the plant identified by EBMUD on Miner Road at Camino Sobrante offers plainly a better choice in virtually all respects and its owners, the Ted Urban family, have agreed to its acquisition.

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
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Lombardy Site

The Lombardy property is owned by a company, owned by myself and my wife. It comprises almost two acres and is one of the choicest buildable lots in Orinda. It is densely covered with natural vegetation and populated by several ancient oak trees. Two creeks converge at its southern end. The immediate neighborhood is uniquely quiet, particularly at night.

Miner Road Site

The Miner Road site is an open grassy field. It is the southern part of a parcel divided by a steeply banked creek and heavy foliage. A home is situated on the northern side. The site cannot be subdivided or easily put to any use that would serve the residence. The two houses flanking the property are sited a considerable distance from the lot. Their garages, drives, and walls and fences separate the lot from their living areas.

Proposed Pumping Plant

The pumping plant will consist of two industrial pumps and a large electric transformer *that will operate at night*. The pumps would be housed in a structure approximately 60 feet by 40 feet in size. A drive and parking area would surround the facility. During the estimated 2-year construction stage of the project, the site would serve as a corporate yard used to park earth-moving and other large vehicles and store equipment and materials.

Summary of Objections and Reason for Selecting the Miner Road Site

1. Noise

The character of the Lombardy Lane area is defined by its tranquility, particularly during the late night and early morning hours. The EIR acknowledges that substantial noise would be emitted by the pump and the transformer. It does not comment on the cumulative effect of the two noises, one of which would likely be a hum and the other a whine. The proposed siting of the pumps is within feet of the bedroom of George and Perry Linton, the neighbors to the immediate east of the proposed site.

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
Page 3 of 4

The use of Miner Road site, by contrast, would have little noise impact on the community, as the two adjacent houses are buffered from the pump and transformer sounds by the placement of their garages.

2. Traffic and Safety

In order to reach the Lombardy Lane site from Miner Road, trucks and equipment would have to travel the additional one-mile distance past more than 40 homes fronting the street. That stretch of road services the two arterial roads leading to Sleepy Hollow School and the Sleepy Hollow Swim & Tennis Club, both of which are heavily used by parents transporting children to the facilities.

Use of Miner Road property would shorten the distance that trucks and equipment would travel from Camino Pablo and have less impact on school and swim club traffic. Additionally, it can be accessed by both Miner Road and Camino Sobrante.

3. Trees

The EBMUD's plan for Lombardy Lane calls for the removal of at least two heritage oaks. These trees are more than 150 years of age and contribute to the beauty of the neighborhood. No trees of any note would have to be removed at the Miner Road site. Additional trees and landscaping could be installed at the following construction.

4. Acquisition Cost

The Lombardy Lane site is a large, premier, buildable, parcel. We are unwilling to sell it to EBMUD voluntarily. We would be entitled to the full value in the event EBMUD forced the sale through use of its eminent domain powers. An environmental or acquisition dispute could be litigated for years.

The Miner Road parcel is considerably smaller and has limited use. While the Urban's would be entitled to full value, there is no question that the price resulting from a voluntarily negotiated sale would be much more favorable to EBMUD and its rate payers.

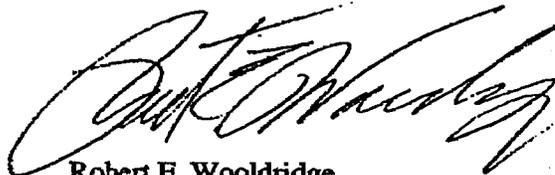
East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
Page 4 of 4

In summary, use of the Lombardy Lane site for the pumping plant is inappropriate and strongly opposed by the owners and residents in the Sleepy Hollow community. The Miner Road property is in almost every respect uniquely suitable for the proposed use and its owners do not object to its acquisition. The EIR itself identifies the Miner Road site as a viable alternative. I believe that under CEQUA that the Miner Road site must be selected given the advantages of the reduced effect of noise on the surrounding residences, the increased traffic safety, the reduced acquisition cost, and the availability of the Miner Road site without the need to litigate with the owners. Given these circumstances, we urge EBMUD to adopt the alternative site on Miner Road for installation of the Happy Valley pumping plant.

Please understand that the above represents the owner's comments and that owner's consul familiar with these matters will submit clarification and or additions to these comments concerning the project and EIR.

Thank you for your consideration.

Very Truly Yours,



Robert E. Wooldridge
President of Wooldridge Construction

Cc: EBMUD Board of Directors
Mayor and Council Members
City of Orinda
Planning Department, City of Orinda

Baker, Sue

From: Baker, Sue on behalf of Water Treatment Transmission Improvements Program
Sent: Monday, July 17, 2006 12:29 PM
To: JHamilton@esassoc.com
Cc: Zavadil, Judith; McGowan, Timothy; Harlow, Nora
Subject: Comment WTTIP DEIR - Sally & Michael Rubinstein

From: Sallyr157@comcast.net [mailto:Sallyr157@comcast.net]
Sent: Friday, July 14, 2006 2:36 PM
To: Harlow, Nora
Subject:

IBMUD Community Affairs Office; I am writing this to register my opposition to building a pumping station on Lombardy Lane. I believe that the noise, traffic congestion, unsightliness of such a facility, will have a serious negative effect on our quality of life and property value in Sleepy Hollow. I also believe that tearing up Miner Rd and Lombardy Lane could result in a terrible catastrophe. In case of fire, earthquake or other disaster. That is because Lombardy Lane and Miner Rd are very narrow, two lane roads which already carry too much traffic and shutting even one for any extended period could result in a tragedy because we are unable to get out of SH or Orinda Downs with the road blocked up. We have lived in SH since 1964 and have seen houses burned to the ground because the Fire Trucks were unable to get through. Please reconsider putting a pumping station in Sleepy Hollow it would have a serious effect on the quiet and beauty we so enjoy. Sincerely, Sally and Michael Rubinstein 157 Lombardy Lane Phone 925-54-8743

7/14/2006

Baker, Sue

From: Baker, Sue on behalf of Water Treatment Transmission Improvements Program
Sent: Monday, July 31, 2006 11:55 AM
To: 'wtip@esassoc.com'; Kirkpatrick, William
Cc: Zavadil, Judith; McGowan, Timothy; Harlow, Nora
Subject: Comment WTTIP DEIR - Jim & Francoise Cervantes

From: Jim & Francoise Cervantes [mailto:jrcervantes@earthlink.net]
Sent: Friday, July 28, 2006 11:25 AM
To: Water Treatment Transmission Improvements Program
From: Jim & Francoise Cervantes
Subject: EBMUD's Water Treatment Plant Project

udy,

I believe we traded messages on this project some months ago. I am a board member of the Sleepy Hollow Homeowners's Association. I've reviewed portions of the EIR with a specific focus on the proposed Happy Valley Pumping Station and the pipeline work along Lombardy Lane and Miner Road. I have a few questions for you:

-) How large will the HV pump station be in terms of its footprint, height, etc. ? It would be helpful to equate it to the dimensions of a home (i.e., 2,000 square feet and 40x50).
-) We've heard that it will be surrounded by a barbed wire fence, etc. Can you elaborate?
-) We also understand that the site would be used as a staging area during the construction process. What does this entail? Given that the area around the proposed Lombardy Lane is a residential area and that Lombardy Lane is rather narrow, this poses concerns.
-) Would the two acre parcel be used in its entirety, or would EBMUD propose to acquire a portion of the site. Related to this, how much acreage does EBMUD require for the site?
-) Can you comment on the sound that would be produced from the pumping plant (i.e., volume, during what periods of the day would it run, etc.)
-) Does EBMUD have schematic of what the pump station would look like?
-) Is there a viable alternative site? There is another, smaller vacant parcel on Miner Road across from Camino Sobrante. Would this work for EBMUD's purposes?
-) The EIR comments that "there is currently inadequate pumping capacity to supply the Las Aromas pressure zone during maximum day demand conditions; an additional 3.2 mgd is required to meet maximum day demand conditions in 2030." In lay terms, what does this mean? For example, what area does the Las Aromas pressure zone include? What is the shortfall during maximum day conditions? I'm assuming that the HV pump station will provide the 3.2 mgd pumping capacity...what portion of this

7/14/2006

Capacity would be for current needs vs. future demand?

9) With regard to the Lombardy Lane/ Miner Road pipeline project: how long is this project expected to take? I noted the schematics in the EIR...I take it that one traffic lane will likely be closed when the work is done. Will the work be done in segments?

10) Will the pipeline project increase fire flow in the immediate area?

Thank you very much for your consideration of these questions. I look forward to meeting you in person at the August 2 hearing. Given the level of questions regarding this project, I'm sure that EBMUD will have a comprehensive presentation of the purpose, rationale and logistics of the project.

Yours,

Jim Cervantes

rcervantes@earthlink.net

2.85 Robert and Clarita Wooldridge

Many of the comments in this letter are similar to comments in the letter submitted by the City of Orinda. Consequently, many of the responses below cross-reference to responses for the Orinda letter.

- RCW-1 The comments in this letter are submitted on behalf of the owners of the DEIR Proposed Happy Valley Pumping Plant site. Please note that District staff is recommending that the Board of Directors approve the alternative site for the Happy Valley Pumping Plant (on Miner Road) after discussions with the owner of this parcel and consideration of other information.
- RCW-2 Refer to **Response RCW-1**. The need for the Happy Valley Pumping Plant is described on DEIR p. 2-74. Refer also to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.
- RCW-3 The referenced comments were submitted to EBMUD separately and are responded to elsewhere in this Response to Comments document.
- RCW-4 Refer to **Responses ORIN-1** and **ORIN-2**. Refer also to Section 2.1.2, Master Response on Benefits to Orinda, and Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline, for an expanded discussion of the need for this facility and the benefits that the facility will provide.
- RCW-5 Refer to **Response ORIN-2**.
- RCW-6 Refer to **Response RCW-1** regarding District preference for the Happy Valley Pumping Plant Alternative site and subsequent responses presented below regarding the adequacy of the DEIR. Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline, also provides an expanded discussion of the need for this facility. **Responses ORIN-11** through **ORIN-14** address alternative treatment technologies. **Response ORIN-15** also addresses the infrastructure upgrades.
- RCW-7 This comment summarizes more detailed comments presented in the letter. As indicated in subsequent responses, the DEIR meets CEQA requirements and need not be recirculated. Refer to **Response RCW-1** regarding District preference for the Happy Valley Pumping Plant Alternative site.
- RCW-8 Refer to **Responses ORIN-7** and **ORIN-8** regarding the project description, as well as Section 2.1.1, Master Response on Program- and Project-Level Distinctions.

- RCW-9 Refer to **Response ORIN-6** regarding the DEIR description of the project and its objectives, purpose, and need, as well as Section 2.1.2, Master Response on Benefits to Orinda.
- RCW-10 Refer to **Response ORIN-10**.
- RCW-11 Refer to **Responses ORIN-11a, ORIN-11b, and ORIN-15**.
- RCW-12 The DEIR discussion and documents referenced in the DEIR describe the need for the new infrastructure. Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.
- RCW-13 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility. Please also reference the documents cited in the DEIR and discussions of anticipated development.
- RCW-14 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility. **Response ORIN-15** also addresses the need for infrastructure upgrades.
- RCW-15 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility. As noted in the DEIR, the proposed plant and pipeline would meet existing and anticipated future demand.
- RCW-16 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.
- RCW-17 This comment summarizes CEQA requirements for impact analyses and then asserts that the DEIR fails to meet these requirements based on subsequent comments. Please refer to subsequent responses and responses to the City of Orinda, detailing why the DEIR complies with CEQA.
- RCW-18 Refer to **Response ORIN-25**.
- RCW-19 Refer to **Responses ORIN-25 and ORIN-26**. Section 3.2.3 of the DEIR evaluates whether proposed project components would conflict with adjacent existing land uses.
- RCW-20 Refer to **Response ORIN-26**.
- RCW-21 Refer to **Responses ORIN-28 and ORIN-29**.

- RCW-22 Refer to **Response ORIN-30**.
- RCW-23 Refer to **Response ORIN-30**.
- RCW-24 Refer to **Response ORIN-31**.
- RCW-25 Refer to **Response ORIN-32**.
- RCW-26 Refer to **Response ORIN-38**.
- RCW-27 Refer to **Response ORIN-42**. Compliance with the permits would be expected to ensure that discharges will not violate water quality standards, result in substantial erosion or siltation, or create or contribute runoff water that would exceed the capacity of existing or proposed stormwater drainage systems or provide substantial additional sources of polluted runoff.
- RCW-28 Refer to **Response ORIN-43**.
- RCW-29 Refer to **Response ORIN-45**.
- RCW-30 Refer to **Response ORIN-45**.
- RCW-31 Refer to **Response ORIN-47**.
- RCW-32 Refer to **Response ORIN-48**. The DEIR proposes, and EBMUD has committed to implementing, a range of mitigation measures designed to minimize potential impacts to these resources.
- RCW-33 Refer to **Response ORIN-49**. The measures will ensure that impacts to water quality will be less than significant.
- RCW-34 Refer to **Response ORIN-50**.
- RCW-35 Refer to **Response ORIN-54**.
- RCW-36 Refer to **Response ORIN-55**.
- RCW-37 Refer to **Response ORIN-56**.
- RCW-38 Refer to **Response ORIN-57**. The discussion in DEIR Section 3.6 and Appendix D presents information on the life cycles and habitat requirements of sensitive species.
- RCW-39 Refer to **Response RWC-1** which states that District staff is recommending that the Board of Director's approve the alternative site for the Happy Valley Pumping Plant. Should this occur, no protected trees on the Woddrige property will be removed. However, the DEIR states that damage may occur to protected trees at the proposed Happy Valley Pumping Plant site and sets forth measures to minimize these potential

impacts (see Table 3.6-5, DEIR p. 3.6-31). These measures include: Measure 3.6-1a, *Tree Protection Measures During Construction*; Measure 3.6-1b, *Protected Tree Pruning and Replacement*; Measure 3.6-1c, *Protected Tree Monitoring*; and Measure 3.6-1d *Replacement Tree Monitoring Program*. These measures provide for, among other things, the mapping of trees to be removed or retained at each project site; the identification and protection of retained trees; the use of special construction techniques, such as hand equipment for trenching and/or allowing only one pass through a tree's dripline, when proposed development or other site work must encroach upon the dripline of a preserved tree; all pruning of preserved trees to be performed by a certified arborist and no more than 25 percent of a tree's canopy to be removed; removal of protected trees native to the local area, such as valley oak and coast live oak, to be compensated for at a 3:1 ratio and non-native protected trees to be replaced at a 1:1 ratio with a non-invasive tree species.

Furthermore, EBMUD will guarantee the health of all trees to be preserved within and adjacent to the construction corridor of project-related pipeline and facility sites for three years. If the District constructs or installs improvements or performs approved mechanical excavation within the dripline of any tree, the guarantee period for a tree will be five years. The District will replace any retained tree that dies as a result of construction activities during the guarantee period with a tree of the same species. EBMUD will also implement a five year tree monitoring program that will apply to all replacement plantings. These mitigation measures will minimize damage to trees in or near construction areas and will therefore minimize the potential for tree death.

- RCW-40 Refer to **Responses ORIN-63**, and **ORIN-9** and **ORIN-10**. The DEIR has included information stating why the project is necessary.
- RCW-41 Refer to **Response ORIN-64** regarding traffic assumptions.
- RCW-42 Refer to **Response ORIN-65** regarding traffic assumptions.
- RCW-43 Refer to **Response ORIN-66** regarding measures to ensure traffic impacts will not be significant.
- RCW-44 Refer to **Response ORIN-67** regarding pipeline projects along affected roads.
- RCW-45 Refer to **Response ORIN-68**. EBMUD has ensured that these measures will be implemented.
- RCW-46 Refer to **Response DS-9**.
- RCW-47 Refer to **Response ORIN-106**.
- RCW-48 Refer to **Response ORIN-83**.

- RCW-49 Refer to **Response ORIN-84**.
- RCW-50 Refer to **Response ORIN-87**.
- RCW-51 Refer to **Response ORIN-88**.
- RCW-52 Refer to **Responses ORIN-89** and **ORIN-90**.
- RCW-53 Refer to **Response ORIN-93**.
- RCW-54 Refer to **Response ORIN-114** and **ORIN-115**.
- RCW-55 Refer to **Response ORIN-115** and Section 2.1.4, Master Response on the Need for Alternatives to Happy Valley Pumping Plant and Pipeline.
- RCW-56 Please refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project.
- RCW-57 As stated in **Response RCW-1**, District staff is recommending that the Board of Directors approve the Happy Valley Pumping Plant Alternative Site. Section 3.4 of this Response to Comments document presents supplemental information on the Happy Valley Pumping Plant Alternative site (e.g., visual simulations) prepared in response to comments, and while the magnitude of some impacts at the alternative site (namely, trees and visual quality) would be less than characterized in the DEIR, neither site is clearly environmentally superior to the other.
- RCW-58 The comment is correct that construction of the new pumping plant at the alternative location would shorten the distance that trucks and equipment would have to travel from Camino Pablo during (and after) construction of the pumping plant, lessening the magnitude of disruption to the Sleepy Hollow area (e.g., impacts to traffic flow, noise along haul routes, and traffic safety impacts). Section 6.8.2 of the DEIR acknowledges that some volume-sensitive impacts (e.g., traffic, noise, and air quality) would be incrementally less (relative to impacts of the proposed site) because the haul route would be shorter and less pipe would be constructed with the alternative site. Construction impacts would still occur along Miner Road and Lombardy Lane during the installation of the pipeline, and while the alternative site can be accessed via Miner Road and Camino Sobrante, the preferred site can be accessed via Lombardy Lane and Happy Valley Road.
- RCW-59 Refer to the previous response. Community disruption impacts are discussed in detail in Sections 3.8 and 3.10 of the DEIR. Section 3.8 of the DEIR, Traffic and Circulation, describes the projected traffic, disruption of traffic flows and street operations, and other potential impacts due to project construction activities on the proposed site. The maximum trip generation of about 34 one-way vehicle trips per day (see Table 3.8-5) would represent an increase of about 0.6 percent of the average

daily volume of about 6,140 vehicles on Miner Road (see Table 3.8-1); this would be a less-than-significant impact. Although the added traffic could represent a noticeable percent increase, on lower-volume Lombardy Lane, the effect on traffic flow would be less than significant because the traffic volumes would remain at levels clearly less than the carrying capacity of the road. Pursuant to Measure 3.8-1, EBMUD will address access to the Sleepy Hollow Elementary School in traffic control plans as a condition of project approval (refer also to **Response ORIN-147**).

RCW-60 Refer to **Response RCW-1**. Note that EBMUD seeks to acquire land from willing sellers rather than exercising the power of eminent domain where possible. The focus of the EIR, however, is on environmental impacts.

RCW-61 Refer to **Response RCW-1**. Note that the focus of the EIR is on environmental impacts, not project costs.

RCW-62 These comments regarding site characteristics are noted. Refer to **Response RCW-1**.

RCW-63 The commenter's understanding of the pipeline is correct.

RCW-64 The comment suggests that the DEIR fails to consider a reasonable range of alternatives for the Happy Valley Pumping Plant and Pipeline.

The commenter is correct that CEQA requires project proponents to explore a reasonable range of alternatives. However, as discussed on DEIR p. 6-2, an EIR need not consider every conceivable alternative but must consider a reasonable range to identify ways that significant environmental effects can be reduced or avoided. The 'rule of reason' governs the selection and consideration of alternatives, requiring that an EIR set forth only those alternatives necessary to permit a reasoned choice with an emphasis on alternatives that are feasible, can attain most basic project objectives, and can substantially reduce significant environmental impacts. With regard to the Happy Valley Pumping Plant and Pipeline, Table 6-1 on DEIR p. 6-4 discloses five alternatives that were either considered and rejected as infeasible, or are still being considered, including the preferred site and the alternative site. The three alternatives that were rejected as infeasible include: expanding the capacity of existing pumping plants and not building the Happy Valley Pumping Plant or Pipeline; constructing a larger Happy Valley Pumping Plant and decommissioning the Sleepy Hollow Pumping Plant; and constructing the Happy Valley Pumping Plant at site #1 located on 1 Miner Road (see DEIR pp. 6-61 and 6.62 for further discussion of these alternatives). These alternatives were rejected for the reasons described in the document. The DEIR also analyzes the site near the Miner Road/Camino Sobrante intersection, and, as noted by the commenter, this alternative would lessen some impacts, including volume sensitive impacts such as traffic and noise. Refer also to Master Response 2.1.4 on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.

RCW-65 The comment says that there is insufficient discussion in the DEIR regarding feasible alternatives and mitigation measures.

As discussed in DEIR Chapter 6, the WTTIP is the result of a six-year planning effort that entailed consideration of over 60 alternatives. Sources of the alternatives considered included background reports prepared for the WTTIP (described in Section 6.10 of the DEIR), suggestions made in response to the notice of preparation, at public meetings held for the WTTIP, and by the EIR preparers. Table 6-1 lists the alternatives considered, indicates whether the alternatives were evaluated in the EIR or were eliminated, and the source of the alternative. Numerous alternatives were eliminated from consideration based on inability to meet most of the project's basic objectives, infeasibility, or inability to reduce the project's environmental impacts. Those alternatives retained for consideration (in addition to Alternatives 1 and 2) are presented in Sections 6.3 through 6.9 of the DEIR. The alternatives screening process, alternatives eliminated and the reasons for their elimination are discussed in Section 6.10 of the DEIR.

With regard to mitigation measures, CEQA requires that an EIR "shall describe feasible measures which could minimize significant adverse impacts..." Guidelines § 15126.4(a)(1). Chapter 3 of the DEIR identifies measures to mitigate impacts that could result from implementation of the WTTIP projects. This chapter also describes the physical and regulatory setting of the WTTIP and identifies the criteria to be applied for determining impact significance. Table S-10 provides a summary of mitigation measures by impact.

RCW-66 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.

RCW-67 Refer to Section 2.1.4, Master Response on the Need for and Alternatives to the Happy Valley Pumping Plant and Pipeline project for an expanded discussion of the need for this facility.

RCW-68 For reasons stated throughout this Responses to Comments Document, EBMUD staff believes the DEIR adequately meets CEQA requirements and need not be recirculated.

RCW-69 As noted in **Response RCW-3**, the referenced comments attached to this comment letter were submitted to EBMUD separately and are responded to elsewhere in this Response to Comments document.

ROBERT AND CLARITA WOOLDRIDGE

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RECEIVED
AUG 07 2006
SECRETARY'S OFFICE

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
P.O. Box 24055, MS701
Oakland, CA 94623-1055

WATER DISTRIBUTION
AUG 8 - 2006
PLANNING DIVISION

Re: Happy Valley Pumping Plant
Water Treatment and Transmission Improvement Project

This letter is written in response to EBMUD's request to comment on the draft EIR for the Water Treatment and Transmission Improvement Project.

We have owned the site, on which EBMUD proposes to locate the Happy Valley Pumping Plant, for 30 years. My wife and I lived on the site next door at 164 Lombardy Lane until 1982 at which time our work required us to relocate to the East Coast. We retained the site at 162 Lombardy, with the intention to build our home upon return to California. We have now returned and intend to have a home constructed for our home, during the next year. As you are probably aware, a level building site in the Sleepy Hollow area of Orinda on which to build our home is virtually non-existent. In addition to the adverse consequence of depriving my wife and me to return to our home town of Orinda, the location of the Lombardy site is undesirable or the improper location for reasons presented below. The comments made below are some of our comments presented in response to the DEIR prepared for EBMUD.

We have read the draft EIR and considered the elements of the plan as you kindly explained them at the site visit you attended earlier this month. We understand EBMUD's explanation for the need to upgrade service in the Happy Valley area, but believe that the Lombardy site is unsuitable for the pumping plant.

Fortunately, the alternative site for the plant identified by EBMUD on Miner Road at Camino Sobrante offers plainly a better choice in virtually all respects and its owners, the Ted Urban family, have agreed to its acquisition.

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
Page 2 of 4

Lombardy Site

The Lombardy property is owned by a company, owned by myself and my wife. It comprises almost two acres and is one of the choicest buildable lots in Orinda. It is densely covered with natural vegetation and populated by several ancient oak trees. Two creeks converge at its southern end. The immediate neighborhood is uniquely quiet, particularly at night.

Miner Road Site

The Miner Road site is an open grassy field. It is the southern part of a parcel divided by a steeply banked creek and heavy foliage. A home is situated on the northern side. The site cannot be subdivided or easily put to any use that would serve the residence. The two houses flanking the property are sited a considerable distance from the lot. Their garages, drives, and walls and fences separate the lot from their living areas.

Proposed Pumping Plant

The pumping plant will consist of two industrial pumps and a large electric transformer *that will operate at night*. The pumps would be housed in a structure approximately 60 feet by 40 feet in size. A drive and parking area would surround the facility. During the estimated 2-year construction stage of the project, the site would serve as a corporate yard used to park earth-moving and other large vehicles and store equipment and materials.

Summary of Objections and Reason for Selecting the Miner Road Site

1 .Noise

The character of the Lombardy Lane area is defined by its tranquility, particularly during the late night and early morning hours. The EIR acknowledges that substantial noise would be emitted by the pump and the transformer. It does not comment on the cumulative effect of the two noises, one of which would likely be a hum and the other a whine. The proposed siting of the pumps is within feet of the bedroom of George and Perry Linton, the neighbors to the immediate east of the proposed site.

East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
Page 3 of 4

The use of Miner Road site, by contrast, would have little noise impact on the community, as the two adjacent houses are buffered from the pump and transformer sounds by the placement of their garages.

2. Traffic and Safety

In order to reach the Lombardy Lane site from Miner Road, trucks and equipment would have to travel the additional one-mile distance past more than 40 homes fronting the street. That stretch of road services the two arterial roads leading to Sleepy Hollow School and the Sleepy Hollow Swim & Tennis Club, both of which are heavily used by parents transporting children to the facilities.

Use of Miner Road property would shorten the distance that trucks and equipment would travel from Camino Pablo and have less impact on school and swim club traffic. Additionally, it can be accessed by both Miner Road and Camino Sobrante.

3. Trees

The EBMUD's plan for Lombardy Lane calls for the removal of at least two heritage oaks. These trees are more than 150 years of age and contribute to the beauty of the neighborhood. No trees of any note would have to be removed at the Miner Road site. Additional trees and landscaping could be installed at the following construction.

4. Acquisition Cost

The Lombardy Lane site is a large, premier, buildable, parcel. We are unwilling to sell it to EBMUD voluntarily. We would be entitled to the full value in the event EBMUD forced the sale through use of its eminent domain powers. An environmental or acquisition dispute could be litigated for years.

The Miner Road parcel is considerably smaller and has limited use. While the Urban's would be entitled to full value, there is no question that the price resulting from a voluntarily negotiated sale would be much more favorable to EBMUD and its rate payers.

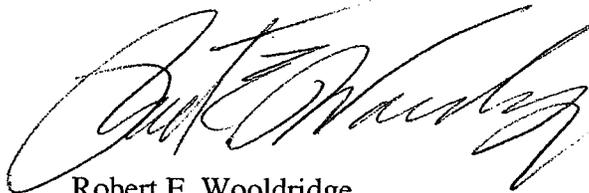
East Bay Municipal Utility District
c/o Judy Zavadil, Senior Project Manager
August 1, 2006
Page 4 of 4

In summary, use of the Lombardy Lane site for the pumping plant is inappropriate and strongly opposed by the owners and residents in the Sleepy Hollow community. The Miner Road property is in almost every respect uniquely suitable for the proposed use and its owners do not object to its acquisition. The EIR itself identifies the Miner Road site as a viable alternative. I believe that under CEQUA that the Miner Road site must be selected given the advantages of the reduced effect of noise on the surrounding residences, the increased traffic safety, the reduced acquisition cost, and the availability of the Miner Road site without the need to litigate with the owners. Given these circumstances, we urge EBMUD to adopt the alternative site on Miner Road for installation of the Happy Valley pumping plant.

Please understand that the above represents the owner's comments and that owner's consul familiar with these matters will submit clarification and or additions to these comments concerning the project and EIR.

Thank you for your consideration.

Very Truly Yours,



Robert E. Wooldridge
President of Wooldridge Construction

Cc: EBMUD Board of Directors
Mayor and Council Members
City of Orinda
Planning Department, City of Orinda

2.86 Robert and Clarita Wooldridge

RCW1-1 Please note that District staff is recommending that the Board of Directors approve the alternative site for the Happy Valley Pumping Plant (on Miner Road) after discussions with the owner of this parcel. The approval of this project is subject to the discretion of the Board of Directors.

RCW1-2 The opinion regarding the merits of the Happy Valley Alternative site is noted. Commenter is correct regarding the owner of the Happy Valley Pumping Plant Alternative Site (see **Response TU-1**). Refer also to **Response RCW1-1**.

RCW1-3 See **Responses DS-4** and **DS-5** for discussion of operational noise levels at the DEIR Proposed Happy Valley Pumping Plant site. Table 3.10-8 (DEIR p. 3.10-42) estimates noise levels from the transformer to be 23 dBA (Leq) at the closest residence to the east, while pump noise is estimated to be 53 dBA (Leq) at this same residence. Addition of these two noise levels would yield the same noise level of the pump, 53 dBA (Leq), due to the large difference in the two noise levels. The addition of two noise levels (when there is a difference of 16 dB or more) does not increase the higher noise level.

The DEIR acknowledges the hum component of transformer noise in Table 3.10-8, footnote c (p. 3.10-42), where a 5 dB penalty is added to the Lafayette nighttime noise limit for transformer noise. This reduces the Lafayette nighttime noise limit to 48 dBA (Leq) for transformer noise, while the Orinda nighttime noise limit for all mechanical equipment (regardless of hum component) is still lower, at 45 dBA (Leq). Both standards are listed in Table 3.10-8 and pumping plants will need to be designed to meet these standards.

RCW1-4 This response expands on information presented on DEIR p. 6-37. In brief, the magnitude of noise impacts at the Happy Valley Pumping Plant Alternative site would be less than at the Lombardy Lane site (and mitigable) because ambient noise is higher and there would be fewer receptors near the noise sources at the plant (the vent and transformer). Refer also to Section 3.4 in the Response to Comments document.

Development of the Happy Valley Pumping Plant Alternative site would locate the pumping plant and transformer approximately 50 feet from the existing home to the north and 150 feet from the existing home to the south. At such proximities, noise levels associated with construction and operation of a pumping plant at the alternative site would be similar to those described for the DEIR Proposed site for the closest residences to the east and west (see DEIR pp. 3.10-25 and 3.10-46). Noise measurements taken at the alternative site¹ confirm that the magnitude of noise

¹ Noise measurements were taken at the Happy Valley Pumping Plant Alternative site in November, 2006.

impacts at the Happy Valley Pumping Plant Alternative Site would be less than at the DEIR Proposed site (and mitigable). The measurement taken at the alternative site for existing noise levels was 54 CNEL, which is 2 dB higher than the measurement taken at the DEIR Proposed site (52 CNEL).

Like at the DEIR Proposed site, noise impacts at the alternative site also would be considered less than significant with mitigation. The same construction-related noise controls and operational design measures (orienting vents away from the residences to the north and south) would be required (see discussion in Table 6-5 of the DEIR). However, there appear to be fewer residential receptors close to the alternative site, and ambient noise levels are slightly higher than the Lombardy Lane site due to traffic on Miner Road. At the alternative site, this would provide more options for locating vents away from sensitive receptors, and there would be fewer receptors potentially affected by the location of pumping plant vents or openings.

RCW1-5 Refer to **Responses RCW-58** and **RCW-59**.

RCW1-6 Refer to **Responses RCW-58** and **RCW-59**.

RCW1-7 See **Response RCW-39**.

RCW1-8 A 10-inch coast live oak would likely be removed from the western edge of the Happy Valley Pumping Plant Alternative Site (See Figure 22). EBMUD intends to keep the existing coast live oaks along the border with Miner Road, and the 18-inch coast live oak on the southern edge of the site. DEIR p. 6-36 assumed that all of the trees along Miner Road would need to be removed in order to construct the Happy Valley Pumping Plant at the alternative site; that assumption was incorrect. Therefore, impacts to trees at the alternative site would not be as great as assumed in the DEIR.

RCW1-9 The comments regarding the owner's willingness to sell the property site are noted. Please see **Response RCW1-1**.

RCW1-10 The comments regarding the alternative parcel are noted. Please see **Response RCW1-1**. EBMUD would negotiate fair market value for any property it would acquire.

RCW1-11 Please see **Response RCW1-1**.

RCW1-12 Please see **Response RCW1-1**.

From: robin jones [mailto:rdmjones@pacbell.net]
Sent: Friday, September 15, 2006 9:55 PM
To: Water Treatment Transmission Improvements Program
Subject: Orinda Filter Plant

EBMUD Board of Directors:

As a resident of Orinda, I am opposed to the proposed plan of expansion for the Orinda Filter Plant for the following reasons:

- **The Draft EIR that has been submitted is ill conceived and problematic on many levels.**
- **There is no clearly stated need or requirement in the Draft EIR as to why EBMUD must upgrade and expand the Orinda Filter Plant.**
- **Locating this large and expanding facility in a residential community is impractical, risky and not necessary.**
- **Removal of the sports fields will hurt the community and deprive children of much needed recreational playing fields**
- **Your proposed expansion is contiguous to an elementary school.**
- **Additional structures proposed will be unattractive and will counter the semi-rural charter in the City of Orinda .**
- **Camino Pablo is designated a scenic corridor. EBMUD is planning to build multiple multi story buildings and huge storage tanks that will be visible from the corridor and therefore violate the scenic corridor designation.**
- **No consideration has been given to new technologies for water treatment that would eliminate the need for large storage tanks and additional buildings for water treatment and storage.**
- **Other EBMUD locations have not been considered as part of this Draft EIR.**
 - **There are other EBMUD locations where a filter plant could be constructed or expanded that would have NO impact on the City of Orinda and its residents.**
- **Our property values will be negatively impacted because of the expansion of the Orinda Filter Plant.**
- **The community and its residents and The City of Orinda oppose the expansion of EBMUD's Orinda Filter Plant.**

Sincerely,

Robin Jones

***Robin Jones, Community Education
Hospice and Palliative Care of Contra Costa
3470 Buskirk Ave., Pleasant Hill, CA 94523
T: (925) 887 5678
F: (925) 887 5679
On the web at www.hospicecc.org***

2.87 Robin Jones

Many of the comments in this letter are similar to comments in the letter submitted by Ann Sharf. Consequently, many of the responses below cross-reference to responses in Ms. Sharf's letter.

- RJ-1 Please see **Response AS-1**.
- RJ-2 Please see **Response AS-2** and Section 2.1.2, Master Response on Benefits to Orinda.
- RJ-3 Please see **Response AS-3**.
- RJ-4 Please see **Response AS-4, BM-2, and BM-11**.
- RJ-5 Please see **Response AS-5**.
- RJ-6 Please see **Response AS-6**.
- RJ-7 Please see **Response AS-7**.
- RJ-8 Please see **Responses ORIN-118 through ORIN-120, and Response BM-9**.
- RJ-9 Please see **Response AS-9**.
- RJ-10 EBMUD acknowledges the concerns regarding property values. Refer to Section 2.1.5, Master Response on Social and Economic Costs.
- RJ-11 Please see **Response AS-11**.

From: Rik Lee [mailto:rik.ohana@gmail.com]
Sent: Monday, September 18, 2006 12:40 AM
To: Water Treatment Transmission Improvements Program
Cc: lizzylee25@yahoo.com
Subject: EBMUD - Tice Valley Water Pumping Plant (Alternate site)

Dear Ms. Zavadil,

Our family lives at 3303 Freeman Road. Our property shares the most fence line with the alternate site of the proposed Tice Valley water pumping plant (Olympic Boulevard). I am writing this email on behalf of my family to express our opposition for this location of the Tice Valley pumping plant.

We met with EBMUD representatives last week on the alternate site location. I gained a better understanding of the scope of the proposed EBMUD project and the impact it would be for me and my family. I appreciate their candid responses to my inquiries.

We oppose the location of the alternate site for the pumping plant for three main reasons:

1. The EBMUD representatives estimated the location of the actual structure on the property. This location estimate is extremely close to our home. Our master bedroom window would look out at the 20-foot structure (replacing the calm feel of sunlight shining through the trees). I recognize a visual complaint may not hold much weight in your decision-making process. However, if this alternate site is chosen, we are willing to pursue avenues (including litigation) to prevent the actual structure from being built so close to our home.
2. Work was completed on the alternate site a few years ago. The roots of two tall, mature oak trees were damaged and they ultimately died. The oak trees were not replaced and there is a big open space on the property where they used to be. The health of the remaining oak trees are a major concern to us from the following two perspectives:
 - Safety: Several limbs of the remaining oak trees hang over our property line. If these oak trees are damaged and as a result some limbs fall, they could severely injure/kill a person (including one of our three children) or cause significant damage to our recently re-modeled home.
 - Visual: The oak trees contribute to the great character of our neighborhood. These mature oak trees have been in place many, many years. There would be a large, visual gap that would be irreplaceable if these oak trees died.
3. The EBMUD representatives indicated the noise of the pumping that would occur from 6 pm to 6 am would be no louder than an air conditioning unit. With the alternate site being so close to our home (and outdoor patio area), the noise would affect our family the most. I recognize this complaint may not hold much weight in your decision-making process either. However, enjoying the peace of our property is very important to our family.

The EBMUD representatives also briefly discussed the original proposed site on the south side of Olympic Boulevard. In our opinion, it appears this is a preferable location for the following reasons:

- location at the end of an open court
- limited affect on homes
- minimal impact to trees (compared to the north side of Olympic Boulevard)

Please let me know if you would like to discuss our opposition of the alternate site for the Tice Valley pumping plant further.

Thank you for your consideration.

Regards,

Richard D. Lee
3303 Freeman Road
Walnut Creek, CA 94595
925.932.5985

2.88 Richard Lee

- RL1-1 EBMUD staff is not recommending selection of the Tice Pumping Plant alternative site. However, approval of WTTIP projects and project locations is at the discretion of the EBMUD Board of Directors.
- RL1-2 The commenter's opposition to this alternative location for the Tice Pumping Plant is noted. District staff is not recommending the alternative site for approval.
- RL1-3 Refer to previous response and to **Response AH-2** regarding measures to reduce potential damage to trees.
- RL1-4 As noted in **Response DGB-3**, should this alternative ultimately be selected (not recommended by District staff), this pumping plant will not be allowed to exceed the 45-dBA nighttime noise limit at the closest residential receptors. The 45-dBA nighttime noise limit is equivalent to the strictest noise limit imposed by any municipality connected with the WTTIP project (see Table 3.10-1, DEIR p. 3.10-4, Footnote "a" for more details). See **Response DGB-3** for more discussion.
- RL1-5 EBMUD staff is recommending the proposed site on the south side of Olympic Boulevard for Board approval.

Date: 17 September, 2006

To: East Bay Municipal Utility District

Re: Tice Valley Pumping Plant

WATER DISTRIBUTION

SEP 18 2006

PLANNING DIVISION

It has come to my attention that EBMUD is actively considering the "Alternate" site for the proposed Tice Valley Pumping Station.

The "Original" proposed site is located on the South side of Olympic Blvd and West of the Tice Valley intersection. This site would be built on a lot presently deeded to the County plus an adjacent sliver of property that could not be improved for either residential or commercial development (see Attachment A, Lots 20 & 21). The property to the South is undeveloped Agricultural hillside. The nearest residence to the West is about 175 Ft and this is to the corner of a two car detached garage. The actual living space would be about 200Ft from the corner of the Pump House structure. The "Original" site is also at the North end of the Newell Ave. frontage road cul-de-sac which is entered from Olympic Blvd. at an existing intersection with a signal.

The "Alternate" site across Olympic Blvd. is a long narrow lot roughly 430 Ft long and tapering from 72.6 Ft to 105 Ft deep (Attachment B). This lot is presently zoned single family residential with a natural drainage swale along the North property line and a string of Heritage Valley Oaks along this line. Backing up to this lot along the North property line are a number of Freeman Road residences that have been recently improved.

The proposed pumping station will be connecting to existing 20" water lines below Olympic Blvd. and boosting the pressure to lift the water to the next water tank elevation. The pumping power to accomplish will be about 400 horsepower. The proposed Pump House will be about 70 Ft long by 30 Ft deep and will be 20 Ft high. In order to service pumps of this size a Service Yard / Parking Area about 25 Ft deep along the front of the Pump House will be required. The Pump House will probably have roof access hatches above the pumps to allow for a hydraulic crane to lift the pumps for maintenance. The "Construction Zone" for the Pump House will extend 5 Ft. to 10 Ft. behind the structure and a 7 Ft. to 10 Ft. deep Landscaping Zone along Olympic Blvd will also probably be required. The total depth of the development will be approximately 67 Ft to 75 Ft deep.

Installing the proposed Pumping Station on the "Alternate" site would place the rear wall of the Pump House within 30 Ft to 50 Ft of the Freeman Road residential living space. It would also place the structure beneath the canopy of the existing Heritage Valley Oaks thereby almost assuring their demise within a few years.

Another point to consider is the impact to the traffic on Olympic Blvd. Entrance to the "Alternate" site would be where Olympic Blvd. curves and reduces down to two lanes. The visibility is poor along this stretch and drivers need to be vigilant for bicycle riders continuing down Olympic to the Regional Park Trail head. One could not possibly find a more dangerous location along the whole length of Olympic Blvd for creating an

industrial truck access to the proposed Pump House. The number of Rossmore residents that use this stretch of Olympic Blvd to reach Pleasant Hill Road and the freeway is significant. There are two left turn lanes from Tice Valley Road on to Westbound Olympic Blvd. The "Alternate" site construction impact to Olympic Blvd traffic would also be significant.

When one looks across their back yard, over the rear fence and into their rear neighbors yard they typically see some trees, landscaping and the rear of their neighbors house with the roof line usually sloping away from a 10 Ft. eave to a 15 Ft. ridge line. This fits in comfortably with the neighborhood ambience. Replacing that view with a 20 Ft high by 70 Ft long concrete block wall is not acceptable under any circumstance and would drastically reduce the property values of the Freeman Road residences.

Another point to consider is the noise generated by the pumps. Sitting outside in the evening and hearing a neighbors swimming pool pump cycle is to be expected. These are usually small fractional to 1.5 horsepower motors. Listening to the steady drone of the 400 horsepower pump motor is something else altogether.

When one considers the Environmental, Life Safety, Visual, Noise and Property Value Impacts it is clear to see why EBMUD considered locating the proposed Pump House at the "Primary" site. There would be minimal impact to the surrounding residences and all construction / maintenance traffic would use the existing signal and frontage road. The Environmental (Trees and Noise) impact would also be minimal and the nearest residential living space would be 4 to 6 times further away.

Another point to consider is that there have not been any studies performed for the "Alternate" site ("EIR", Arborist's Report, Toxic Waste and impact to the neighborhood). This will all need to be completed prior to any construction on this site. By the time these studies are complete to will be obvious that the "Alternate" is unacceptable for the intended Tice Valley Pumping Plant and the "Preferred" site should be developed as indicated in the current EBMUD documentation.

A third site which would have even less visual impact to the neighborhood would be to install a below grade pump station on the existing vacant lot at the South East corner of the Tice Valley Blvd. and Olympic Blvd intersection. There is not any adjacent or nearby residential property to this site.

Given the short notice regarding the proposed pumping project and the possible use of the "Alternate" site I have only been able to address some of the more obvious conflicts.



Richard L Ronnow, PE
3343 Freeman Rd
Walnut Creek, Ca. 94595

Attachments:

A – Proposed Site - Assessors Map 238 Page 01

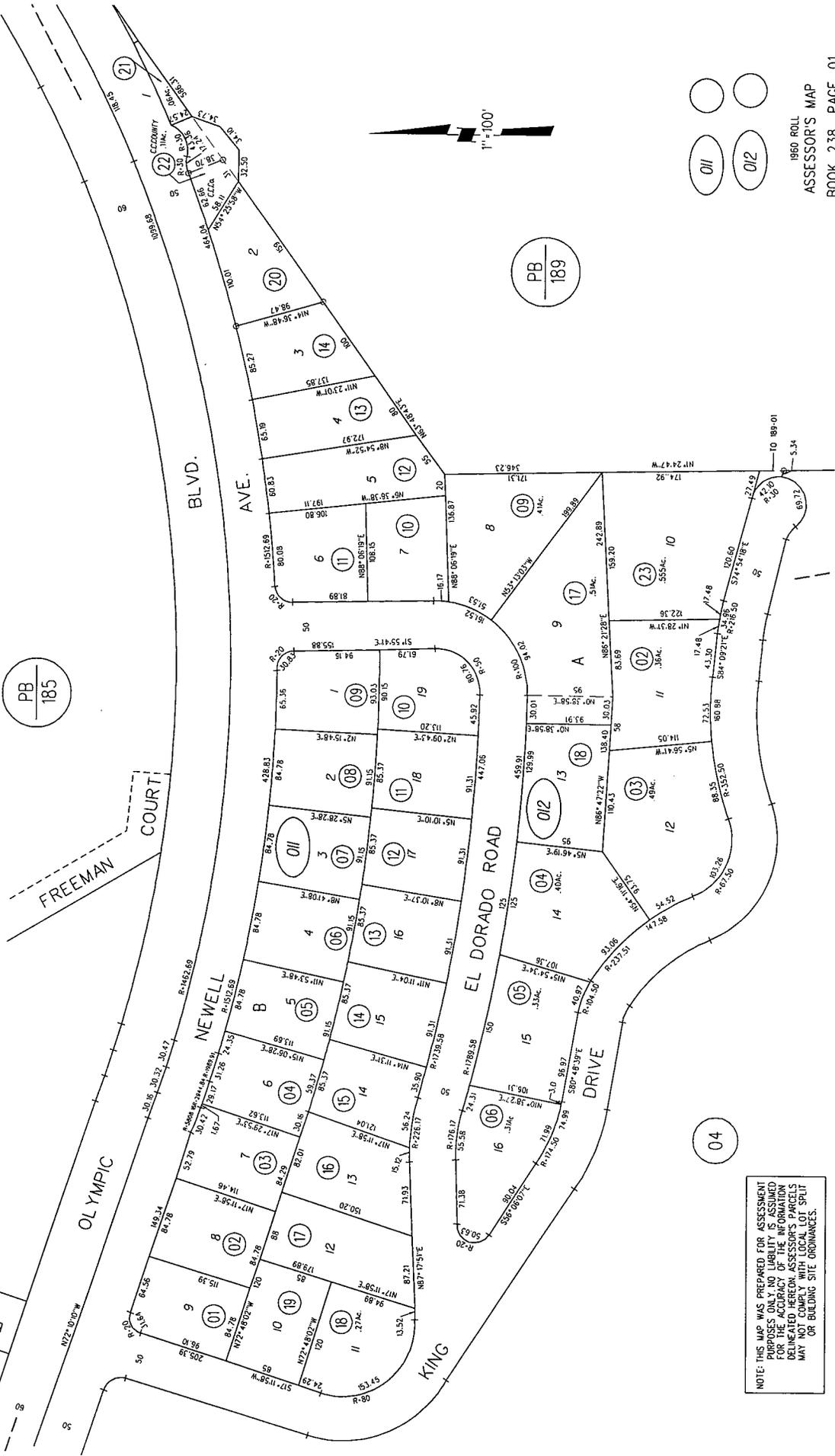
B – Alternate Site - Assessors Map 185 Page 22

C – EBMUD Fig. 3.3 TICEPP-3

D – Satellite Photo (Google Earth) showing Proposed and Alternate sites with Heritage Valley Oaks and Freeman Road Residences.

HILLSIDE TERRACE TRACT
M.B. 30-45

PB
185



PB
189

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012

04

NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELIVERED HEREON. ASSESSOR'S PARCELS MAY NOT OBLIGATE OR BUILDING SITE ORDINANCES.

Comment Letter RR
RR-14



2.89 Richard Ronnow

- RR-1 The preliminary design for the Tice Pumping Plant includes three 300 horsepower pumps for a total pumping capacity of approximately 10 million gallons per day (mgd). This information is shown on DEIR p. 2-11. There is not a required width for the service area in front and on the side of the facility; although EBMUD generally tries to keep the access road to a minimum width of about 15 feet. By “depth”, EBMUD is assuming that the commenter is referring to the overall width of the development in the horizontal plane, not the excavation depth into the subgrade. The final width would be based on many constraints including property easements, new landscaping, access road widths, creek offsets, tree canopy offsets, hiking trail offsets, overhead power line clearances, and the required width of the structure.
- RR-2 Refer to **Response DGB-3** regarding the distance to the house nearest the Tice Pumping Plant alternative site. Note that District staff is not recommending the alternative site for approval.
- RR-3 See **Response AH-2**.
- RR-4 See **Response AH-3** regarding the DEIR’s analysis of potential traffic and circulation impacts (associated mitigation measures), and the use of Olympic Boulevard, associated with construction of the Tice Pumping Plant (both the proposed site and alternative site).
- RR-5 The commenter’s opposition to the Tice Pumping Plant alternative site is noted. Refer to Section 2.1.5, Master Response on Social and Economic Costs. Also, note that District staff is not recommending the alternative site for approval.
- RR-6 The commenter’s opposition to this alternative location for the Tice Pumping Plant is noted. District staff are not recommending this site. As noted in **Response DGB-3**, this pumping plant will not be allowed to exceed the 45-dBA nighttime noise limit at the closest residential receptors. See **Response DGB-3** for further discussion.
- RR-7 The DEIR characterizes impacts to residences near the proposed Tice Pumping Plant site in Chapter 3. EBMUD staff is recommending the proposed site on the south side of Olympic Boulevard for Board approval.
- RR-8 Please see **Responses HOA-1** and **HOA-8**.
- RR-9 Comment noted. EBMUD does not construct fully buried pumping plants due to concerns regarding surface water drainage. Generally, buried pumping plants still rise above grade by approximately two to four feet. The “third site” mentioned by the commenter was considered by EBMUD, and is shown as Site #1 on the Tice Pumping Plant Alternative Sites figure found in Appendix J of the DEIR.

- RR-10 Consistent with requirements of the California Environmental Quality Act (CEQA), the District issued a Notice of Availability on June 23, 2006 indicating that the WTTIP DEIR had been published. It is District practice to notify landowners impacted by District projects. When the District discovered that individual notices were not received by residents of Freeman Road, an effort was made to contact these landowners. Comments on the project were accepted until September 18, 2006. Seven public meetings on the project were held at various locations. In addition, District staff met with residents on Freeman Road at their request on September 12, 2006.
- RR-11 This attachment is Assessors Map 238 Page 01 showing the proposed pumping plant site.
- RR-12 This attachment is Assessors Map 185 Page 22 showing the alternative pumping plant site.
- RR-13 This attachment is DEIR Figure 3.3-TICEPP-3.
- RR-14 This attachment is a Google Earth satellite photo showing the proposed and alternative sites with heritage Valley Oaks and Freeman Road residences.

2.90 Richard Sypriano

Please note that the New Leland Pressure Zone Reservoir is examined at program level of detail in the WTTIP EIR. EBMUD is committed to engaging in a project-level EIR at an appropriate date in the future. Refer to Section 2.1.6, Master Response on the New Leland Pressure Zone Reservoir Alternatives, for more information.

- RS-1 The comment regarding the reservoir site is noted. See responses below.
- RS-2 The comment regarding the reservoir site is noted.
- RS-3 The commenter suggests that the District build a single access road to the New Leland Pressure Zone Reservoir. As stated in DEIR p. 2-86, four potential construction access routes are being considered.
- RS-4 The California Department of Transportation (Caltrans) has informed EBMUD in a letter dated September 22, 2005 that the State's Park and Ride lot was not designed to handle heavy loads and traffic. They are also concerned that construction access through the park and ride would disrupt the operation of the lot and therefore, informed EBMUD that a separate access road is required.
- RS-5 Proceeding along the side of the freeway until the road reaches the current proposed Caltrans access road is not feasible. The only flat space between the travel lanes of Highway 680 and the adjacent slope is the shoulder of the highway. It is unlikely, given safety concerns that Caltrans would consent to operating the freeway without a shoulder.
- There is also not enough space between the traveled lanes of the freeway and the access road for trucks to make that turn up the access road. Vehicles that are traveling north on the freeway only have to make a 45 degree turn to exit the freeway and head up the access road. This is a feasible maneuver and is the route contemplated in the DEIR for route C. Vehicles that would be traveling south on a road parallel to the freeway would have to make a 145 degree turn to head up the access road. The type of trucks required to haul dirt from the site require a 60 foot turning radius that is not available between the freeway and the existing access road.
- RS-6 Caltrans has informed us that access to and from the site via I-680 is prohibited. Subsequent discussions indicate that there could be some flexibility with vehicles leaving the freeway. Negotiations with Caltrans are ongoing.
- RS-7 EBMUD will need to negotiate with Caltrans to purchase the portion of the reservoir site that is owned by the State of California. Purchasing the land and enlarging the park and ride area will be investigated with Caltrans. Please also refer to Section 2.1.3, Master Response on EBMUD Obligations to Comply with Local Ordinances, Obtain Local Agency Approvals and Permits, and Pay Local Agency Fees for additional response pertinent to this comment.

- RS-8 Site-specific traffic issues will be evaluated in a separate project-level EIR to be prepared for the New Leland Pressure Zone Reservoir. Preparation of a traffic control plan would be a mitigation measure in that EIR and could be developed during the construction phase of the project. With implementation of mitigation measures similar to Measure 3.8-1 in the DEIR, identified for the project level elements, impacts to traffic and circulation could be reduced.
- RS-9 Implementation of mitigation measures similar to Measure 3.8-7 (DEIR p. 3.8-23) would require road conditions to be documented for all routes that will be used by project related vehicles. Roads damaged by construction will be restored to equal to their condition before the construction began.

Via Email @ wttip@ebmud.com and nharlow@ebmud.com & U.S. Mail

September 8, 2006

Ms. Nora Harlow, Community Affairs Rep.
Ms. Judy Zavadil, Senior Project Manager
WTTIP, MS #701. EBMUD
P.O. Box 24055
Oakland, CA 94623

Subject: Proposed Access to the New Leland Reservoir

Dear Ms. Harlow & Ms. Zavadil,

As a resident and owner at 11 Sugarloaf Terrace, Alamo, CA (corner house between Sugarloaf Drive and Sugarloaf Terrace), we are quite disturbed to learn, upon receipt of your notification letter on August 27th, 2006, that EBMUD inadvertently omitted notifying our neighborhood that our streets (Route B) are being considered as one of the construction access route for the new reservoir.

RSY-1

The thought of heavy construction vehicles, reservoir's building equipment/supplies, construction workers' vehicles, etc. on our narrow streets for this possible two-year project is unacceptable to us. We would be very concerned for the safety of the five year old in our household and other young children in our neighborhood going out to the front of the house to bike, play, or walk to and from school because of the dangers that will be imposed upon them on a daily basis from the construction trucks and other vehicle traffic.

RSY-2

The Sugarloaf Streets are private roads and our neighborhood is responsible for the maintenances of its streets. The constant construction traffic, estimated at over 170 vehicles per day, comprising of heavy construction trucks, vehicles, etc., over a possible two-year span, will eventually cause premature wear and tear and damages to our roads. Along with this, the safety concerns for all the neighborhood children, the neighborhood's ingress and egress to and from work, our narrow streets will not be able to accommodate this nightmarish construction truck traffic situation.

RSY-3

In addition to the above, environmentally, we cannot tolerate the fact that our clean and peaceful ambience of this upscale neighborhood will be disrupted by the noise, dust and debris from the construction traffic.

RSY-4

Please let it be known that as part of the Sugarloaf residence, we hereby deny any and all permission for construction access to our streets (Route B) now and in the future.

RSY-5

Yours very truly,

Richard & Susan Yau
Owners
11 Sugarloaf Terrace
Alamo, CA 94507
(925) 935-6853

2.91 Richard and Susan Yau

Please note that the New Leland Pressure Zone Reservoir is examined at program level of detail in the WTTIP EIR. EBMUD is committed to engaging in a project-level EIR at an appropriate date in the future. Refer to Section 2.1.6, Master Response on the New Leland Pressure Zone Reservoir Alternatives, for more information.

RSY-1 The comment notes that EBMUD failed to directly notify Sugarloaf area residents of the public meetings for the proposed Leland Pressure Zone Reservoir Project.

EBMUD acknowledges that the Sugarloaf area residents were not individually notified of the public meeting for the proposed Leland Pressure Zone Reservoir Project, along with many other landowners, and regrets that this occurred. After this lack of individual notice was discovered, a letter describing the proposed project was sent to the Sugarloaf area residents on August 24, 2006. Although it is not required by CEQA, EBMUD endeavors to individually notify landowners directly impacted by District projects where possible. EBMUD places great value on community involvement.

RSY-2 The commenter indicates that the Sugarloaf neighborhood roads are private roads unfit for use as access routes for construction of the New Leland Pressure Zone Reservoir in accordance with Option B (DEIR p. 2-86). The comment also notes that construction impacts would result in premature wear on road surfaces and for these reasons says that permission for construction access will be denied.

The New Leland Pressure Zone Reservoir is discussed at a program level of analysis in the DEIR (see Table S-2, DEIR p. S-5). The reservoir construction and the associated construction access routes will be analyzed in-depth subsequent in a later project-level EIR. EBMUD will consider these comments indicating that Option B may not be a feasible access route to the preferred reservoir site as part of the analysis in that EIR.

RSY-3 See **Response RSY-2**.

RSY-4 See **Responses RSY-2** and **DCAY-5**.

RSY-5 See **Response RSY-2**.