



COUNTY OF ORANGE
WELL STANDARDS ADVISORY BOARD

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JOHN M. GREGG
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A G E N D A

**WELL STANDARDS ADVISORY BOARD (WSAB)
REGULAR MEETING**

Monday, October 30, 2023, 10:00 A.M.

**Health Care Agency
Environmental Health Division
Crystal Cove Conference Room
1241 E. Dyer Road, Ste. 120, Santa Ana, Ca 92705**

This agenda contains a brief description of each item to be considered. Except as provided by law, no action shall be taken on any item not appearing in the agenda. To speak on any item, make a verbal request through the Chairperson following the Chairperson's invitation from the public to speak on the item. Once acknowledged and prompted by the Chairperson, you may begin to speak. When addressing the Well Standards Advisory Board, it is requested that you state your name, city of residence, and occupation for the record. Speakers may address the Well Standards Advisory Board on any item on the agenda for up to three minutes. PowerPoint and video presentation must be requested in advance of the meeting through the Orange County Health Care Agency by contacting Hisham Elmishad, at Helmishad@ochca.com.

You may request supporting documentation distributed to the Well Standards Advisory Board as related to the agenda items by contacting Hisham Elmishad, at Helmishad@ochca.com.

The agenda is available online at <https://www.ochealthinfo.com/about-hca/public-health-services/environmental-health-division>.

In compliance with the American with Disabilities Act, those requiring reasonable accommodations for this meeting should notify the Orange County Health Care Agency prior to the meeting at Helmishad@ochca.com.

1. Introductions
2. Approve Well Standards Advisory Board Minutes of the May 4, 2016 Regular Meeting
3. Approve Well Standards Advisory Board Minutes of the June 1, 2022 Special Meeting

A G E N D A

4. Well Permit Appeal regarding Forest Lawn Well Permit No. 23-08-21

5. Public Comments

At this time members of the public may address the WSAB on any matter not on the agenda but within the subject matter jurisdiction of the Board.

6. Adjournment



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**WELL STANDARDS ADVISORY BOARD (WSAB)
RECORD OF MEETING**

Location: Huntington Beach Utilities Division Yard
Conference Room
19001 Huntington Street, Huntington Beach, CA 92648

Date: May 4, 2016

Board Members

In Attendance: Roy L. Herndon, Orange County Water District
John M. Gregg, Gregg Drilling and Testing, Inc.
Robert McVicker, Golden State Water Company
Nabil B. Saba, City of Santa Ana, Public Works Water Dept.

Guest Attendees: Anthony Martinez, Orange County Health Care Agency
Geniece Higgins, Orange County Health Care Agency
Larry Brennler, Orange County Health Care Agency
Dan Yokoyama, Orange County Health Care Agency
Juan Anzora, Orange County Health Care Agency
Derek Smith, City of Huntington Beach
Andrew Vandenberg, City of Huntington Beach

Chairperson Roy Herndon convened the meeting at 9:04 a.m.

WSAB members, guest attendees, and public attendees introduced themselves.

I. BACKGROUND REFERENCE DOCUMENTS PROVIDED TO WSAB MEMBERS.

- County of Orange Well Ordinance No. 2607.
- California Well Standards Bulletins 74-81 and 74-90 combined.
- WSAB Record of Meeting, November 16, 2015.

- Incomplete well destruction of traffic-rated monitoring wells and vaults photo-documentation, proposed well standards update Senate Bill No. 995, and draft revision 4 of the California Well Standards excerpts regarding monitoring well construction and destruction.
- California State Water Resources Control Board Guidance Memo 2016-01 dated February 22, 2016: Annular Seals for New Public Water Supply Wells and Orange County well fees schedule.
- Information documentation for the abandoned monitoring well at 34205 Doheny Park Road, Dana Point.
- Information documentation for the abandoned water well at 16661 Green Street, Huntington Beach.
- Information sheet from Orange County Water District regarding integral camera site tube for public drinking water well.

II. **APPROVAL OF THE PREVIOUS WSAB MINUTES**

- The WSAB Minutes from the November 16, 2015 meeting were approved with the following correction and comments:
 - Item V., third bullet point: Water Quality Inspector Juan Anzora discussed water rights inquiries from private property owners who are considering drilling water wells on their properties.
 - Anthony Martinez from Orange County Environmental Health obtained Agency approval to:
 - Allow courtesy copies of the approved WSAB minutes be provided to the five cities that have their own well permitting program.

- Invitations will be extended to representatives from the five cities that have their own well permitting programs to attend the WSAB meetings.

III. **ORANGE COUNTY WELL STANDARDS ADVISORY BOARD DISCUSSION, DECISIONS AND RECOMMENDATIONS REGARDING INCOMPLETE DESTRUCTION OF TRAFFIC-RATED MONITORING WELLS AND WELL VAULTS**

- Roy Herndon stated that the WSAB does not have the legal authority to change the Orange County Well Ordinance. Dan Yokoyama stated that according to the Orange County Well Ordinance, Section 4-5-30 "Well standards may be modified by the Health Officer, with the advice and concurrence of the Well Standards Advisory Board, where required to cope with the local geological and groundwater conditions."
- Juan Anzora presented a brief presentation of examples of proper well destruction completion and examples of improper well destruction completion.
- John Gregg commented that with care and safety during the well destruction, there should be no problem removing the surface features of the well traffic box or well vault.
- The WSAB concurred with Orange County Environmental Health that:
 - All wells should be designed and constructed to facilitate their destruction at the end of their useful service life.
 - All surface features such as vaults, traffic boxes, stove pipe, or similar protective structures must be removed during the well destruction operation.
- Larry Brenner stated that if a variance to the well destruction work plan is requested by the permit holder, the permittee must submit detailed information on

the requested variance to Orange County Environmental Health for review. Well destruction variance work cannot proceed without Orange County Environmental Health's written approval.

IV. **ORANGE COUNTY ADOPTION OF 3 INCHES ANNULAR SEAL FOR ALL NEW PUBLIC WATER SUPPLY WELLS**

- Larry Brennler, upon the advice and concurrence of the WSAB, requested that the well standards for Orange County Environmental Health reflect the change in the California Waterworks Standards that all new public water supply wells shall be constructed with a minimum annular seal radial thickness of 3 inches. Mr. Brennler requested that the 3 inches annular seal requirement should include irrigation, private domestic, and industrial water wells since these types of wells are all categorized as "water wells" in the County well fee schedule. The WSAB concurred with Orange County Environmental Health that:
 - All new public water supply wells shall be constructed with a minimum annular seal radial thickness of 3 inches.
 - The 3 inch radial thickness for the annular seal requirement will be required for irrigation, private domestic, and industrial water wells since they are categorized in the County well fee schedule as "water wells."

V. **WELL DESTRUCTION PERMIT # 15-11-39 - UNION 76 STATION # 5385, 34131 DOHENY PARK RD, DANA POINT**

- Juan Anzora provided a brief presentation of an abandoned monitoring well at Beachside Animal Hospital, 34205 Doheny Park Rd., Dana Point. The property owners refused to allow the destruction of the abandoned monitoring well by Antea Group even though the State Water Resources Control Board

ordered all wells be destroyed prior to closure of the cleanup site. Orange County Environmental Health provided evidence that the abandoned monitoring well no longer serves a useful purpose, requested the WSAB to declare this well a public nuisance, and allow Orange County Environmental Health to take the appropriate corrective measures to get this well destroyed.

- Beachside Animals Hospital owners Dr. Robb Grant and Mrs. Debbie Grant did not submit a written declaration of any useful purpose for this abandoned monitoring well to the WSAB, were not in attendance, nor request attendance of today's WSAB meeting.
- The WSAB determined that this abandoned monitoring well is a public nuisance and will allow Orange County Environmental Health to take the appropriate corrective measures to get this well destroyed.

VI. **ABANDONED WATER WELL AT 16661 GREEN STREET, HUNTINGTON BEACH**

- Juan Anzora provided a brief presentation of an abandoned water well at 16661 Green Street, Huntington Beach owned by Bijan Sassounian. Orange County Environmental Health provided evidence that the abandoned water well is a public nuisance and a threat to the groundwater. Derek Smith from the City of Huntington Beach stated to the WSAB that the abandoned well is close to a public domestic drinking water well and is a threat to their potable groundwater used for the municipal drinking water supply.
- Mr. Sassounian did not provide a written declaration to the WSAB, was not in attendance, nor requested attendance of today's WSAB meeting.

- The WSAB determined that this abandoned water well is a public nuisance and will allow Orange County Environmental Health to take the appropriate corrective measures necessary to get this well destroyed.

VII. **DOWN-WELL SITE TUBES FOR WATER WELLS**

- The WSAB discussed the down-well site tubes for water wells. Larry Brennler commented that Orange County Environmental Health approved, on the average, 2 public water well construction permits per year that had 4-inch diameter camera site tubes installed with at least a 3 to 4-inch annular radial seal between the well casing and the borehole wall.
- Roy Herndon stated that there have been two water wells that had corrosion issues at the junction between the camera site tube casing and the water well casing.
- John Gregg stated that the well casing and the camera site tube casing should both be of the same metal to prevent corrosion. The well casing and the camera site tube casing should be constructed as close together as possible.

VIII. **PUBLIC PARTICIPATION**

- Derek Smith from the City of Huntington Beach requested that Orange County Environmental Health investigate the abandoned Parkview Mutual water well at 8051-8071 Warner Ave and the abandoned Oceanview Mutual water well at 17090 B Lane as a public nuisance and a threat to the groundwater. The request is that these wells be destroyed.
- Larry Brennler stated that Orange County Environmental Health will investigate these abandoned water wells and report to the WSAB at the next meeting.

IX. **ADJOURNMENT**

- Chairperson Roy Herndon adjourned the meeting at 10:24 a.m.



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**WELL STANDARDS ADVISORY BOARD (WSAB)
RECORD OF SPECIAL MEETING**

Location: Environmental Health Division office
Laguna Conference Room
1241 E. Dyer Road, Ste. 120, Santa Ana, CA 92705

Date: June 1, 2022

Board Members

In Attendance: Roy L. Herndon, Orange County Water District (OCWD)
John M. Gregg, Gregg Drilling and Testing, Inc.
James Fortuna, Orange County Public Works (OCPW)
Nabil B. Saba, City of Santa Ana, Public Works Water Dept.
Michael Grisso, City of Tustin, Public Works Water Dept.

Guest Attendees: Christine Lane, Orange County Health Care Agency (OCHCA)
Lauren Robinson, Orange County Health Care Agency (OCHCA)
Darwin Cheng, Orange County Health Care Agency (OCHCA)
Massoud Shamel, County Counsel
Juan Anzora, Orange County Health Care Agency (OCHCA)
Jane Nguyen, Orange County Health Care Agency (OCHCA)

Massoud Shamel convened the meeting at 10:30 a.m.

I. BACKGROUND REFERENCE DOCUMENTS PROVIDED TO WSAB MEMBERS.

- WSAB Meeting Notice Signed by EH Director
- Meeting Agenda
- Proposed WSAB Bylaws

II. INTRODUCTION

- Massoud Shamel introduced the Agenda and its conformance with the provisions of the Ralph M. Brown Act. He called meeting to order and opened the public for

comments. No members of the public were present. He closed for public comments.

III. **SELECTION OF THE CHAIRPERSON FOR THE WSAB**

- Nabil Saba nominated board member, Roy Herndon. All five members voted for Roy Herndon unanimously.
- Massoud Shamel opened for public comments. No members of the public were present. He closed for public comments.

IV. **DISCUSSION, SUGGESTIONS, AND ADOPTION OF THE PROPOSED BYLAWS FOR THE WSAB**

- Massoud Shamel brought the next item on the Agenda.
- Board member, John Gregg, commented that the term of Chairperson should be three years. Roy Herndon agreed that the term should be longer than one year, as the WSAB does not meet on a regular basis or even on an annual basis.
- Massoud Shamel reviewed the purposes of the WSAB and Chairperson on the Bylaws, which complied with Orange County Codified Ordinance 2607.
- Board members Nabil Saba and James Fortuna inquired about their terms of service and nominations as board members on the WSAB. Lauren Robinson answered that all board members' terms of service are to expire this calendar year, 2022. All WSAB members will need to be re-nominated on calendar year, 2023, for approval by the Board of Supervisors for the next 3-year terms. Christine Lane inquired on updating the Orange County Codified Ordinances 2607.

WSAB

June 1, 2022

Page 3

- James Fortuna addressed a change on item #6 on Article IV of the proposed Bylaws. The “Orange County Pollution Department” was renamed to “Orange County Public Works.”
- Massoud Shamel put the two changes, which were the extension of term for the WSAB’s Chairperson and updating the name “Orange County Pollution Department” to “Orange County Public Works” to the Bylaws up for vote. All members voted in the affirmative. No members of the public were present. He closed for public comments.

V. **Meeting adjourned at 11:04 a.m.**

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LATHAM & WATKINS^{LLP}

October 6, 2023

Via E-Mail

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Re: Opening Brief - Forest Lawn Memorial-Park Association's Application for Well/Exploratory Boring Permit (Well Permit No. 23-08-21)

Honorable Board Members and Ms. Sanchez,

Forest Lawn Memorial-Park Association - Cypress ("Forest Lawn") was established in 1958 and serves approximately 1,400 families each year. Forest Lawn - Cypress has approximately 110,000 interments at its memorial park that provide a final resting place for community members. Since 2016, in collaboration with the City of Cerritos, Forest Lawn has operated an irrigation system using recycled water to maintain the memorial park's landscape. The irrigation system uses State Water Resources Control Board Division of Drinking Water Title 22, Chapter 3, Division 4 of the California Code of Regulations remitted recycled water obtained from the Los Angeles County Sanitation Districts' Los Coyotes Water Reclamation Plant.

On June 27, 2023, Forest Lawn applied to the Orange County Health Care Agency ("OCHCA") for a well permit to access the groundwater beneath its property to augment its irrigation system. The OCHCA granted the permit (Well Permit No. 23-08-21) but imposed a condition requiring the installation of an air gap system to prevent contamination and pollution of the groundwater with recycled water.

The sole basis for this condition was the OCHCA's determination that the recycled water is contamination and pollution. The OCHCA erred. As explained in more detail below, the OCHCA's conclusion is inconsistent with the law, the facts and sound State and Orange County water policy.

The recycled water supplied to Forest Lawn is not contamination and pollution. Moreover, the applicable well construction standards do not require an air gap backflow prevention mechanism for this Well Permit. Forest Lawn's well application includes a check valve on the discharge side of the well as a backflow prevention device. This check valve is sufficient under the applicable well construction standards. Again, the OCHCA erred in determining otherwise.

Therefore, Forest Lawn respectfully requests that the Well Standards Advisory Board reverse the decision of the OCHCA and remove the air gap condition from the Well Permit. The condition is not necessary and any implication that recycled water is contamination and pollution would be in contravention of state law and approved water policy.

I. The OCHCA's Decision to Impose the Air Gap Condition Was an Error Because Recycled Water is Not Contamination and Pollution

The OCHCA imposed the air gap condition on the Well Permit because the OCHCA determined there would be a direct connection between the well and the recycled water at the site and because the recycled water, which is supplied by the Los Angeles County Sanitation Districts' Los Coyotes Water Reclamation Plant, is contamination and pollution. The OCHCA's conclusion is based on the flawed premise that recycled water is a potential source of contamination and pollution. It is not. Because recycled water is not a source of contamination and pollution, the OCHCA incorrectly imposed the air gap condition on the Well Permit.

Pursuant to Orange County Ordinance 2607 (the "Well Ordinance"), construction of a well in Orange County requires a permit issued by the OCHCA. (Well Ordinance Sec. 4-5-17.) The Well Ordinance also states that the applicable standards for the construction of a well are the standards in the Department of Water Resources' ("DWR") Bulletin No. 74, Chapter II, and future amendments thereto ("Bulletin 74-81").¹ (*Id.*, Sec. 4-5-30.). Bulletin 74-81 provides technical specifications for well construction, including the required distance between wells and potential sources of contamination and pollution (*sewers, septic tanks, cesspools and the like*). (Bulletin 74-81, Section 8.A.) Section 8 subdivision A of Bulletin 74-81 provides that "[a]ll wells shall be located an adequate horizontal distance from potential sources of contamination and pollution." (*Id.*) When contamination and pollution is near a well site, Bulletin 74-81 specifies adequate horizontal distances that are considered safe for well placement. These distances range from 50 feet for any sewer (both sanitary and storm) to 150 feet for a cesspool or seepage pit. (*Id.*)

To be clear, the proposed well is not located in proximity to any contamination and pollution of the types of sources of contamination and pollution cited in Bulletin 74-81. The OCHCA reasoned that because the proposed well is to be connected to Forest Lawn's recycled

¹ While the OCHCA cites to the DWR's "Combined Well Standards," according to the DWR, the Combined Well Standards are an informal compilation of Bulletin 74-81 and the draft supplemental Bulletin 74-90. (DWR, California Well Standards, Combined.) Because only Bulletin 74-81 has been formally approved and adopted by DWR and Orange County, it is the controlling set of well standards and, as such, we refer and cite to Bulletin 74-81 herein.

water irrigation system, which the OCHCA concludes is a source of contamination and pollution, the horizontal distance from a potential source of contamination and pollution is “zero” feet and, as such, an air gap is required to meet the 50-foot minimum setback requirement from sources of contamination and pollution as required in Bulletin 74-81.

a. Recycled Water is Not Contamination and Pollution

The recycled water from Los Angeles County Sanitation District’s Los Coyotes Reclamation Plant is not a source of contamination and pollution because the DWR, the Los Angeles Regional Water Quality Control Board and the State of California have all determined that recycled water is not a source of contamination and pollution and California water policy has emphatically determined that recycled water is a safe and valuable water source that is necessary to meet California’s water goals.

According to the California Legislature, California must undertake all possible steps to encourage and promote the use of recycled water to meet the growing water requirements of the state, including to replenish underground water supplies. (Water Code §§ 13510-13512.) To that end, the State of California adopted statutes making it clear that recycled water that meets the Title 22 Water Recycling Criteria does not constitute contamination and pollution.² Water Code section 13522(b) provides that the use of recycled water in accordance with the Title 22 Water Recycling Criteria “**does not cause, constitute, or contribute to, any form of contamination**, unless the department or the regional board determines that contamination exists.” (*Id.* [emphasis added].)

The Los Angeles Regional Water Quality Control Board has already determined that the recycled water supplied to Forest Lawn from the Los Angeles County Sanitation Districts and specifically from the Los Coyotes Water Reclamation Plant is not a source of contamination and pollution. According to the Los Angeles Regional Water Quality Board, *the Los Coyotes Water Reclamation Plant’s tertiary wastewater treatment process “meets the most stringent treatment standards and water requirements for all non-potable water reuse applications found in the Title 22 Water Recycling Criteria.”*³ The tertiary-treated recycled water is virtually free of pathogenic viruses, regularly meets state and federal drinking water standards, and is so clean that it is essentially indistinguishable from tap water.⁴ As such, Forest Lawn’s recycled water is legally defined as **not** constituting contamination and pollution. The OCHCA has no legal basis to make a determination to the contrary.

Additionally, the definitions of contamination and pollution in DWR’s Bulletin 74-81 do not include recycled water. Section 8 of Bulletin 74-81 defines contamination and pollution as

² The Title 22 Water Recycling Criteria includes requirements related to sources of recycled water, uses of recycled water, methods of treatment, recycled water sampling and analysis, reclamation plant design and operational requirements, among others. (22 CCR § 60301 *et seq.*)

³ Los Angeles Regional Water Quality Control Board, July 2020, available at: [https://www.waterboards.ca.gov/losangeles/board_decisions/tentative_orders/termination/LosCoyotesWRP/WRR_termination_LTR_Los%20Coyotes_87-051_\(CI-6182\).pdf](https://www.waterboards.ca.gov/losangeles/board_decisions/tentative_orders/termination/LosCoyotesWRP/WRR_termination_LTR_Los%20Coyotes_87-051_(CI-6182).pdf).

⁴ Sanitation Districts of Los Angeles County, *Water Recycling*, p. 7, available here: <https://www.lacsd.org/home/showpublisheddocument/2416/637643163179500000>

including: “sewers, both sanitary and storm sewers, leaching fields (from septic tanks), sewage and industrial waste ponds, barnyard and stable areas, feedlots, solid waste disposal sites, tanks and pipelines (both above ground and buried) for storage and conveyance of petroleum products or chemicals, etc.” (Bulletin 74-81, Section 8.) No mention is made of recycled water. Recycled water is not remotely similar to any of the sources of contamination and pollution referenced in Bulletin 74-81.⁵

Lastly, the State Water Resources Control Board’s Recycled Water Policy: (1) states that recycled water is safe; (2) supports recycled water as a safe alternative to fresh water or potable water; and (3) states that recycled water is presumed to have a beneficial impact when used in accordance with the State Water Resources Control Board’s Recycled Water Policy and applicable regulations, and when supporting the sustainable use of groundwater and surface water.⁶

Also, recycled water is a major component of California’s water supply. It is used throughout California to recharge groundwater basins and protect them from seawater intrusion, and as a valuable source for non-potable water uses.⁷ The Los Angeles County Sanitation Districts’ recycled water is safe for replenishing groundwater.⁸

The OCHCA’s determination in issuance of the Well Permit that recycled water is actually contamination and pollution contradicts the law, the facts and good water policy.

As the air gap condition is premised on the erroneous presumption that the recycled water is contamination and pollution, the Well Standards Advisory Board should remove the air gap condition based on this error alone. The inclusion of the proposed backflow prevention valve is provided in the well design.

II. The Applicable Well Construction Standards Do Not Require an Air Gap

Even if recycled water were determined to be a source of contamination and pollution, which it is not, the OCHCA cannot impose an air gap condition on irrigation water supply wells

⁵ Indeed, the California Water Code defines “contamination” as “an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. ‘Contamination’ includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.” (Wat. Code, § 13050(k).) The Water Code also defines “pollution” as “an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (A) The waters for beneficial uses. (B) Facilities which serve these beneficial uses.” (*Id.*, § 13050(l) [noting that pollution may include contamination].) Recycled water that meets the Water Code’s Recycling Criteria has none of these qualities.

⁶ State Water Resources Control Board, *Water Quality Control Policy for Recycled Water* (Effective April 8, 2019), p. 1, available here: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/121118_7_final_amendment_oal.pdf.

⁷ See, e.g., OCWD, Groundwater Replenishment System, 2022 Annual Report, p. 1-1, available here: <https://www.ocwd.com/wp-content/uploads/2022-GWRS-Annual-Report.pdf>.

⁸ Sanitation Districts of Los Angeles County, *Water Recycling*, p. 4.

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because the applicable well construction standards do not require an air gap backflow prevention mechanism for this Well Permit.

Section 10.F. of Bulletin 74-81 states that “[a]ll pump discharge pipes not discharging to the atmosphere shall be equipped with a check valve or similar device to prevent backflow and/or backsiphonage into the well when the pump shuts down. The check valve shall be installed between the pump head and the connection to the distribution system or standpipe.”⁹ (Bulletin 74-81, Section 10.F. [emphasis added].) The check valve on the discharge side of the well that Forest Lawn proposed is an appropriate backflow prevention device and the OCHCA provided no legal authority that shows that: (1) it is not adequate; or (2) requires any different backflow prevention device.

As a matter of law and established policy, recycled water is not contamination and pollution as asserted by the OCHCA. If the Well Standards Advisory Board upholds the condition imposed by the OCHCA, it will in effect be determining that recycled water is contamination and pollution. This will have disastrous implications for established water policy and will be contrary to law. We respectfully request that the Well Standards Advisory Board direct the OCHCA to revise the Well Permit to remove the air gap condition and to remove any determination that recycled water is contamination and pollution.

Respectfully Submitted,



Michael G. Romey
of LATHAM & WATKINS LLP

cc: Juan Anzora, EHOCwells@OCHCA.com
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George J. Mihalsten
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⁹ While DWR’s draft supplemental Bulletin 74-90 includes slightly different language in section 10.F. and only requires an “automatic device to prevent backflow and/or backsiphonage into a well,” it has the same import as the quoted language from Bulletin 74-81 as it relates to non-drinking water supply wells such as Forest Lawn’s proposed irrigation well here. However, as noted in footnote 1 above, the DWR and Orange County have not adopted Bulletin 74-90. As such, Bulletin 74-81 is the controlling set of well construction standards. (See DWR California Combined Well Standards website, available here: <https://water.ca.gov/Programs/Groundwater-Management/Wells/Well-Standards/Combined-Well-Standards>; see also Well Ordinance Sec. 4-5-30.)



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October 13, 2023

Well Standards Advisory Board
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Valerie Sanchez
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Re: OCHCA Response to Forest Lawn's Opening Brief re: Well Permit No. 23-08-21

Dear Honorable Board Members:

The Orange County Health Care Agency ("OCHCA") submits this letter brief in response to Applicant Forest Lawn's ("Applicant" or "Forest Lawn") Opening Brief regarding Well Permit No. 23-08-21 ("Applicant's Brief"). As noted in Applicant's Brief, OCHCA granted Permit No. 23-08-21 subject to the condition that the Applicant install an air gap system to prevent actual or potential cross contamination between the Applicant's existing irrigation system, that is supplied by recycled water obtained from the Los Angeles County Sanitation Districts' Los Coyotes Water Reclamation Plant, and the groundwater via the proposed well. This requirement is based on standards established by the State of California. OCHCA does not have authority to exempt Applicant from these State standards and Forest Lawn has not provided any documentation from the State Water Resources Control Board ("Water Board") providing for such an exemption. As such, OCHCA's permit approval subject to conditions is the only option OCHCA had in approving Permit No. 23-08-21. Therefore, Applicant's request for reversal of OCHCA's decision must be denied as explained further below.

1. This appeal is untimely as Permit No. 23-08-21 has not been denied or canceled.

The City of Cypress has vested authority to approve the construction of wells with OCHCA under Orange County Ordinance No. 2607. Notably, Sec. 4-5-25 of this Ordinance states, "In the event a permit is denied or canceled, the applicant or permit holder shall be given written notice by the Health Officer, which notice shall specify the reasons for his action and shall notify the applicant or permit holder of his right to request a hearing before the Well Standards Advisory Board within ten (10) days." (*emphasis added.*)

In this case, as Applicant asserts, Well Permit No. 23-08-21 was approved with conditions. And although Applicant has filed this appeal, no information has been provided whether Forest

Lawn has stopped construction on the proposed well or refuses outright to abide by the conditions stated in the approved permit. It is clear, that at this time, the conditionally approved permit remains open, and has not been denied or canceled. Therefore, by the clear language under Sec. 4-5-25, Applicant has no basis for this appeal, and it must be denied. However, even assuming, *arguendo*, Applicant establishes a right to appeal, it must be denied for all of the following reasons, below.

2. OCHCA has no authority to permit Applicant to modify a recycled water system.

Applicant incorrectly contends that OCHCA conditionally approved Well Permit No. 23-08-21 based solely on the fact that recycled water “is contamination or pollution.” This does not fully appreciate the reason for OCHCA’s condition to include an air gap.

While OCHCA has the authority to approve well construction under Ordinance 2607, the modification to any onsite recycled water system must be approved by the designated “Recycled Water Agency¹,” in this case, the Water Board.² Further, “[r]ecycled water supply systems shall have no direct connection to a potable water supply or alternate water source system.” (Uniform Plumbing Code § 1505.4.) Indeed, “[a]ll surface and ground waters of the state are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so designated by the Regional Boards.” (Water Board Resolution NO. 88-63.) Applicant’s proposed well will drill more than 1,000 feet into the ground, exposing it to existing groundwater for Orange County.³

Applicant has submitted plans for Well Permit No. 23-08-21 which includes making an intentional direct connection with an existing recycled water system on the plan site.⁴ Such a modification to the already existing recycled water system located at Forest Lawn must first be approved by the Water Board, not OCHCA. To date, Applicant has not presented OCHCA with any documentation which provides such authorization from the Water Board permitting Forest Lawn to make this modification to the existing recycled water system, nor is any included in Applicant’s Brief. Therefore, Applicant’s proposed plan to intentionally connect an irrigation well to an existing recycled water system cannot be approved by OCHCA, alone. Applicant’s contention that the installation of a check valve, or even installation of a reduced-pressure principle backflow prevention device, sufficiently protects against cross contamination and support approval of Well Permit No. 23-08-21 with no additional conditions is simply unsupported. It is clear that, without permission from the Water Board, Applicant may not make the intentional direct connection to the existing recycled water system as proposed. Indeed, without such approval from the Water Board, an air gap is required.

¹ See *RECYCLED WATER URBAN IRRIGATION USER MANUAL*, p. 18, available on Los Angeles County Sanitation Districts’ website: <https://www.lacsd.org/home/showpublisheddocument/2448/637643189837430000>.

² “The Water Boards regulate the production and use of recycled water in a manner that protects public health and the environment.”; https://www.waterboards.ca.gov/water_issues/programs/recycled_water/#:~:text=The%20Water%20Boards%20regulate%20the,Recycled%20Water%20Policy%20and%20regulations.

³ See Well Permit No. 23-08-21, Fig. 2.

⁴ See Well Permit No. 23-08-21.

3. An air gap is required to implement the proposed well subject to Permit No. 23-08-21 per California Well Standards, Combined

Not only must OCHCA defer to the Water Board for any proposed modification to an existing recycled water system, it must also follow the guidelines of California Department of Water Resources' ("DWR") Well Standards, Combined. Applicant attempts here to make a distinction without a difference by stating *only* Bulletin 74-81 should apply for determining the adequate horizontal distance from potential sources of contamination and pollution. This is an extremely narrow and selective reading of law by Applicant and is incorrect, but nonetheless does not change the analysis and proper application of standards by OCHCA. It must first be noted, that even if Applicant is correct, that only Bulletin 74-81 applies to statewide well standards, the DWR specifically states, "Though many local jurisdictions have adopted the Bulletin 74 standards directly or by reference, they do have authority to adopt standards that are more stringent in their local well ordinances."⁵ Sec. 4-5-30 of Ordinance 2607 specifically incorporates all amendments to Bulletin 74, "Standards for the construction, reconstruction, destruction, or abandonment of wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74, Chapter II and future amendments thereto. OCHCA is not restricted to outdated language of Bulletin 74-81, and indeed, the DWR notes that these standards were updated in 1991, by DWR Bulletin No. 74-90.⁶ OCHCA specifically links to the Well Standards, Combined on its well permitting website, clearly indicating to any applicant that these standards apply in Orange County.⁷

Again, though, this is a distinction without a difference. Section 8 of the Well Standards, Combined, provides a table indicating minimum horizontal distance from certain potential pollution and contamination, including specifically sewers, septic tanks, cesspools, and animal/fowl enclosures, but it also clearly states that the list is not exhaustive and that "[c]onsideration should also be given to adequate separation from sites or areas with known or suspected soil or water pollution or contamination." Bulletin 74-81, and the Well Standards, Combined introduce these standards by stating, "[a]ll water wells shall be located an adequate horizontal distance from known or potential sources of pollution and contamination." (*emphasis added.*) And even Bulletin 74-81 states, "[w]here in the opinion of the enforcing agency adverse conditions exist, the above listed distances shall be increased or special means of protection, particularly in the construction of the well, shall be provided." (*emphasis added.*) OCHCA's condition to include an air gap is certainly within its authority.

But again, OCHCA did not make the decision to condition the permit approval on its own volition. Instead, OCHCA has followed the mandates provided by the State. The Recycled Water Irrigation User Manual (*supra*, fn. 1) mandates the 50-foot horizontal space premised in OCHCA's condition unless Applicant receives permission from both the State and OCHCA: "Proposed irrigation with recycled water within 50 feet or impounding recycled water within 100

⁵ See <https://water.ca.gov/Programs/Groundwater-Management/Wells/Well-Standards>

⁶ See <https://water.ca.gov/well-standards>

⁷ See <https://ochealthinfo.com/services-programs/environment-food-safety/water/well-permitting>

feet of a non-potable water well requires the approval of the State DPH and local city or county Health Department.” (See p. 12.) Regardless of the nature of recycled water's pollution and contamination, OCHCA is required to impose the air gap condition for Well Permit No. 23-08-21 unless Applicant provides an exemption from the State. Again, none has been provided.

4. Recycled water is a pollutant or contaminant and/or potential pollutant or contaminant, and may only be used as strictly delineated by law.

Finally, Applicant's Brief almost exclusively attempts to ignore all other regulations and litigate the sole issue of whether or not recycled water is contamination or pollution. As demonstrated above, this is a non-sequitur. It also, again, ignores the full reading of the law which provides protective measures not just for known pollutants/contaminants but for potential pollutants/contaminants, as well. Applicant's Brief seeks to conflate a non-contextualized snippet of Water Code § 13522 to establish that recycled water is not contamination. In doing so, Applicant, ignores the full text of the Water Code, specifically as it applies to the use of recycled water. The full excerpt from § 13522(b) explicitly limits the contention that recycled water “does not cause, constitute, or contribute to, any form of contamination,” only if the use of recycled water is limited to those specified by the State and as established by Water Code § 13521. Tellingly, Applicant's proclamation that “Forest Lawn's recycled water is legally defined as *not* constituting contamination and pollution” is uncited and only supported by a series of cobbled together portions of law and other writings that never themselves conclude that recycled water, or even the tertiary treated recycled water from the Los Coyotes Water Reclamation Plant, are not pollution or contamination. Indeed, the very fact that even the most highly tertiary treated recycled water is considered non-potable and not suitable for human consumption by law, is a clear indication that recycled water is at least a potential pollution and/or contamination.

It is important to start with the definition of recycled water: “...water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur...” (Water Code § 13050(n).) Recycled water starts as wastewater before receiving treatment and then depending on the level of treatment, it may be used for specifically delineated beneficial use. These delineated uses are specified in Cal. Code Regs. Tit. 22, §§ 60303-60909, and notably do not include potable use. To the extent, Applicant may argue that recycled water may be used to replenish groundwater supplies, the Water Board's Recycled Water Policy states, “The State Water Board acknowledges that all recycled water groundwater recharge projects must be reviewed and permitted on a site-specific basis, and so such projects will require project-by-project review.”⁸ Again, Applicant has provided no documentation supporting permission for such use. Applicant is not able to use recycled water for any purpose not authorized by statute and may not circumvent the requirements of the State of California.

More specifically, the application of recycled water by Applicant is regulated under the Statewide General Waste Discharge Requirements (“WDR”) Order WQ 2016-0068-DDW, which fundamentally regulates the discharge of wastes to land in the form of application of

⁸ See https://ftp.sccwrp.org/pub/download/CA_CEC_WORKSHOP/RecycledWaterPolicy.pdf

wastewater that has been treated to meet water quality standards under Title 22, for a beneficial reuse as recycled water, that are protective of beneficial uses of underlying groundwater quality from the potential impact of pollutants/contaminants contained in the treated wastewater or recycled water. The direct connection of well water and recycled water are considered equivalent to a dual-plumbed recycled water system, which requires consultation with the State Water Board for additional reporting, design, and operation requirements.⁹ The default however, as noted above, is to include an air gap.

OCHCA is charged with the duty of protecting Orange County's water supply to ensure the safety of all members of the community. OCHCA is carrying out this duty by imposing the condition of an air gap for Well Permit No. 23-08-21. Recycled wastewater is a potential contamination and pollutant. Applicant's proposed intentional direct connection of the proposed well to an existing recycled water system poses a risk of contamination to the existing groundwater supply well at Forest Lawn and to the public's potential drinking water supply.¹⁰ It would be an extreme contravention of OCHCA's duties to permit the proposed well as designed by Applicant. Thus, OCHCA has the authority, and indeed, the duty to require an air gap.

5. Conclusion

For all the reasons stated above, OCHCA requests that this Honorable Board, deny Applicant's request for a reversal of OCHCA's condition to implement an air gap for the conditionally approved Well Permit No. 23-08-21.

Very truly yours,

LEON J. PAGE
COUNTY COUNSEL



By _____
David Obrand, Deputy

cc: Michael G. Romey, michael.romey@lw.com
George J. Mihilsten, george.mihilsten@lw.com
Juan Anzora
Hisham Elmishad
Lauren Robinson

⁹ WDR Order WQ 2016-0068-DDW, p. B-4
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2016/wqo2016_0068_ddw.pdf,

¹⁰ See Water Board Resolution NO. 88-63, *supra*.

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www.lw.com

LATHAM & WATKINS^{LLP}

October 18, 2023

Via E-Mail

Well Standards Advisory Board
1241 E. Dyer Road, Suite 120
Santa Ana, CA 92705

Valerie Sanchez
Chief Deputy Clerk of the Board of Supervisors
County of Orange Board of Supervisors
400 W. Civic Center Drive, Sixth Floor
Santa Ana, CA 92701
Valerie.Sanchez@ocgov.com

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Los Angeles	Tokyo
Madrid	Washington, D.C.

Re: Reply Brief - Forest Lawn Memorial-Park Association's Application for Well/Exploratory Boring Permit (Well Permit No. 23-08-21)

Honorable Board Members and Ms. Sanchez,

The OCHCA's October 13, 2023, response brief reveals that OCHCA and Forest Lawn may be closer to agreement than previously understood. OCHCA states that the connection of the well to the recycled water system needs approval of the State Water Board, and claims that no such approval exists and therefore an air gap is required. The State Water Board approval of water wells connecting to the recycled water system does exist. OCHCA was an integral part of that approval process. That approval process, which connects the first well of the system, provides for inclusion of an RP assembly. That well and assembly are in place and have been tested previously by OCHCA. Forest Lawn is agreeable to abide by the conditions of that State Water Board approval.

OCHCA states that any modification to an "onsite recycled water system must be approved by the designated 'Recycled Water Agency', in this case the Water Board." (OCHCA Response, p. 2.). Moreover, "[i]t is clear that, without permission from the Water Board, Applicant may not make the intentional direct connection to the existing water system as proposed. Indeed, without such approval from the Water Board, an air gap is required." (*Id.*)

On June 16, 2016, the State Water Board approved Forest Lawn's Recycled Water Use Program. The approval letter, which was copied to the OCHCA, is attached as Exhibit A. As the letter makes clear, OCHCA was among the agencies involved in approving Forest Lawn's Recycled Water Use Program. Also attached as Exhibit B are emails from OCHCA showing

their involvement in the process. There are several other similar emails demonstrating OCHCA's involvement.

A copy of the final State Water Board approved program is attached as Exhibit C (excluding certain attachments). Included in the approved program are conditions for connecting a pre-existing irrigation well ("Well No. 3") to the recycled water system. (Forest Lawn Recycled Water Use Program, pp. 2-3.) It provides that the well is connected to the recycled water through an RP assembly and that well water use will only occur "after notification to [Golden State Water Company] and functional inspection of the well RP assembly." (*Id.*)

Critically, the approved program further provides that:

G. Cross-Connection Controls

1. Back-up water supply for irrigation, to be used when recycled water is not available (or at other times as determined by Forest Lawn), to be well water from the existing FLCY well and pump (Well No.3), fitted with an RP device assembly approved by Orange County Health Care Agency and GSWC, at the connection point to the FLCY irrigation system. A detail of the RP device assembly is shown on Attachment A. Over time, Forest Lawn may refurbish, add, or destroy wells at FYCY subject to the review and approval of the Orange County Health Care Agency to maintain access to well water.

(*Id.*, p. 7 (emphasis added).)

The assembly was inspected by OCHCA following implementation.

As is clear from the attached State Water Board letter, Forest Lawn has already received permission from the State Water Board to make an intentional direct connection to the existing recycled water system with an "RP device assembly" and, indeed, did so with respect to that well. The specific RP device approved by the OCHCA is set forth as an attachment to the approved program.¹ The approved State Water Board program also specifically contemplates that Forest Lawn may add new wells to the system.

Forest Lawn is willing to agree to a condition to Well Permit No. 23-08-21 that requires an "RP device assembly" as opposed to an air gap. Moreover, like Well No. 3, the proposed well will be operated consistent with the approved program, meaning it will serve as a backup water source for irrigation purposes only whenever the recycled water supply is down and only subject to notification and inspection.

¹ Please see Item #17 on "Well #3 Elevation View Section A-A" on sheet W-5 of Attachment A of Exhibit C below.

LATHAM & WATKINS^{LLP}

Forest Lawn respectfully requests that the Board direct the OCHCA to remove the air gap condition and replace it with a condition that requires an RP device assembly.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "M. Romey".

Michael G. Romey
of LATHAM & WATKINS LLP

cc: Juan Anzora, EHOCwells@OCHCA.com
David A. Obrand, david.obrand@coco.ocgov.com
Leon J. Page, leon.page@coco.ocgov.com
Susan Rule Sandler
Sylvia Chiu
Robert Bowcock
George J. Muhlsten
Maria P. Hoye

LATHAM & WATKINS^{LLP}

Exhibit A

Forest Lawn Recycled Water Use Program State Water Board Approval Letter



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

Division of Drinking Water

June 16, 2016

Mr. Kurt Berchtold, Executive Officer
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501

Dear Mr. Berchtold:

SYSTEM NO. 1995005 – RECYCLED WATER PROVIDED BY CITY OF CERRITOS TO BE USED AT FOREST LAWN MEMORIAL PARK IN CITY OF CYPRESS, ORANGE COUNTY

The State Water Resources Control Board – Division of Drinking Water (Division) initially received the draft Recycled Water Use Program (Program) for Forest Lawn Memorial Park located in the City of Cypress (FLCY), Orange County, in an email on December 17, 2015 from by Mr. Clint Granath of FLCY. In response to the Division's and/or Orange County Health Care Agency's (OCHCA) comments via emails on four draft Programs dated January 11, February 2, March 10, and May 23, 2016 and in a meeting on January 27, 2016, Mr. Granath submitted the final Program on June 6, 2016 and the as-built drawings on June 14, 2016.

The Golden State Water Company – West Orange System (GSWC), a current domestic water supplier to FLCY, will supply the recycled water to FLCY. The City of Cerritos built a recycled water transmission line that will deliver tertiary-treated recycled water produced by the Los Coyotes Water Reclamation Plant of Los Angeles County Sanitation Districts to FLCY, which will be metered by GSWC. Initially, FLCY will use approximately 235 acre-feet of recycled water to irrigate approximately 77 acres of existing cemetery. Cemetery development will gradually increase the irrigated acreage over time, until at build-out, approximately 375 acre-feet of recycled water will be needed to irrigate approximately 123 acres of the park.

We have reviewed the final Recycled Water Use Program and approve the Program. If there are any significant changes to the Program, the FLCY is required to first submit to the Division for review and approval the revised Program before these changes are implemented.

If you have any questions regarding this letter, please contact myself at 714-558-4997 or Mr. Minliang Shih at 714-547-0430.

Sincerely,

Oliver Pacifico, P.E.
District Engineer
Santa Ana District

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

605 West Santa Ana Blvd. Bldg. 28. Room 325, Santa Ana, CA 92701 | www.waterboards.ca.gov

REC'D A&E DEPT.
JUN 30 2016

cc: Clint Granath, Chief Engineer
Forest Lawn
1712 South Glendale Avenue, Glendale, CA 91205

Lisa Miller
Golden State Water Company – West Orange System

Charles Emig, Water Superintendent
City of Cerritos

Mr. Samuel Unger
Executive Officer
Los Angeles Regional Water Quality Control Board

Julio Lara
Santa Ana Regional Water Quality Control Board

Larry Brennler
Orange County Health Care Agency

LATHAM & WATKINS^{LLP}

Exhibit B
OCHCA E-Mails

 Share  Copy link  Download  ...  1 Recycled Water Use PL...msg  Info | 

From: Clint Granath <00000001□SVRAZMAIL01/o=Forest Lawn Memorial-Parks/ou=FL_EXCHANGE/cn=Recipients/cn=Clint□Microsoft Exchange>

Sent on: Friday, December 18, 2015 5:03:08 PM

To: Kristen Schroeder (kschroeder@ochca.com) <Kristen Schroeder (kschroeder@ochca.com)>

CC: Desi Alvarez (mcm_management@verizon.net) <Desi Alvarez (mcm_management@verizon.net)>

Subject: Recycled Water Use Plan - Forest Lawn Cypress

Kristen – by FedEx I am sending for your review and comment the updated draft Use Plan, dated Dec. 17, 2015, and the drawing set Domestic Water & Recycled Irrigation, Forest Lawn Cypress, that constitutes Attachment A of the Use Plan. A copy is also being sent for final comment to our consultant, Desi Alvarez.

Once I get your comments, I'll submit the Use Plan to Golden State Water Co. for approval.

Thanks for your help.

Clint

From: Schroeder, Kristen <KSchroeder@ochca.com>
Sent on: Thursday, January 7, 2016 3:20:09 PM
To: Pacifico, Oliver@Waterboards <Oliver.Pacifico@waterboards.ca.gov>; Desi Alvarez <mcm_management@verizon.net>; Clint Granath <cgranath@forestlawn.com>
CC: Brennler, Larry <LBrennler@ochca.com>; Shih, Minliang@Waterboards <Minliang.Shih@waterboards.ca.gov>
Subject: RE: Forest Lawn Recycled Water Use Permit

Hello,

In addition to Oliver's, here are my questions/ comments:

1. For the Cross Connection test I would change calling it from Irrigation system to Recycled water system to include all fixtures on recycled.
2. Prior to the Cross Connection test both systems recycled and domestic need to be checked to ensure that they are fully operable and pressurized.
3. All fixtures both potable and recycled shall be tested and inspected for flow during both phases of the Cross connection shut down test.

Please let me know if you have any questions,

Kristen Schroeder, REHS II
OC Environmental Health I Water Quality
Phone: 714-433-6285

From: Pacifico, Oliver@Waterboards [mailto:Oliver.Pacifico@waterboards.ca.gov]
Sent: Tuesday, January 05, 2016 5:36 PM
To: Desi Alvarez
Cc: Schroeder, Kristen; Brennler, Larry; Shih, Minliang@Waterboards
Subject: RE: Forest Lawn Recycled Water Use Permit

Hi Desi, here are the documents with my comments. I am copying Orange County Health for their awareness. Let me know when you are available to talk or if you prefer to meet.

Larry and Kristen, let me know if you want to join us or if you have additional comments or questions.

Oliver

From: Desi Alvarez [mailto:mcm_management@verizon.net]
Sent: Tuesday, January 05, 2016 11:46 AM
To: Pacifico, Oliver@Waterboards
Subject: RE: Forest Lawn Recycled Water Use Permit

Oliver,
Attached are the electronic versions of the documents.

From: Shih, Minliang@Waterboards <Minliang.Shih@waterboards.ca.gov>
Sent on: Monday, May 23, 2016 4:30:06 PM
To: Clint Granath <cgranath@forestlawn.com>
CC: Schroeder, Kristen <KSchroeder@ochca.com>
Subject: RE: Forest Lawn Cypress irrigation drawings

Hi.Clint,

I got several questions and comments:
 In irrigation valves and Fixtures attachment C:

cid:image001.png@01D1B1E3.55079D70

24	F-12	HB-18	Hose Bib on E side of Garage	?
24	F-12	SK-33	Sink in Storage Room	?

1. Does FLYC plan to use RW at HB-18 and SK-33?
2. Does FLYC plan to use RW hose bib for washing vehicles and equipment?
3. GV-50 is a gate valve not an eye-wash station.

cid:image002.png@01D1B1E7.E37D5AA0

19	D-19	GV-50	Eye-Wash Station outside of building	IRR
----	------	-------	--------------------------------------	-----

4. Legend of QC-3 (N-20) and QC-4 (O-20) were mislabeled in the drawing 19
5. Legend of QC-5 (B-9), QC-6 (B-9), HB-13 (B-9), HB-14 (B-9), HB-15 (C-7), HB-16(D-4), HB-17(D-5) were mislabeled in the drawing 23

Thanks
 Minliang

From: Schroeder, Kristen [mailto:KSchroeder@ochca.com]
Sent: Friday, May 20, 2016 2:05 PM
To: Shih, Minliang@Waterboards
Cc: 'Clint Granath'
Subject: RE: Forest Lawn Cypress irrigation drawings

My Review of the Recycled Water Use Program Plan draft just has the following comments:

Spelling on page 4- Recycled water facilities are labeled with a purple tag reading "NOT FOR HUMAN CONSTACK, DO NOT DRINK, FOR USE IN FLOWER VASES ONLY, DO NOT USE TO FILL WATERING CANS, WASH HANDS IF EXPOSED TO RECYCLED WATER"

Cross Connection Test-

Page 6- Irrigation system test procedures are bullets and not numbers like for the domestic system and may want to title it Recycled Water Test Procedures to be more inclusive

I am still reading the attachment A that you sent over. I will let you know if I have any other comments. Thanks,

Kristen Schroeder, REHS II
 OC Environmental Health | Water Quality

Share Copy link Download ... Forest_Lawn_Cypress_R...msg Info

From: Desi Alvarez <mcm_management@verizon.net>
Sent on: Wednesday, July 27, 2016 1:52:46 AM
To: Kristen Schroeder <KSchroeder@ochca.com>; Pacifico, Oliver@Waterboards <Oliver.Pacifico@waterboards.ca.gov>
CC: Clint Granath <cgranath@forestlawn.com>
Subject: Forest_Lawn_Cypress_Recycled_Water_Use_Plan DMS-3812092-v1-(2)
Attachments: Forest_Lawn_Cypress_Recycled_Water_Use_Plan DMS-3812092-v1-(2).doc (66 KB)

Kristen & Oliver,

Please review the attached Recycled Water Use Plan for the Forest Lawn Cypress property. This plan incorporates the items you have requested including that the Los Angeles County Sanitation Districts has agreed to serve as the RW Agency.

Let me know if this is acceptable or if it requires modifications. Once we have your approval Forest Lawn and LACSDs will execute it.

Thanks,

Desi Alvarez, P.E.
MCM Management Co.
PO Box 3003
Manhattan Beach, CA 90266
310-739-1625 direct
mcm_management@verizon.net

LATHAM & WATKINS^{LLP}

Exhibit C

Forest Lawn Recycled Water Use Program

Recycled Water Use Program
Forest Lawn Cypress
4471 Lincoln Avenue, Cypress, California 90630

July 25, 2016

A. Overview

1. *Description of cemetery site, operation, development schedule, irrigation water use projection, Golden State Water Company service*

Forest Lawn Memorial-Park, Cypress (“**FLCY**”), is a 149-acre, not-for-profit, public benefit cemetery/mortuary located north of Lincoln Avenue and south of Crescent Avenue, east of Coyote Creek, in the City of Cypress. Moody Creek diagonally traverses FLCY, with the north and south segments of FLCY connected via a bridge over Moody Creek. Traversing FLCY is an Orange County Sanitation District trunk sewer in a north-south alignment with Denni Street. The cemetery/mortuary land use is authorized under City of Cypress Ordinances No.s 41 and 44, enacted in 1958. FLCY is not fully developed. Currently 77 acres are irrigated at the site. At build-out, 123 acres at the site will be irrigated.

B. Water Supply Summary

1. *Source of domestic water is the Golden State Water Company, the Domestic Water (DW) Agency*
2. *Source of tertiary-treated recycled water is the Los Angeles County Sanitation Districts, the Recycled Water (RW) Agency*
3. *The City of Cerritos is supplied recycled water by the Los Angeles County Sanitation Districts’ Los Coyotes Water Reclamation Plant*
4. *Recycled Water is delivered to FLCY by the Golden State Water Company which is supplied recycled water by the City of Cerritos*
5. *Description of recycled water delivery system from City of Cerritos to Golden State Water Company*
6. *Description of domestic delivery system within FLCY*
7. *Description of recycled delivery system within FLCY*

Domestic Water

Domestic water is supplied to FLCY by the Golden State Water Company (“**GSWC**”) from a main line in Lincoln Ave. through two connection points. One connection point is a 12-inch dia. lateral located east of the cemetery main entrance. The second connection point is two 2-inch dia. laterals, closely parallel to each other, located west of the cemetery main entrance east of Denni Street. Both connection points are as shown on FLCY Water Distribution Plan, Attachment A. At each connection point, domestic water passes through a reduced-pressure (RP) backflow prevention device assembly and connects to the domestic water distribution system that extends

throughout the developed cemetery. Within the cemetery, the domestic water connection to any building is also fitted with an RP device assembly, as shown on Attachment A. In addition to water for domestic use, the GSWC lateral east of the cemetery main entrance also provides points of connection for possible additional use of domestic water. One of these possible additional domestic water points of connection, and 8-inch dia. lateral tee off the 6-inch dia. service, is fitted with an RP device assembly, and the other is an at-grade 8-inch dia. stub-out for possible future fire service, all as shown on Attachment A. Water consumed for domestic purposes at the cemetery is approximately 1,700 CCF per year.

Recycled Water

Recycled Water is supplied to FLCY through a GSWC metered connection on the South Side of Crescent Avenue at Denni Street which takes recycled from the City of Cerritos' 16 inch dia. distribution line on Crescent Avenue. The recycled water metered connection point is shown in Attachment A.

Recycled water will be used for irrigation, fire protection and grading purposes at FLCY. All FLCY fire hydrants and quick couplers are on the irrigation/ recycled water system. Flower stations outside of buildings are on the recycled water system. Flower stations inside of buildings, including mausolea, are on the domestic water system. Prior to the start-up of recycled water service, the On-Site Supervisor training program (see Section E. Operation and Maintenance herein) will include notifying the Orange County Fire Authority of recycled water use at FLCY fire hydrants, explaining procedures to follow when using recycled water, per Los Angeles County Sanitation Districts guidelines, and touring the cemetery with the appropriate Fire Captain. The recycled water will be supplied to FLCY through the City of Cerritos 16-inch PVC distribution system and GSWC water meter. The City of Cerritos recycled water system receives tertiary-treated recycled water produced by the Los Angeles County Sanitation Districts' ("LACSD's"), Los Coyotes Water Reclamation Plant ("LCWRP"). Initially, FLCY will use approximately 235 acre-feet of recycled water to irrigate approximately 77 acres of existing cemetery. Cemetery development will gradually increase the irrigated acreage over time, until at build-out, approximately 375 acre-feet of recycled water will be needed to irrigate approximately 123 acres.

Well Water

Alternate irrigation water is supplied from a well within the cemetery, labeled "Well No. 3" on Attachment A. Well No. 3 is the only active well within the cemetery and is connected to the irrigation system through an RP assembly. The well pump is controlled by a variable frequency drive system. Well No. 3 is located 30 feet away from the nearest irrigation sprinkler. Well water would be used as a substitute for recycled water to supply the irrigation system; however, well water and recycled water will not be used at the same time. Well water use, either in the event of an interruption of recycled water

service, or as a substitute source of irrigation water, occurs only after notification of GSWC and functional inspection of the well RP assembly. Well water use is metered, with annual volumetric pumping reports submitted to the Orange County Water District.

Hydro-pneumatic Tank

A component of the cemetery irrigation system is a hydro-pneumatic tank, located southeast of Ascension Gardens, as detailed on Sheet 12 of Attachment A. As shown on Attachment A, the hydro-pneumatic tank is plumbed directly into the irrigation system and can contain recycled water. The hydro-pneumatic tank is marked as a recycled water facility. The hydro-pneumatic tank functions in two situations. First, if there is a drop in recycled water system pressure below the operating pressure of the irrigation system, the hydro-pneumatic tank provides temporary compensating pressure. Second, the hydro-pneumatic tank provides low-flow irrigation pressure when well water is being used, so the well pump does not need to frequently cycle on and off each time there is a low-flow irrigation demand.

C. General Provisions

- 1. Operation and control of recycled water system will be in compliance with applicable State laws and regulations, LACSD's "Requirements for Recycled Water Users", and the Recycled Water Urban Irrigation User Manual, Edition 2014, Los Angeles California Chapter WaterReuse.*
- 2. On-Site Supervisor is FLCY Irrigation Supervisor*
- 3. On-Site Supervisor is under direct supervision of Park Vice President*
- 4. Oversight, training and administration will be provided by Forest Lawn Environmental Compliance Department*
- 5. Operational control and direction provided by Forest Lawn Architecture and Engineering Department Water Systems Engineer*

The recycled water system at FLCY will be controlled and operated by FLCY employees in accordance with applicable State laws and regulations and LACSD's "Requirements for Recycled Water Users", included as Attachment B, and using the Recycled Water Urban Irrigation User Manual, Edition 2014, Los Angeles California Chapter WaterReuse, attached as Attachment C ("User Manual") as a guide. Design and distribution strategy will be provided by the Forest Lawn Architecture and Engineering ("A&E") Department Water Systems Engineer. Oversight, training and administration will be provided by the Forest Lawn Vice President, Environmental Compliance. The On-Site Supervisor will be the FLCY Irrigation Supervisor, who reports directly to the FLCY Vice President. Plans for expansion or updates to the FLCY recycled water system will be submitted for review, approval, and installation verification/cross connection check to LACSD. Following their review and approval, FLCY will submit the plans to the Orange County Health Care Agency and the State Water Board's Division of Drinking Water Santa Ana District Office for their review and approval. Periodic inspections of the

FLCY domestic and recycled/ irrigation systems will be performed as directed by LACSD and the Orange County Health Care Agency.

D. Design and Construction

1. *Utility location and construction within cemetery roadways to substantially conform to requirements of the RW Agency and the Orange County Health Care Agency*
2. *Plan review, approval, and construction inspection for the RW System will be by the RW Agency and where appropriate, also by the City of Cypress and the Orange County Department of Public Works*
3. *Design for RW System Improvements will be provided by Forest Lawn A&E Department or private consulting engineers, both under direction of A&E Water Systems Engineer*
4. *Construction of RW System Improvements will be by outside contractors hired and supervised by Forest Lawn A&E Department*

The existing water system was developed to accommodate recycled water usage. Domestic and recycled water systems are separate and appropriate marking and labeling is employed. To prevent the contact of drinking fountains with recycled water, no drinking fountains are located in irrigated areas. Recycled water facilities are labeled with a purple tag reading “NOT FOR HUMAN CONTACT, DO NOT DRINK, FOR USE IN FLOWER VASES ONLY, DO NOT USE TO FILL WATERING CANS, WASH HANDS IF EXPOSED TO RECYCLED WATER” and marked on the reverse side of the tag with a universal symbol meaning “do not drink.” Domestic water facilities are labeled with a blue tag reading “Potable Water”. Examples of both tags are shown on Attachment A. In addition, all recycled water flower stations are fitted with a tag or sign with similar language and symbol as used on the other recycled water labels.

As the cemetery is built-out, design and construction of additions to the domestic and recycled water systems will be performed incrementally. Design will conform to the requirements of the User Manual, with standard roadway and crypt utility clearance details approved by the RW Agency and the Orange County Health Care Agency. Appropriate pressure-reducing valves will be provided as required downstream of the service meter.

Additions to the recycled water system will be designed by the Forest Lawn A&E Department or private consulting engineers hired by Forest Lawn. The A&E Water Systems Engineer will directly supervise all design work. Plan review, approval, and construction inspection will be provided by the RW Agency, and where appropriate, by the City of Cypress and the Orange County Department of Public Works. Additions will be constructed by private contractors hired and supervised by the Forest Lawn A&E Department.

E. Operation and Maintenance

- 1. Operation by FLCY employees under direction of On-Site Supervisor, in conformance with provisions of the User Manual*
- 2. Personnel training programs will be conducted to ensure proper direction to employees*
- 3. Major maintenance provided by Forest Lawn Maintenance Department, under direction of Plumbing Supervisor and Vice President, Facilities, in consultation with Vice President, Environmental Compliance and A&E Water Systems Engineer*
- 4. Major maintenance alternately provided by outside contractors hired and supervised by either Forest Lawn Maintenance or A&E Departments*

Operation and maintenance of the FLCY domestic and recycled water systems will conform to the requirements of the User Manual. All new irrigation systems will utilize automatic control systems to minimize to the fullest extent practical runoff, ponding, and windblown spray conditions. Irrigation will occur only when weather conditions are appropriate, during hours when the general public is not present at the facility, and only for as long as needed to satisfy landscape water requirements. Regularly scheduled irrigation is scheduled to take place between the hours of 6 p.m. and 4 a.m. FLCY employees will be directed to ensure that members of the general public are not present prior to irrigating any area. Drinking fountains are not located within irrigation areas. No equipment that has been used with recycled water will be used to convey potable water or attached to the potable water system unless it has been disinfected.

FLCY will provide annual training to ensure that employees are appropriately instructed in implementing the recycled water program. The On-Site Supervisor will participate in the courses required by the RW Agency and will train FLCY personnel. Prior to the start-up of recycled water service, the On-Site Supervisor will conduct a training program to ensure that all employees responsible for implementing the recycled water program are informed of applicable requirements, practices and policies. New employees will receive the same training within their first thirty days of work. Annual training programs will be conducted thereafter, by the On-Site Supervisor. As part of annual training, the On-Site Supervisor will contact the appropriate Orange County Fire Authority Captain and conduct a tour of FLCY, familiarizing the Captain with the use of recycled water, vehicular access, and location of structures and fire hydrants. The On-Site Supervisor will also provide the Captain with the Los Angeles County Sanitation Districts' written guidelines for fire-fighting with recycled water.

FLCY will implement a comprehensive maintenance program, including regular inspections and testing. Records of inspections and testings will be kept at FLCY for at least three years, including inspection and testing of all RP devices (including Well No. 3) by a certified tester in accordance with the

RW Agency's requirements. FLCY gardeners will be responsible for checking labels and signage on the water system as part of their regular work checklist. In addition, the On-Site Supervisor will be required to conduct visual inspections, at least monthly. In the event of an emergency, protocols will be observed to ensure proper isolation and shut-down, corrective action, and appropriate reporting to regulatory agencies, including the RW Agency, the State Water Resources Control Board Division of Drinking Water Santa Ana District, and the Orange County Health Care Agency.

Cross Connection Test

The On-Site Supervisor will schedule with the RW Agency and the Orange County Health Care Agency, Water Quality Section, a Cross Connection Test of the FLCY domestic and recycled water distribution systems to insure that the two water distribution systems are not cross-connected. This "shut-down" test will be performed initially, prior to the delivery of recycled water, and again whenever any significant changes are made to the domestic or recycled water systems (e.g., replacement of pipelines, construction of new buildings, etc.). Prior to the Cross Connection Test, both the domestic and the recycled water systems will be checked to ensure that they are each fully operational and pressurized. The Cross Connection Test shall consist of two parts, Recycled System Test and Domestic System Test, as per the Cross Connection Test Procedure, Attachment D.

F. **Marking and Equipment**

1. *Marking and signage provided by either FLCY employees or outside contractors under the direction of Water Systems Engineer, as approved by Vice President Environmental Compliance, in conformance with the User Manual*
2. *Inspection and maintenance of marking and signing by FLCY employees under the direction of the On-Site Supervisor*
3. *Equipment to comply with applicable laws and regulations and the User Manual*

Domestic water and recycled water marking and signage will be provided either by FLCY employees or private contractors working under the supervision of the On-Site Supervisor. All marking and signage will comply with applicable laws and regulations and will conform to the requirements of the User Manual.

All new equipment will comply with the User Manual and will be installed in accordance with approved plans and subject to inspection by the Orange County Health Care Agency.

Existing garden areas have been retro-fitted to utilize irrigation/recycled water for the filling of flower urns. Moving forward, new garden areas will use recycled water for both irrigation and the filling of flower urns.

G. Cross-Connection Controls

1. *Back-up water supply for irrigation, to be used when recycled water is not available (or at other times as determined by Forest Lawn), to be well water from the existing FLCY well and pump (Well No. 3), fitted with an RP device assembly approved by Orange County Health Care Agency and GSWC, at the connection point to the FLCY irrigation system. A detail of the RP device assembly is shown on Attachment A. Over time, Forest Lawn may refurbish, add, or destroy wells at FYCY subject to the review and approval of the Orange County Health Care Agency to maintain access to well water.*
2. *Recycled water and domestic water system testing and inspections to conform to applicable laws and regulations and the User Manual*

Alternate back-up water for irrigation when the recycled water supply is interrupted will be provided by FLCY from on-site wells and pumps.

Inspection and cross-connection testing of the FLCY domestic and recycled water systems will be performed in accordance with the User Manual. Additions and repairs to the FLCY domestic and recycled systems will be tested for cross-connection as part of completion of the work, to the satisfaction of the RW Agency and the Orange County Health Care Agency, Water Quality Section.

H. Site-Specific Details

- a. *Utility location and construction within cemetery roadways to substantially conform to standard roadway section as approved by the RW Agency and the Orange County Health Care Agency, Water Quality Section*
- b. *Possible future FLCY well(s) may be located on-site, with suitable cross-connection protection as approved by the Orange County Health Care Agency*

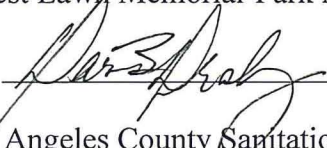
FLCY over time will repair and extend on-site water distribution systems within FLCY, including pipe, wells, pumps, and related appurtenances. Repaired or extended water distribution systems will include use of purple pipe or pipe wrapped with purple tape for recycled water systems, and other appropriate marking and/ or tagging. These systems will be developed in conformance with the User Manual and other applicable requirements and will be subject to approval and inspection by the RW Agency.

I. Approvals

This Recycled Water Use Program, dated July 25, 2016 is hereby approved.


Forest Lawn Memorial-Park Association

Date: 8.1.16

By: 

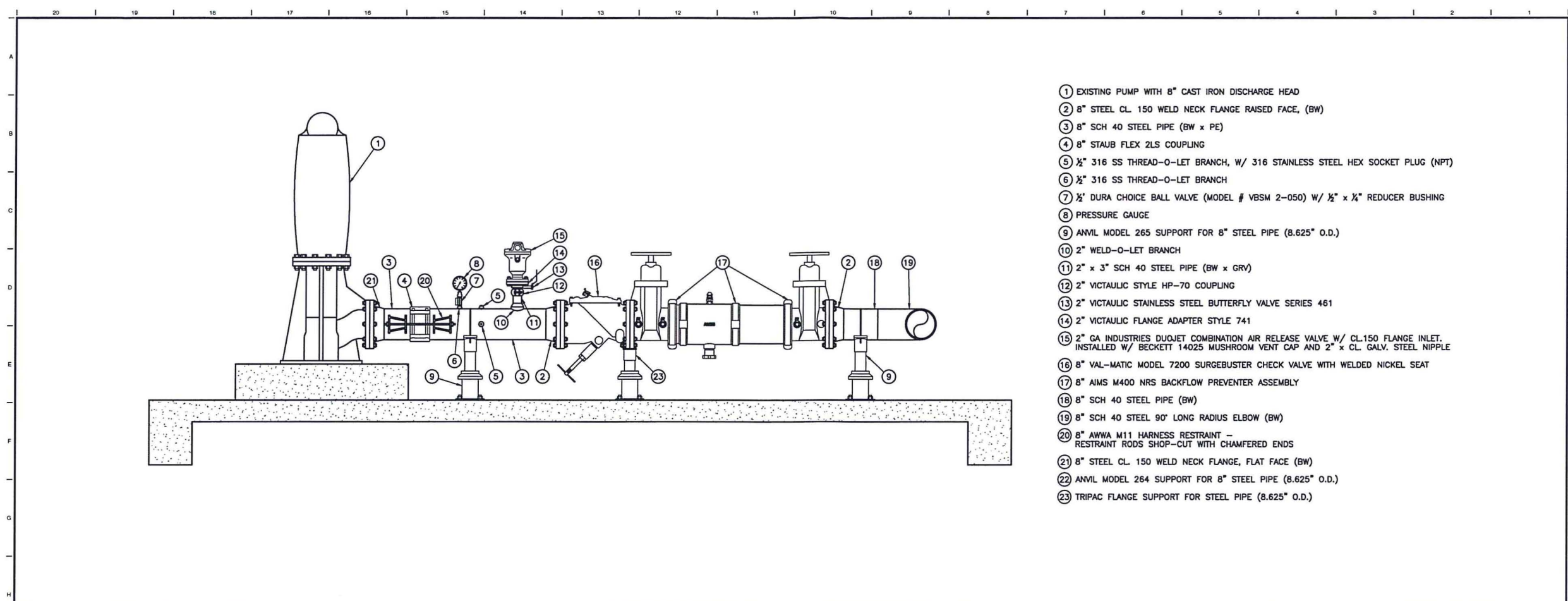
Los Angeles County Sanitation Districts

Date: 8/2/16

By: 

ATTACHMENT A

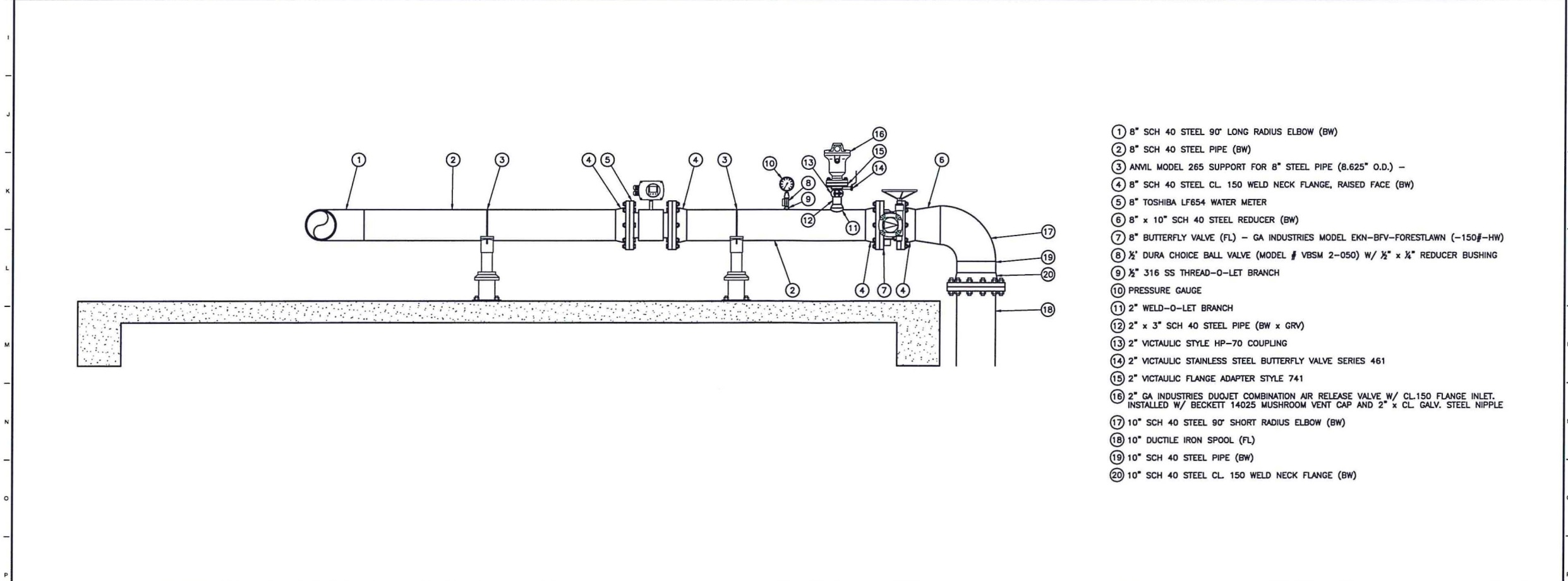
Forest Lawn Cypress Water System Map



- ① EXISTING PUMP WITH 8" CAST IRON DISCHARGE HEAD
- ② 8" STEEL CL. 150 WELD NECK FLANGE RAISED FACE, (BW)
- ③ 8" SCH 40 STEEL PIPE (BW x PE)
- ④ 8" STAUB FLEX 2LS COUPLING
- ⑤ ½" 316 SS THREAD-O-LET BRANCH, W/ 316 STAINLESS STEEL HEX SOCKET PLUG (NPT)
- ⑥ ½" 316 SS THREAD-O-LET BRANCH
- ⑦ ½" DURA CHOICE BALL VALVE (MODEL # VBSM 2-050) W/ ½" x ¼" REDUCER BUSHING
- ⑧ PRESSURE GAUGE
- ⑨ ANML MODEL 265 SUPPORT FOR 8" STEEL PIPE (8.625" O.D.)
- ⑩ 2" WELD-O-LET BRANCH
- ⑪ 2" x 3" SCH 40 STEEL PIPE (BW x GRV)
- ⑫ 2" VICTAULIC STYLE HP-70 COUPLING
- ⑬ 2" VICTAULIC STAINLESS STEEL BUTTERFLY VALVE SERIES 461
- ⑭ 2" VICTAULIC FLANGE ADAPTER STYLE 741
- ⑮ 2" GA INDUSTRIES DUOJET COMBINATION AIR RELEASE VALVE W/ CL.150 FLANGE INLET. INSTALLED W/ BECKETT 14025 MUSHROOM VENT CAP AND 2" x CL. GALV. STEEL NIPPLE
- ⑯ 8" VAL-MATIC MODEL 7200 SURGEBUSTER CHECK VALVE WITH WELDED NICKEL SEAT
- ⑰ 8" AIMS M400 NRS BACKFLOW PREVENTER ASSEMBLY
- ⑱ 8" SCH 40 STEEL PIPE (BW)
- ⑲ 8" SCH 40 STEEL 90° LONG RADIUS ELBOW (BW)
- ⑳ 8" AWWA M11 HARNESS RESTRAINT - RESTRAINT RODS SHOP-CUT WITH CHAMFERED ENDS
- ㉑ 8" STEEL CL. 150 WELD NECK FLANGE, FLAT FACE (BW)
- ㉒ ANML MODEL 264 SUPPORT FOR 8" STEEL PIPE (8.625" O.D.)
- ㉓ TRIPAC FLANGE SUPPORT FOR STEEL PIPE (8.625" O.D.)

REVISIONS:		
#	DATE	DESCRIPTION
1	6/6/2016	CONNECTION NOTE

4 W-5 WELL # 3 ELEVATION VIEW SECTION A-A SCALE: 1" = 1'



- ① 8" SCH 40 STEEL 90° LONG RADIUS ELBOW (BW)
- ② 8" SCH 40 STEEL PIPE (BW)
- ③ ANML MODEL 265 SUPPORT FOR 8" STEEL PIPE (8.625" O.D.) -
- ④ 8" SCH 40 STEEL CL. 150 WELD NECK FLANGE, RAISED FACE (BW)
- ⑤ 8" TOSHIBA LF654 WATER METER
- ⑥ 8" x 10" SCH 40 STEEL REDUCER (BW)
- ⑦ 8" BUTTERFLY VALVE (FL) - GA INDUSTRIES MODEL EKN-BFV-FORESTLAWN (-150#-HW)
- ⑧ ½" DURA CHOICE BALL VALVE (MODEL # VBSM 2-050) W/ ½" x ¼" REDUCER BUSHING
- ⑨ ½" 316 SS THREAD-O-LET BRANCH
- ⑩ PRESSURE GAUGE
- ⑪ 2" WELD-O-LET BRANCH
- ⑫ 2" x 3" SCH 40 STEEL PIPE (BW x GRV)
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- ⑮ 2" VICTAULIC FLANGE ADAPTER STYLE 741
- ⑯ 2" GA INDUSTRIES DUOJET COMBINATION AIR RELEASE VALVE W/ CL.150 FLANGE INLET. INSTALLED W/ BECKETT 14025 MUSHROOM VENT CAP AND 2" x CL. GALV. STEEL NIPPLE
- ⑰ 10" SCH 40 STEEL 90° SHORT RADIUS ELBOW (BW)
- ⑱ 10" DUCTILE IRON SPOOL (FL)
- ⑲ 10" SCH 40 STEEL PIPE (BW)
- ⑳ 10" SCH 40 STEEL CL. 150 WELD NECK FLANGE (BW)

FOREST LAWN®
 ARCHITECTURE & ENGINEERING
 1725 GLENDALE AVENUE, GLENDALE, CA 91205
 TEL: 800.204.4331 FAX: 323.331.5070

**FOREST LAWN CYPRESS
 WATER DISTRIBUTION PLAN**
 ATTACHMENT A

DRAWN BY: A. HOKIE
 CHECKED BY:
 APPROVED BY: C. GRANATH
 DATE: 17 DECEMBER 2015

W-5
 SHEET 30 OF 32
 JOB NUMBER: 306121

5 W-5 WELL # 3 ELEVATION VIEW SECTION B-B SCALE: 1" = 1'

S:\AWW\W-5\W-5.DWG PROJECT:\5\3\2015\21 8/17/2015 8:54:00 AM W-5-BEL 6/6/2016 3:33:33 PM HOKIE



OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

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David Obrand
Deputy
(714) 681-6889

E-Mail:
David.Obrand@coco.ocgov.com

October 20, 2023

Well Standards Advisory Board
1241 E. Dyer Road, Suite 120
Santa Ana, CA 92705

Valerie Sanchez
Chief Deputy Clerk of the Board of Supervisors
County of Orange Board of Supervisors
400 W. Civic Center Drive, Sixth Floor
Santa Ana, CA 92701
Valerie.Sanchez@ocgov.com

Re: OCHCA Surreply to Forest Lawn's Reply Brief re: Well Permit No. 23-08-21

Dear Honorable Board Members:

1. Request for leave to file this surreply brief.

Forest Lawn's reply brief submitted to this Honorable Board on October 18, 2023 should be rejected in its entirety as Applicant has entirely raised a new argument not discussed in its opening brief on October 6, 2023. Specifically, Applicant argues for the first time in its reply brief that it was *authorized by the State Water Board* to utilize an RP device to protect against cross-connection on another preexisting Well #3 on June 16, 2016, and that authority should be automatically applied to the construction of the new well subject to Well Permit 23-08-21. This is incorrect, but due to Applicant's delay in bringing this argument, it should not be considered altogether. Points raised in a reply brief for first time will not be considered unless good reason is shown for failure to raise them earlier. (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1542.) Here, there can be no good reason for Forest Lawn's failure to raise this new argument for the simple fact that Applicant is now raising an argument purportedly supported by actions taken more than seven years ago. Therefore, the entire reply brief should be ignored.

However, understanding that the bell may have been rung, OCHCA asks this Honorable Board, in the alternative, to permit this "surreply" to be filed to allow OCHCA to respond to Applicant's newly raised argument. Although not specifically described in the California Rules of Court, and thus rare, California courts have discretion to permit a party to file a surreply when appropriate. (*In re Sena* (2015) 236 Cal.App.4th 1270, 1273, fn.2.) "The inclusion of additional evidentiary matter with the reply should only be allowed in the exceptional case and if permitted, the other party should be given the opportunity to respond." (Cal. Civ. Ctrm. Hbook. & Desktop Ref. § 17:24 (2023 ed.)) Although this Honorable Board is not specifically subject to the California Rules of Court, it still must not improperly exclude evidence pursuant to Cal. Code Civ. Proc. § 1094.5(e). It is further noted that the parties have followed a similar briefing

schedule contemplated by the California Rules of Court § 3.1113, and therefore similar consideration for surreply by state courts should be applied here. Therefore, if Applicant's reply brief is considered, leave should be granted to file this surreply brief, and the points and authorities below should be considered.

2. Surreply to Applicant's new argument in reply brief.

As noted above, the entirety of Applicant's reply brief revolves around a wholly new argument that because the State Water Board approved the use of an RP device, not an air gap, on Well #3 located at Forest Lawn, that is suitable for the new well. As an initial matter, the entire reply brief appears to be a concession that, as argued by OCHCA, Applicant understands that any modification to a recycled water system must first be approved by the Water Board¹. However, Applicant's reply brief ignores critical facts which change the circumstances for Well #3, and the new well contemplated in Well Permit No. 23-08-21. Most notably, Well #3 was established in 1995, and the 2016 modification was a retrofit, as outlined in CA-NV AWWA's *Guidelines for the On-Site Retrofit of Facilities Using Disinfected Tertiary Recycled Water* ("Guidelines") and the *Recycled Water Urban Irrigation User Manual* ("Manual"). Applicant's very own Exhibit C to the reply brief, states as its first item under **Section C. General Provisions** that "Operation and control of recycled water system will be in compliance with applicable State laws and regulations, LACSD's "Requirements for Recycled Water Users ", and the Recycled Water Urban Irrigation User Manual, Edition 2014, Los Angeles California Chapter WateReuse." The Manual specifically notes in its introduction that the Manual is not intended to "supersede, but rather augment," the Guidelines.² Then, in reviewing the Guidelines, a retrofit is defined as a conversion of the water supply to an existing well to permit the use of recycled water to service that well³.

The 2016 Forest Lawn well project was indeed a retrofit. Attached as OCHCA's Exhibit 1, is the original 1995 Well Permit No. 95-05-35 which indicates that the original purpose of Well #3 was for irrigation water supply. (Ex. 1, p. 6, "Well Completion Report.") Thus, when in 2016, the site was authorized to use recycled water, the guidelines for retrofit applied to Well #3. The requirements for retrofit authorization are covered in the Manual, and require that an applicant seeking to retrofit a well with an RP device must first seek authorization from the appropriate state Recycled Water agency who will notify the local department of health of that application. (See fn.2, *supra*, pp. 6-7 and 35-36.) Indeed, Orange County Ordinance No. 2607 does not contemplate permit applications to retrofit wells. It does, however, outline the requirements for approval of new well construction, specifically specifying the requirements for authorization by OCHCA, thus highlighting the entirely different process for new wells and retrofits. Simply, authorization for a retrofit is not the same as authorization for a new well

¹ Applicant would need to follow instructions from the Water Board which may also include further application for authorization from the Regional Water Board and City of Cypress, all of which must be completed before OCHCA is authorized to approve a new well construction which includes a recycled water system modification.

² [https://watereuse.org/wp-content/uploads/2015/01/LA_Chapter WR Recycled Water Urban Irrigation Users Manual 2014.pdf](https://watereuse.org/wp-content/uploads/2015/01/LA_Chapter_WR_Recycled_Water_Urban_Irrigation_Users_Manual_2014.pdf), p. 2.

³ <https://www.westbasin.org/wp-content/uploads/2022/06/Part-IV-Design-Criteria-for-On-site-Recycled-Water-Facilities.pdf>, p. IV-5.

construction.

It is true, as Applicant will surely assert, that OCHCA is arguing that both the 2016 retrofit and the current well at issue require authorization from the Water Board prior to any decision by OCHCA. However, the distinction is, the predicate for Well Permit No. 23-08-21 is based solely on the fact that Forest Lawn is seeking to modify a recycled water system by making a direct connection of the new well to the existing system, as discussed in OCHCA's October 13, 2023 response brief. Water Board approval of a retrofit project does not mean automatic approval of a new well subject to a different authorization mechanism. Applicant's argument that Section G contained in Applicant's Exhibit C demonstrates that Forest Lawn's argument that use of an RP device for the new well without prior Water Board approval is unsupported. The statement, "Over time, Forest Lawn may refurbish, add, or destroy wells at FYCY subject to the review and approval of the Orange County Health Care Agency to maintain access to well water," is nothing more than a summary of Sec. 4-5-30 of Orange County Ordinance No. 2607, which sets out the standards for approval by OCHCA for, among other things, any new well construction. Nothing in Section G, as quoted, or any other portion of the Applicant's reply brief, supports an automatic approval of use of an RP device for Well Permit No. 23-08-21 or any other new well.

It is illuminating that Applicant's opening brief argued that a single check valve, which is incapable of being field tested, is required for this new well and only after receipt of OCHCA's opposition did it assert this new theory. The new argument is untimely made, and seemingly indicative of Forest Lawn's attempt to force through the approval of Well Permit No. 23-08-21 without regard for the requirements proscribed by statute, the State, or OCHCA. This is further highlighted by the fact that according to e-mail correspondence received on October 17, 2023, and attached hereto as OCHCA Exhibit 2, Forest Lawn is continuing work on the well rather than wait for a decision from this Honorable Board. This continued work on the well also further supports OCHCA's first argument in the response brief that Amended Permit remains open, and this appeal is improper at this time as Well Permit No. 23-08-21 is not canceled.

Very truly yours,

LEON J. PAGE
COUNTY COUNSEL



By _____
David Obrand, Deputy

cc: Michael G. Romey, michael.romey@lw.com
George J. Mhlsten, george.mhlsten@lw.com
Juan Anzora
Hisham Elmishad
Lauren Robinson

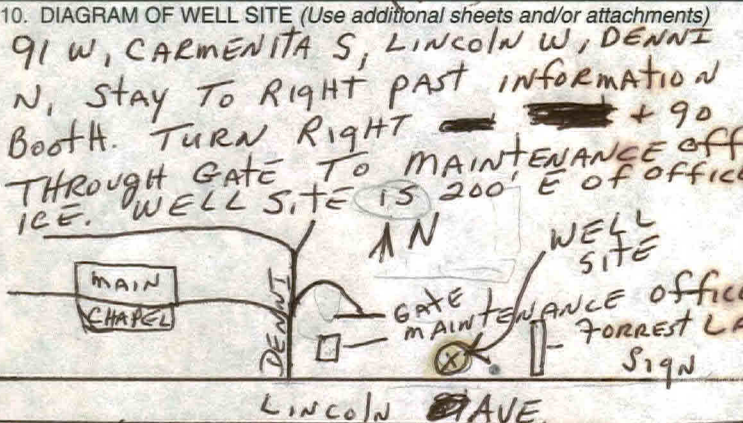
OCHCA

EXHIBIT 1

APPLICATION FOR WELL CONSTRUCTION PERMIT

ORANGE COUNTY HEALTH CARE AGENCY
ENVIRONMENTAL HEALTH DIVISION

2009 E. EDINGER
SANTA ANA, CA 92705
(714) 667-3700

1. CITY Cypress	2. DATE 5-18-95
3. WELL LOCATION (NEAREST INTERSECTION) 4471 LINCOLN AVE + DENNIE ST. Cypress	
4. NAME OF WELL OWNER FORREST LAWN CO.	7. TYPE OF WELL (CHECK) <input type="checkbox"/> SOIL BORING NUMBER _____ <input type="checkbox"/> PRIVATE DOMESTIC <input type="checkbox"/> CATHODIC NUMBER _____ <input type="checkbox"/> PUBLIC DOMESTIC <input type="checkbox"/> MONITORING NUMBER _____ <input checked="" type="checkbox"/> IRRIGATION <input type="checkbox"/> OTHER NUMBER 1
ADDRESS 1712 S. GLENDALE AVE.	8. TYPE OF CASING 14" - mild STEEL BLANK 14" - " " 74/70w Perf.
CITY GLENDALE, CALI.	9. METHOD OF SEALING CASING AND/OR EXCAVATION (Use additional sheets) CONDUCTOR - 105K SLURRY, PUMPED INTO PLACE W/ TREMMIE PIPE 50' ANNUAL SEAL - 120' - SAME AS ABOVE.
TELEPHONE 213-254-3131	DEPTH OF SEAL _____
5. NAME OF CONSULTING FIRM RICHARD STADE & ASSO.	10. DIAGRAM OF WELL SITE (Use additional sheets and/or attachments) 91 W, CARMENITA S, LINCOLN W, DENNIE N, STAY TO RIGHT PAST INFORMATION Booth. TURN RIGHT to + 90 THROUGH GATE TO MAINTENANCE OFFICE. WELL SITE IS 200' E OF OFFICE 
BUSINESS ADDRESS 6442 Coldwater Canyon Ave Ste 214	
CITY North Hollywood	
ZIP 91606	
6. NAME OF DRILLING CO. LAYNE-WESTERN Co.	APPLICANT'S SIGNATURE Michael D Trujillo 5/18/95 DATE
C-57 LICENSE NO. 510011	PRINT NAME MICHAEL D TRUJILLO
CITY CHINO	PHONE NUMBER _____
TELEPHONE (909) 627-1521	PLEASE ATTACH WELL CONSTRUCTION SPECIFICATION AND SITE PLAN TO THIS PERMIT <input checked="" type="checkbox"/> ATTACHED

WELL PERMIT NUMBER

05-05-35

FOR ACCOUNTING USE ONLY:

HSO NO. **131639** CHECK NO. **680 2200**
DATE **5-18-95** AMOUNT **405**
INTL. **A** LOG **PAID**

APPROVAL BY OTHER AGENCIES:

JURISDICTION _____
REMARKS _____

AUTHORIZED SIGNATURE _____ DATE _____

DISPOSITION OF PERMIT (DO NOT FILL IN):

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

A. NOTIFY THIS AGENCY AT LEAST **48 HOURS**
667-3751

PRIOR TO START.

PRIOR TO SEALING THE ANNUAL SPACE OR FILLING OF THE CONDUCTOR CASING.

B. SUBMIT TO THE AGENCY WITHIN 30 DAYS AFTER COMPLETION OF WORK, A WELL COMPLETION REPORT AND/OR DRILLING LOGS.

C. SECURE ALL MONITORING WELLS TO PREVENT TAMPERING.

D. OTHER _____

DENIED

PERMIT ISSUED BY **Monica Nator** DATE **23 May '95**

WHEN SIGNED BY ORANGE COUNTY HEALTH CARE AGENCY REPRESENTATIVE, THIS APPLICATION IS A PERMIT.

RECEIVED

MAY 18 1995

HEALTH CARE AGENCY
ENVIRONMENTAL HEALTH

WELL CONSTRUCTION INSPECTION

- DOMESTIC
 - Public
 - Private
- IRRIGATION
- MONITORING
- CATHODIC PROTECTION
- OTHER _____

1. SANITARY SURVEY DATE 5/22/95 INSPECTION BY M. G. Turner

NOTE: Distances to all sanitary hazards must be indicated

TOPOGRAPHY (Location) 4471 Lincoln Ave Cypress
 OTHER WELLS (Abandoned, Active, etc.) Well #1 ~ 300' N
 SEWERS (Size, Construction, Material) _____
 SEPTIC TANKS 100' NW (by white office building)
 LEACHING FIELDS 100' NW (by white office building)
 ANIMAL ENCLOSURES _____
 WATER COURSES _____
 UST (Types, Size, Permitted) ~300'
 PIPELINES (Type, Size) water line from existing well (~15')
 STRUCTURES office, garage, maintenance sheds - ~100'
 OTHER SANITARY HAZARDS _____

REMARKS _____


MITIGATION MEASURES (if minimum separation distances cannot be maintained i.e. increase annular seal, increase surface seal)

2. SEALING RECORD DATE _____ INSPECTED BY _____
 FINAL DEPTH OF WELL _____
 TYPE OF SEALING MATERIAL _____
 DIAMETER OF BORE HOLE _____ TYPE OF CASING _____
 DIAMETER OF CASING _____ THICKNESS OF ANNULAR SEAL _____
 DEPTH OF SEAL _____ DATE OF SEAL PLACEMENT _____
 WELL CASING SECURED (Temporary approved cover) _____

3. FINAL INSPECTION DATE 7-31-95 INSPECTED BY dl
 TOTAL DEPTH 580' GROUNDWATER DEPTH 25'
 PUMP (Type, HP) _____

NOTES: Sealing Materials Neat cement grout, sand-cement grout, concrete (5 or 6 sack, Aggregate pea gravel) Bentonite
Minimum Seal Depth Public Domestic 50 ft., Private Domestic 20 ft. Irrigation 20ft
Minimum Distances Sewer water tight septic tank 100ft, Leach fields Cesspool 150 ft, Animal Enclosures 100ft

WELL INSPECTION REPORT

Date	Findings or Action	By
5-19-95	(A) 50' SEALED CONDUCTOR CASING (B) 120' ANNUAL SEA (C) 560' TD	
5/22/95	Equip Wednesday 5/24/95 Permits inspection w/ Joe Sanchez	
5-25-95	INSPECTED SITE, CONDUCTOR IS IN WAITING FOR CONCRETE TRUCK SCHEDULED FOR 2:00 INFORMED THEM TO GO AHEAD, I HAVE TO GO TO THEIR WELL ABSTRACTION 95-05-25	
7-5-95	DRILL RIG GONE WANE WESTERN CREW ON SITE WITH HOIST REMOVED CASING? + DRILL STRING?	
7-14-95	WELL LOG RECEIVED WELL COMPLETED, NO EQUIPMENT INSTALLED SOUNDING TUBE & GRAVEL TUBE CASING, WELL CASING WELDED CLOSED	

STATE OF CALIFORNIA
WELL COMPLETION REPORT
Refer to Instruction Pamphlet

DWR USE ONLY - DO NOT FILL IN

STATE WELL NO./STATION NO.

LATITUDE LONGITUDE

APN/TRS/OTHER

Page 1 of 1
Owner's Well No. Well No. 3 No. 463961
Date Work Began 05-24-95, Ended 06-29-95
Local Permit Agency Orange County Health Care Agency, Environmental
Permit No. 95-05-35 Permit Date 05-18-95 Health Div.

DEPTH FROM SURFACE			DESCRIPTION <i>Describe material, grain size, color, etc.</i>
Ft.	to	Ft.	
0	50		Top Soil, Sand & Gravel
50	80		Fine Sand
80	110		Fine Sand, Small Gravel, Clay
110	130		Fine Sand, Some Clay
130	170		Fine Sand
170	190		Fine Sand, Small Gravel
190	210		Fine Sand
210	270		Fine Sand, Small Gravel
270	280		Fine Sand, Small Gravel, Clay
280	290		Fine Sand, Clay
290	310		Fine Sand
310	330		Fine Sand, Clay
330	350		Fine Sand
350	370		Fine Sand, Clay
370	470		Fine Sand
470	480		Fine Sand, Clay
480	590		Fine Sand

ORIENTATION (✓) VERTICAL HORIZONTAL ANGLE (SPECIFY)

DEPTH TO FIRST WATER _____ (Ft.) BELOW SURFACE

TOTAL DEPTH OF BORING 590 (Feet)
TOTAL DEPTH OF COMPLETED WELL 580 (Feet)

WELL OWNER

Name Forest Lawn Memorial Park
Mailing Address 1712 S. Glendale Avenue
Glendale CA 91209
CITY STATE ZIP

Address 4471 Lincoln Avenue
City Cypress
County Orange
APN Book 47 Page 7/8 Parcel S₂
Township 4 Range S11 Section W8
Latitude _____ Longitude _____
DEG. MIN. SEC. NORTH WEST

WELL LOCATION

Address 4471 Lincoln Avenue
City Cypress
County Orange
APN Book 47 Page 7/8 Parcel S₂
Township 4 Range S11 Section W8
Latitude _____ Longitude _____
DEG. MIN. SEC. NORTH WEST

LOCATION SKETCH

WEST EAST

Crescent
Denn
Lincoln

200' Well Site
160'

ACTIVITY (✓)

NEW WELL
 MODIFICATION/REPAIR
 Deepen
 Other (Specify) _____
 DESTROY (Describe Procedures and Materials Under "GEOLOGIC LOG")
PLANNED USE(S) (✓)
 MONITORING
WATER SUPPLY
 Domestic
 Public
 Irrigation
 Industrial
 "TEST WELL"
 CATHODIC PROTECTION
 OTHER (Specify) _____

DRILLING METHOD Reverse Rotary FLUID Water

WATER LEVEL & YIELD OF COMPLETED WELL

DEPTH OF STATIC WATER LEVEL 25' (Ft.) & DATE MEASURED 06-29-95
ESTIMATED YIELD 1600 (GPM) & TEST TYPE Pump
TEST LENGTH 57 (Hrs.) TOTAL DRAWDOWN 25.59 (Ft.)
** May not be representative of a well's long-term yield.*

DEPTH FROM SURFACE Ft. to Ft.	BORE-HOLE DIA. (Inches)	CASING(S)							
		TYPE (✓)				MATERIAL / GRADE	INTERNAL DIAMETER (Inches)	GAUGE OR WALL THICKNESS	SLOT SIZE IF ANY (Inches)
		BLANK	SCREEN	CON-DUCTOR	FILL PIPE				
0 to 50	36			X		Steel	30	4/4"	-
0 to 580	24	X	X			Steel	14	1/4"	.040

DEPTH FROM SURFACE Ft. to Ft.	ANNULAR MATERIAL TYPE			
	CE-MENT (✓)	BEN-TONITE (✓)	FILL (✓)	FILTER PACK (TYPE/SIZE)
0 to 110	X			
110 to 580			X	8 x 20

ATTACHMENTS (✓)

Geologic Log
 Well Construction Diagram
 Geophysical Log(s)
 Soil/Water Chemical Analyses
 Other _____

ATTACH ADDITIONAL INFORMATION, IF IT EXISTS.

CERTIFICATION STATEMENT

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief.

NAME Layne-Western Company, McCalla Division
(PERSON, FIRM, OR CORPORATION) (TYPED OR PRINTED)

13855 Central Avenue Chino CA 91710
ADDRESS CITY STATE ZIP

Signed Robert A. Evert 07-06-95 510011
WELL DRILLER/AUTHORIZED REPRESENTATIVE DATE SIGNED C-57 LICENSE NUMBER

FORREST, LAWN 68-1996

325' 14" 1/4 WALL BLANK
 260' 14" 1/4 FF LOUVER

CASING SCH

+5-160 14" B
 160-270 14" FF
 270-290 14" B
 290-320 14" FF
 320-350 14" B
 350-370 14" FF
 370-460 14" B
 460-560 14" FF
 560-580 14" B w/SR HEAD

CEMENT SEAL 0-110' 1 Pour

2" SOUNDING TUBE 290' TIER IN
 3" GRAVEL TUBE 130'
 GRAVEL 110-580
 CENTRALIZERS EVERY 20' =>

GRAVEL
TUBE

2" SOUNDING
TUBE

25' 14" B	→	+5-20
40' 14" B		20'-60'
40' 14" B		60-100
40' 14" B	→	100-140
20' 14" B		140-160
25' 14" FF	→	160-180
40' 14" FF		180-220
40' 14" FF		220-260
10' 14" FF	→	260-270
20' 14" B		270-290
10' 14" FF		290-300
20' 14" FF		300-320
20' 14" B		320-340
10' 14" B	→	340-350
20' 14" FF		350-370
10' 14" B		370-380
40' 14" B		380-420
40' 14" B	→	420-460
40' 14" FF		460-500
40' 14" FF	→	500-540
20' 14" FF		540-560
20' 14" B	→	560-580

STATE OF CALIFORNIA DEPARTMENT OF HEALTH SERVICES

10

RECEIVED

JUL 11 1995

HEALTH CARE AGENCY
ENVIRONMENTAL HEALTH

OCHCA

EXHIBIT 2

Obrand, David A

From: Connor Harmon <CHarmon@bestdrillingandpump.com>
Sent: Tuesday, October 17, 2023 3:31 PM
To: EH OC Wells
Cc: tonyg.lebeau@rcslade.com; dtitzian@forestlawn.com; Charise Stuber; mmorgan@forestlawn.com; Mike Kennedy; John Kennedy; Jimmy Soria
Subject: Well Seal Notification Permit # 23-08-21

Attention: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Juan,

We are beginning construction of the new well, drilling is complete.

Cement installation is scheduled for Monday(10/23) and Tuesday(10/24). Both are scheduled for 12:30 PM. Two pours will be used to prevent collapse.

On site contact is Mike Kennedy or Jimmy Soria

Mike: 909-649-6296
Jimmy: 909-633-4949

I will follow up at the end of the week to confirm the schedule with you

Connor Harmon
Project Manager
BEST DRILLING AND PUMP, INC.
1640 W. Pellisier Road
Colton, CA 92324
951-529-0526 cell
951-684-1952 ph
951-654-3852 fax

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Division 5 WATER CONSERVATION

ARTICLE 1. WELL WATER

Sec. 4-5-1. Definitions.

The following terms as used in this article shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

Beneficial use or beneficial purpose is defined to be the causing, suffering or permitting of any water pumped or flowing from any well to be used for the purpose of irrigation of lands and/or for domestic use and/or for the propagation of fish.

Irrigation of land is defined to be the artificial application of water to lands whenever rainfall is insufficient to meet the full water requirements of crops, applied to lands in such quantities and in such manner, from time to time during the growing season of the trees or plants being irrigated, as will provide sufficient moisture to promote plant growth, having reference to the particular kind of crops grown and the particular type of soil involved.

Propagation of fish is defined to be the breeding and/or propagating of edible or pet species of fish where such breeding and/or propagation is carried on as a commercial enterprise.

Unnecessarily flow is defined to be the causing, suffering or permitting water flowing from an artesian well or pumped from a pumping well to be stored or used for any purpose other than a beneficial use or beneficial purpose, as defined in this section.

Waste of water is defined to be:

- (a) The causing, suffering or permitting of any water pumped or flowing from any well to run into any river, creek or other natural watercourse or channel, or into any bay or pond or artificial reservoir, or into any street, road or highway, unless it be used thereafter for a beneficial purpose; and where such water is caused, suffered or permitted to be run into any pond or artificial reservoir, such storing of water shall be deemed a waste of water, unless it is used thereon for the beneficial purposes of domestic use and/or propagation of fish and/or thereafter removed therefrom and used for the beneficial purpose of irrigation.
- (b) The causing, suffering or permitting any water pumped or flowing from any well to run upon the land of any person, or upon the public lands of the United States or the State of California, unless it be used thereon for the beneficial purposes of irrigation thereof or for the propagation of fish.
- (c) The causing, suffering or permitting any water pumped or flowing from any well to be used for a beneficial purpose, where such beneficial use allows more than five (5) per cent of the water so pumped to escape in such a way as would define the use of such escaped water to be classified as "waste of water" under this section.

Water well or wells shall mean an artificial hole made in the ground through which water naturally flows from subterranean sources to the surface of the ground, commonly known and designated as an artesian well, or any well from which water is obtained by means of a pump or other mechanical device, commonly known and designated as a pumping well.

(Code 1961, § 45.011)

Sec. 4-5-2. Unlawful use of water.

It shall be unlawful for any person, firm, copartnership, corporation or association of individuals, either as owner, tenant, manager, agent or employee, to cause, permit or suffer any water well or wells, under the ownership, control or management of such person, firm, copartnership, corporation or association of individuals, to be operated or used in such manner as to cause, suffer or permit the water from such well or wells to unnecessarily flow or be pumped therefrom or to go to waste.

(Code 1961, § 45.012)

Sec. 4-5-3. Civil execution on fine.

Any fine imposed for violation of the provisions of this article may be collected as in other criminal cases, and the Court may also issue an execution upon the judgment therein rendered and the same may be enforced and collected as in civil cases.

(Code 1961, § 45.013)

Secs. 4-5-4—4-5-13. Reserved.

ARTICLE 2. CONSTRUCTION AND ABANDONMENT OF WATER WELLS

Sec. 4-5-14. Purpose.

It is the purpose of this article to control the construction and reconstruction of wells to the end that the groundwater of this County will not be impaired in quality and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this County, and to provide for the destruction of abandoned wells or wells found to be public nuisances to the end that such wells will not impair the quality of groundwater or otherwise jeopardize the health, safety or welfare of the people of this County.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-15. Definitions.

As used in this article, the following words shall have the meanings provided in this section:

Abandoned and *abandonment*. The terms "abandoned" or "abandonment" shall apply to a well which has not been used for a period of one year, unless the owner declares in writing, to the Well Standards Advisory Board, his intention to use the well again for supplying water or other associated purpose (such as an observation well or injection well) and receives approval of such declaration from the Board. All such declarations shall be renewed annually and at such time be resubmitted to the Board for approval. Test holes and exploratory holes shall be considered abandoned twenty-four (24) hours after construction work has been completed, unless otherwise approved by the Health Officer.

Agricultural well. A water well used to supply water for irrigation or other agricultural purposes, including so-called stock wells.

Cathodic protection well. Any artificial excavation in excess of fifty (50) feet constructed by any method for the purpose of installing equipment or facilities for the protection, electrically, of metallic equipment in contact with the ground, commonly referred to as a cathodic protection well or a deep anode.

Community water supply well. A water well used to supply water for domestic purposes in systems subject to chapter 7 of part 1 of division 5 of the California Health and Safety Code.

Construct, reconstruct (construction, reconstruction). To dig, drive, bore, drill or deepen a well, or to re-perforate, remove, replace or extend a well casing.

Destruction. The proper filling and sealing of a well that is no longer useful so as to assure that the groundwater is protected and to eliminate a potential physical hazard.

Electrical grounding well. Any artificial excavation in excess of fifty (50) feet constructed by any method for the purpose of establishing an electrical ground.

Health Officer. The Orange County Health Officer or his designee.

Individual domestic well. A water well used to supply water for domestic needs of an individual residence or commercial establishment.

Industrial well. A water well used to supply an industry on an individual basis.

Observation well. A well used for monitoring or sampling the conditions of a water-bearing aquifer, such as water pressure, depth, movement or quality.

Permit. A written permit issued by the Health Officer permitting the construction, reconstruction, destruction or abandonment of a well.

Person. Any person, firm, corporation or governmental agency.

Public nuisance. The term "public nuisance," when applied to a well, shall mean any well which threatens to impair the quality of groundwater or otherwise jeopardize the health or safety of the public.

Saltwater (hydraulic) barrier well. A well used for extracting water from or injecting water into the underground as a means of preventing the intrusion of saltwater into a fresh water-bearing aquifer.

Test or exploratory hole. An excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic investigation, direct observation or any other means.

Well. Any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into the underground, for providing cathodic protection or electrical grounding of equipment, for making tests or observations of underground conditions, or for any other similar purpose. Wells shall include, but shall not be limited to, community water supply wells, individual domestic wells, industrial wells, agricultural wells, cathodic protection wells, electrical grounding wells, test and exploratory holes, observation wells and saltwater (hydraulic) barrier wells, as defined herein, and other wells whose regulation is necessary to fulfill the purpose of this article as determined by the Well Standards Advisory Board. Wells shall not include:

- (a) Oil and gas wells, geothermal wells or other wells constructed under the jurisdiction of the State Department of Conservation, except those wells converted to use as water wells;
- (b) Wells used for the purpose of dewatering excavations during construction, or stabilizing hillsides or earth embankments; or
- (c) Other wells whose regulation is not necessary to fulfill the purpose of this article as determined by the Well Standards Advisory Board.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-16. Well Standards Advisory Board.

A board consisting of five (5) members shall be appointed by the Board of Supervisors. One of the members appointed shall be a person employed in a supervisory capacity by a water purveyor in the County of Orange whose system relies to a significant extent upon groundwater; one shall be a registered civil engineer under the laws of the State of California who is experienced in sanitary engineering and who is qualified in the field of water supply; one shall be a person licensed in accordance with the provisions of the Contractors License Law, chapter 9, division 3 of the Business and Professions Code of the State of California; one shall be a person who is qualified in the field of water quality; and one shall be a registered geologist under the laws of the State of California who is qualified in the field of groundwater hydrology. One of the aforementioned persons shall be a representative of the Orange County Water District and one shall represent the Orange County Water Pollution Department.

Members shall serve for a three-year term and until the qualification of a successor, except that the first members shall serve staggered terms, as determined by the drawing of lots, in the following manner: One member shall serve for a one-year term of office; two (2) members shall serve for a three-year term of office. All terms shall end on the first Monday in January of the year in which such term is to expire. All members shall serve at the discretion of the Board of Supervisors; and any member or members of the Board, Committee or Commission may have his membership terminated by a majority vote of the Board of Supervisors. A vacancy thereby created shall be filled in the same manner as the original appointment.

Traveling and other expenses incurred by each Board member in the performance of his official duties shall be reimbursed at a rate of ten dollars (\$10.00) per meeting.

(Ord. No. 2607, § 1, 7-18-72; Ord. No. 3038, § 3, 2-14-78)

Sec. 4-5-17. Acts prohibited; permit required.

No person shall, within the unincorporated area of the County of Orange, construct or reconstruct any well unless such construction or reconstruction is carried out pursuant to and in conformance with a written permit issued for that purpose by the Health Officer as provided in this article.

Nor shall any such person abandon a well unless it has been destroyed pursuant to and in conformance with a written permit issued by the Health Officer.

Nor shall any such person violate the terms of any order issued by the Well Standards Advisory Board or the Health Officer, issued pursuant to this article.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-18. Permits.

Applications for permits shall be made to the Health Officer containing such information as he shall require.

Each application shall be accompanied by a fee which shall be established by the Board of Supervisors on the basis of the cost incurred in enforcing the provisions of this article. Fifty (50) per cent of the fee shall be returned to the applicant should the permit be denied or if the permit is canceled within sixty (60) days after issuance and no work has been done. A permit shall remain in effect for one year from date of issuance.

Permits may be issued subject to any condition or requirement found by the Health Officer to be necessary to accomplish the purposes of this article.

A permit may be canceled or the conditions amended by the Health Officer if he determines that to proceed with the work would result in a public nuisance or the permit holder has violated the terms of the permit or this article.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-19. Completion of work.

The permittee shall notify the Health Officer in writing upon completion of the work and no work shall be deemed to have been completed until such written notification has been received. A final inspection of the work shall be made by the Health Officer and no permittee shall be deemed to have complied with this article or his permit until such inspection has been performed.

(Ord. No. 2607, § 1, 7-18-72)

Secs. 4-5-20—4-5-24. Reserved.

Sec. 4-5-25. Notice; cancellation or denial of permit.

In the event a permit is denied or canceled, the applicant or permit holder shall be given written notice by the Health Officer, which notice shall specify the reasons for his action and shall notify the applicant or permit holder of his right to request a hearing before the Well Standards Advisory Board within ten (10) days.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-26. Notice; public nuisance.

In the event the Health Officer determines that a well constitutes a public nuisance, he shall mail a written notice to the landowner and the permit holder, if other than the landowner. A copy of the notice shall be posted on the affected property. The notice shall state the specific facts giving rise to such nuisance; the corrective measures deemed necessary; and time, date and place at which a hearing shall be held by the Well Standards Advisory Board relating thereto, which date shall be not less than ten (10) nor more than thirty (30) days after the date such notice is mailed. The notice shall state that in the event the Board determines that a public nuisance exists a special assessment shall be imposed upon the land for any costs of abatement.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-27. Immediate abatement.

If the Health Officer finds that immediate action is necessary to prevent impairment of the groundwater or a threat to the health or safety of the public, he may abate the nuisance without giving notice. Within twenty-four (24) hours after initiating such abatement, the Health Officer shall give notice of a hearing before the Well Standards Advisory Board in the manner prescribed in section 4-5-26.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-28. Board hearing.

At the time fixed for the hearing, the Well Standards Advisory Board shall hear and consider all relevant testimony and evidence offered by the landowner, and by any other interested person. In the event the Board finds that a public nuisance exists, it shall direct the Health Officer to take any necessary action to protect the groundwater or the health and safety of the public, unless the situation is corrected by the landowner on or before a date to be specified by the Board. The costs of such corrective work by the Health Officer shall become a special assessment upon the land pursuant to section 4-5-29.

If the Board finds that a permit was improperly denied or canceled, it shall order the Health Officer to issue or reinstate such permit.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-29. Abatement costs a special assessment.

Upon a finding by the Well Standards Advisory Board that a well constitutes a public nuisance, all cost of abatement carried out under the terms of this article shall constitute a charge and special assessment upon the parcel of land involved. If such costs are not paid within sixty (60) days, they shall then be declared a special assessment against that parcel as provided in Government Code, section 25845. Such special assessment shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary County taxes. The County shall retain the additional and independent right to recover its costs by way of civil action against the owner and person in possession or control, jointly or severally.

(Ord. No. 2607, § 1, 7-18-72)

Sec. 4-5-30. Standards.

Standards for the construction, reconstruction, destruction, or abandonment of wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74, Chapter II and future amendments thereto. Standards for the construction, reconstruction, destruction or abandonment of cathodic protection wells and electrical grounding wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74-1, and future amendments thereto. Well standards may be modified by the Health Officer, with the advice and concurrence of the Well Standards Advisory Board, where required to cope with the local geological and groundwater conditions.

(Ord. No. 2607, § 1, 7-18-72; Ord. No. 2691, § 1, 7-17-73)

Sec. 4-5-31. Penalty.

Any person who violates the terms of this article or any permit issued hereunder shall be guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued or permitted and shall be subject to the same punishment as for the original offense.

(Ord. No. 2607, § 1, 7-18-72)