

HRC

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February 16, 2007

Via fax 916-464-4780 and Fed Ex Delivery

California Central Water Quality Control Board
Central Valley Region
Attn: Mark List
11020 Sun Center Drive
Rancho Cordova, CA 95670

re: Notice of Draft Connection Restriction City of Lakeport
1930 South Main Street, Lakeport, Victorian Village Subdivision
Public Hearing of March 15/16, 2007

To whom it may concern:

I am the attorney for Victorian Village Investments Inc., owners of real property located at 1930 South Main Street, Lakeport, California. Victorian Village Investments Inc. is the owner of several acres in the City of Lakeport and is potentially affected by the Cease and Desist Order Which Will Be the Subject of the March 15/16, 2007 Meeting before the California Regional Water Quality Control Board, Central Valley Region. My client, through its president, William S. Irwin wishes to be a designated party.

My client owns real property where an approved common interest development is located. On November 16, 2006 a subdivision map for the initial phase of the development was recorded. In total, the development anticipates 95 units. The first phase of the development provides for 14 develop able lots along with common interest area and roadway. As of January 18, 2007, no building permits have been issued for the residential structures to be erected on the First Phase of the subdivision. Pages 39-41 are attached to this letter showing the recording of said map on the date specified herein.

That would at first blush, the above-stated facts on their own would appear to take this project outside of the 4 exceptions specified in your correspondence to the city dated January 18, 2007 accompanying the Notice of Draft Connection Restriction, City of Lakeport Municipal

Sewer District, City of Lakeport Wastewater Treatment Facility, Lake County. However, under the circumstances particular to my client, we would contend that the order should not affect its project.

Water Code Section 13301 provides in part, "When a regional board finds ... (The) board may ... (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, **cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order.** (emphasis added) Cease and desist orders may be issued directly by a board, after notice and hearing.

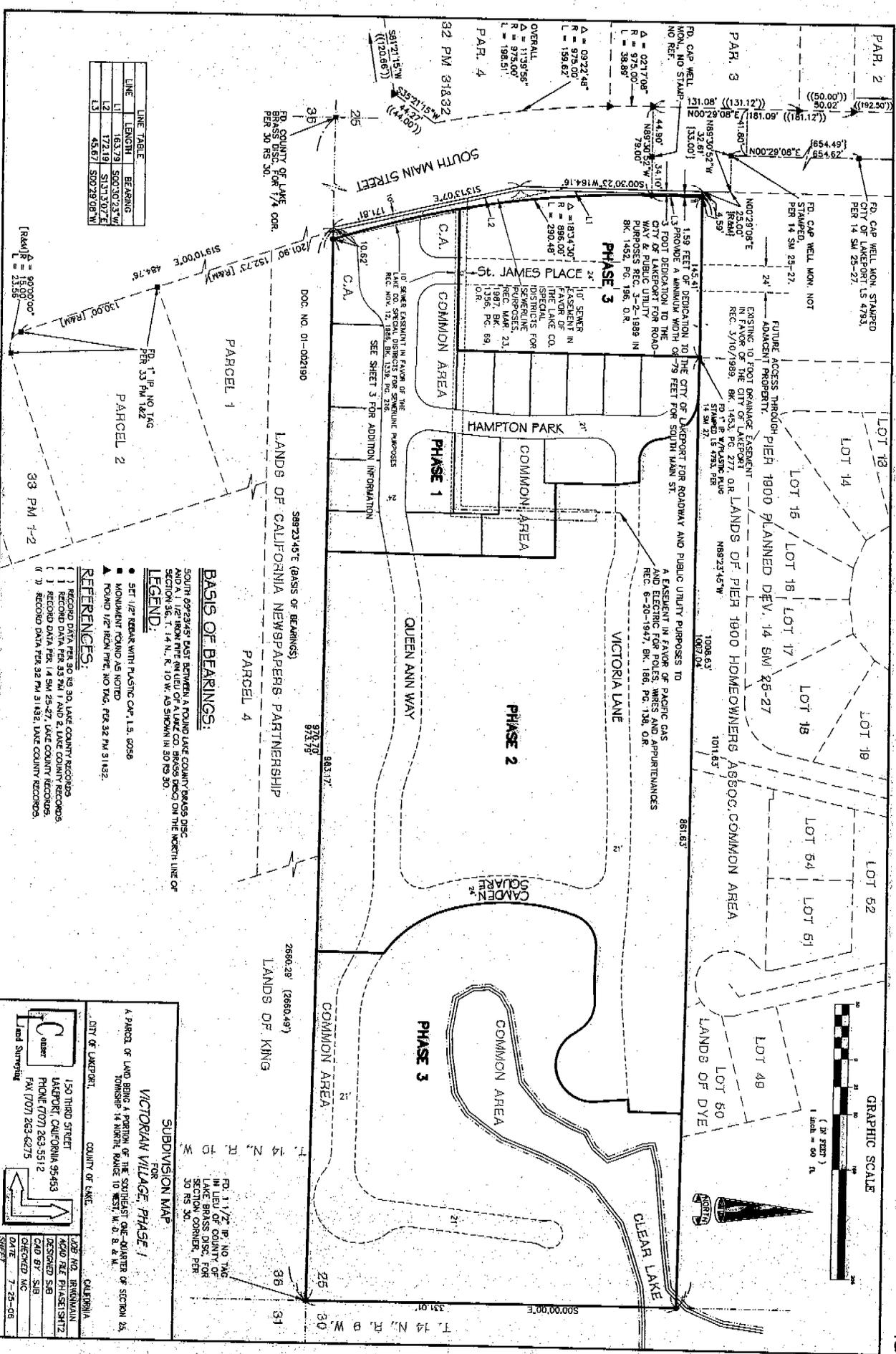
The plain reading of Water Code Section 13301 is clear that it does not apply to dischargers who did discharge into the system prior to the issuance of the cease and desist order. In the present case, my client, Victorian Village Investments Inc. clearly meets the definition of a **prior and current discharger** (emphasis added). At the time my client and its immediate predecessor in interest acquired the real property, there were already approved and utilized wastewater connections in excess of the amount my client intends to utilize. There has been discharge through my client's sewer connections for periods of time through the last three decades.

Those sewer connections had been paid for and used for a period of time prior to my client's acquisition. At the time of those connections, there was a RUE rating in excess of the amount my client intends to utilize.

California Code of Regulations Title 23, Section 2244, states that ... "e) Prohibitions or restrictions, when adopted should include but not be limited to new residential, commercial, industrial, and/or governmental connections as deemed appropriate."

In the present case, my client contends that any use it may make of existing connections to new residential construction is beyond the scope of the current order. The predecessor in interest who initially developed the property, acquired permits, sought, and received approval for connections, in excess of the amount my client intends to utilize, all of which were previously put into service. Attached to this letter is a copy of but a portion of the official account history reports generated by the City of Lakeport related to the previous owner of the real property Westshore RV Resort, indicating that water and sewer had been connected at that time. My client intends to construct homes on the same property originally occupied by the recreational vehicle park, and with a less total connections. Although permits are being taken out for new construction, this is a situation which is more akin to a remodel at least from the standpoint of impact on the total connections available within the City of Lakeport. The RV facility took out

LINE	LENGTH	BEARING
1	163.79	S00°30'23"W
2	172.19	S113°07'E
3	45.67	S00°29'08"W



BASIS OF BEARINGS:
 SOUTH 09°23'45" EAST BETWEEN A FOUND LAKE COUNTY BRASS DISC AND A 1/2" IRON PIPE (IN LIEU OF A LAKE CO. BRASS DISC) ON THE NORTH LINE OF SECTION 36, T. 14 N., R. 10 W., AS SHOWN IN S0789 30.

LEGEND:
 ● SET 1/2" IRON PIPE WITH PLASTIC CAP, I.S. 6055
 ▲ MONUMENT FOUND AS NOTED
 ▴ FOUND 1/2" IRON PIPE, NO TAG, PER 32 PM 31432

REFERENCES:
 () RECORD DATA PER 30 30 LAKE COUNTY RECORDS
 () RECORD DATA PER 33 PM 1 AND 2 LAKE COUNTY RECORDS
 () RECORD DATA PER 14 SW 25-27, LAKE COUNTY RECORDS
 () RECORD DATA PER 32 PM 31432, LAKE COUNTY RECORDS

SUBDIVISION MAP FOR VICTORIAN VILLAGE, PHASE 1

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 35, TOWNSHIP 14 NORTH, RANGE 10 WEST, N. D. 8, E. 11.

CITY OF LAKEPORT, COUNTY OF LAKE, CALIFORNIA

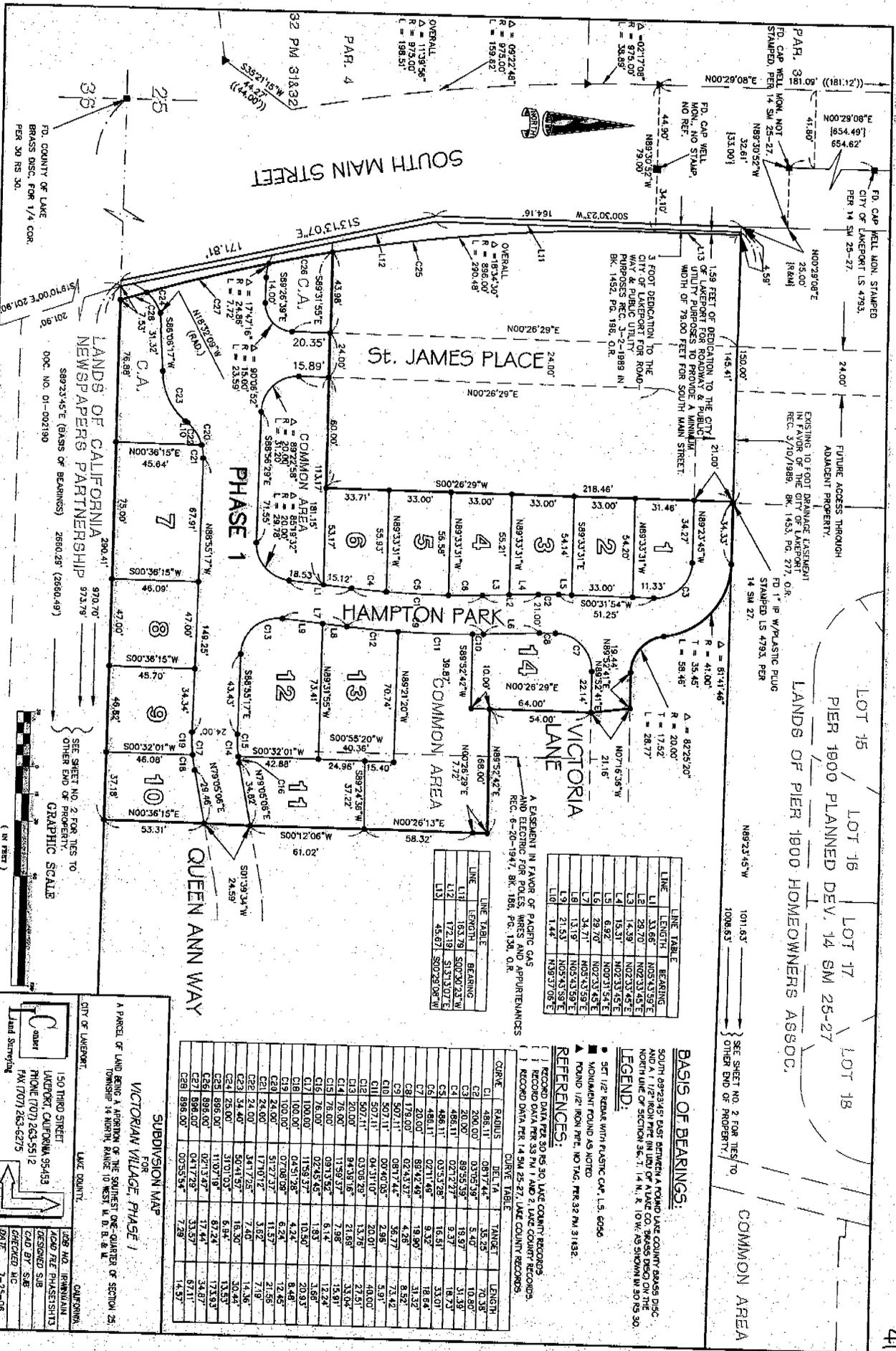
150 THIRD STREET
 LAKEPORT, CALIFORNIA 95463
 PHONE (707) 263-5512
 FAX (707) 263-6275

Lead Surveying

DATE	7-25-06
CHECKED BY	MS
DESIGNED BY	MS
DRAWN BY	MS
DATE	7-25-06
CHECKED BY	MS
DESIGNED BY	MS
DRAWN BY	MS

NO. 1 OF 3 SHEETS

16375-0



FD. COUNTY OF LAKE
BRASS DISC. FOR 1/4 COR.
PER 30 RS 30.

LANDS OF CALIFORNIA
NEWSPAPERS PARTNERSHIP
892345 E. (BASIS OF BEARINGS) 2860.29' (2860.49')
OCC. NO. 01-002190

SEE SHEET NO. 2 FOR TIES TO
OTHER END OF PROPERTY.
GRAPHIC SCALE
(IN FEET)
1 inch = 20' ft.

CITY OF LAKEPORT
150 THIRD STREET
LAKEPORT, CALIFORNIA 95453
PHONE (707) 263-5512
FAX (707) 263-6275

LAND SURVEYOR
128 MO. RICHMAN
1620 FLE PHILADELPHIA
REGULATED SUR.
ISSUED BY STATE
REGISTERED NO.
DATE 1-23-06
SHEET 5 OF 3 SHEETS

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 25,
TOWNSHIP 14 NORTH, RANGE 10 WEST, N. D. B. & W.

SUBDIVISION MAP
FOR
VICTORIAN VILLAGE PHASE 1

LINE TABLE

LINE	LENGTH	BEARING
L1E	183.78	S00°20'23"W
L12	172.19	S13°13'07"E
L13	45.67	S00°28'08"W

LINE TABLE

LINE	LENGTH	BEARING
L1	33.66	N05°43'59"E
L2	29.70	N02°33'45"E
L3	14.59	N02°33'45"E
L4	13.51	N02°33'45"E
L5	6.52	N02°33'45"E
L6	23.37	N02°33'45"E
L7	17.44	N02°33'45"E
L8	13.43	N02°33'45"E
L9	21.53	N02°33'45"E
L10	1.44	N02°33'45"E

CURVE TABLE

CURVE	RADIUS	DELTA	TANGENT	LENGTH
C1	488.11	68°17'44"	15.25	70.28
C2	200.00	63°05'58"	5.40	11.30
C3	20.00	89°55'59"	18.97	11.30
C4	488.11	62°12'27"	9.37	18.73
C5	488.11	63°53'28"	16.51	33.01
C6	488.11	62°11'49"	9.32	18.84
C7	20.00	89°42'49"	19.99	31.52
C8	178.00	62°45'37"	4.28	8.52
C9	507.11	68°17'44"	26.77	73.40
C10	507.11	60°40'05"	2.98	5.91
C11	507.11	64°31'07"	20.01	40.00
C12	507.11	63°05'29"	13.78	27.57
C13	20.00	94°35'16"	21.68	33.94
C14	76.00	115°39'57"	7.98	15.91
C15	76.00	69°13'52"	6.14	12.24
C16	76.00	62°45'37"	1.83	3.66
C17	100.00	115°39'57"	10.50	20.93
C18	100.00	64°51'25"	4.24	8.48
C19	100.00	67°00'09"	6.24	12.45
C20	24.00	51°27'37"	11.57	21.86
C21	24.00	17°10'12"	3.62	7.19
C22	24.00	34°17'25"	7.40	14.86
C23	34.40	50°41'57"	16.30	30.44
C24	23.00	31°01'03"	6.94	13.53
C25	898.00	11°07'19"	87.24	173.83
C26	898.00	62°13'47"	17.44	34.87
C27	898.00	64°17'29"	33.57	67.11
C28	898.00	62°55'54"	7.29	14.57

AN EASEMENT IN FAVOR OF PAPER GAS
AND ELECTRIC FOR POLES, WIRES AND APPURTENANCES
REC. 6-20-1947, BK. 186, PG. 136, O.R.

RECORD DATA PER RS 30, 50, LAKE COUNTY RECORDS.
RECORD DATA PER RS 30 PM 1 AND 2, LAKE COUNTY RECORDS.
RECORD DATA PER 14 PM 25-27, LAKE COUNTY RECORDS.

LEGEND:
 ● 1/2" REDDAR WITH PLASTIC CAP, L.S. 6096
 ■ MOUND FOUND AS NOTED
 ▲ MOUND 1/2" IRON PIPE, NO TAG, PER 32 PM 31832.

SEE SHEET NO. 2 FOR TIES TO
OTHER END OF PROPERTY

COMMON AREA

LOT 15
LOT 16
LOT 17
LOT 18

PIER 1900 PLANNED DEV. 14 SM 25-27
LANDS OF PIER 1900 HOMEOWNERS ASSOC.

EXISTING 10 FOOT DRAINAGE EASEMENT
IN FAVOR OF THE CITY OF LAKEPORT
REC. 3/20/1989, BK. 1453, PG. 277, O.R.
FD 1" IR W/PLASTIC PUG
STAMPED LS 4793, PER
14 SM 27.

1.59 FEET OF DEDICATION TO THE CITY
OF LAKEPORT FOR ROADWAY & UTILITIES
WIDTH OF 78.00 FEET FOR SOUTH MAIN STREET.

3 FOOT DEDICATION TO THE
WAY & PUBLIC UTILITIES FOR ROAD
PURPOSES REC. 3-2-1989 IN
BK. 1452, PG. 186, O.R.

FD. CAP WELL
MON. NO STAMP
NO REF.

FD. CAP WELL MON. STAMPED
CITY OF LAKEPORT LS 4793,
PER 14 SM 25-27.

OVERALL
A = 1178.56'
R = 875.00'
L = 198.51'

OVERALL
A = 692.22 487'
R = 973.00'
L = 158.62'

OVERALL
A = 1178.56'
R = 875.00'
L = 198.51'

OVERALL
A = 1178.56'
R = 875.00'
L = 198.51'

OVERALL
A = 1178.56'
R = 875.00'
L = 198.51'

OVERALL
A = 1178.56'
R = 875.00'
L = 198.51'

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OVERALL
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ACCOUNT HISTORY REPORT

Date: 02/14/2007

Time: 3:31pm

Page: 1

City Of Lakeport

 Trans Date Transaction Type Mult Usage Prev Read WATER 1 SEWER 1 FIRE SERVI TRASH/DISP BACK DOOR Other
 Entry Date Note Meter No. Curr Read WATER 2 SEWER 2 (WATER 2ND GREENWASTE BASIN 2000 Total
 Record No. WATER 3 (SEWER 3 SEWER 2ND CONTAMINAT MISC TRASH New Bal

 Acct No: 36811.0 Cust Name: WESTSHORE RV RESORT Cycle: CLO Seq #: 0000034800
 Loc ID: MA 5-001930-0000-00 Svc Addr: 1930 S MAIN ST Section: CLO Class: COMMERCIAL

Trans Date	Transaction Type	Mult	Usage	Prev Read	Water 1	Sewer 1	Fire Servi	Trash/Disp	Back Door	Other
09/26/2001	A Adjustment		0.0000	0	616.68	383.86	91.96	0.00	0.00	0.00
09/26/2001	beg bal	2		0	0.00	0.00	0.00	0.00	0.00	1,092.50
544					0.00	0.00	0.00	0.00	0.00	1,092.50
09/28/2001	B Bill		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
10/11/2001	SEPTEMBER 28TH BILLING	1		0	305.40	430.50	0.00	0.00	0.00	1,194.52
2773					17.38	0.00	0.00	0.00	0.00	2,287.02
10/20/2001	R Receipt		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
10/20/2001	pymt rcv'd 10.16.01	1		0	305.40	430.50	0.00	0.00	0.00	1,194.52
5394					17.38	0.00	0.00	0.00	0.00	0.00
10/26/2001	A Adjustment		0.0000	0	1,092.50	0.00	0.00	0.00	0.00	0.00
10/26/2001	UBWIN Account Reconciliation			0	0.00	0.00	0.00	0.00	0.00	1,092.50
6529					0.00	0.00	0.00	0.00	0.00	1,092.50
10/27/2001	R Receipt		0.0000	0	1,092.50	0.00	0.00	0.00	0.00	0.00
10/27/2001	pymt rcv'd 9.25.01	1		0	0.00	0.00	0.00	0.00	0.00	1,092.50
6839					0.00	0.00	0.00	0.00	0.00	0.00
10/28/2001	U Usage Entered		103.0000	5236	0.00	0.00	0.00	0.00	0.00	0.00
11/21/2001	Entered Usage	1		5339	0.00	0.00	0.00	0.00	0.00	0.00
11811					0.00	0.00	0.00	0.00	0.00	0.00
10/28/2001	B Bill		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
11/26/2001	OCT 28TH BILLING DONE	11.20.01		0	235.40	430.50	0.00	0.00	0.00	1,124.52
12354					17.38	0.00	0.00	0.00	0.00	1,124.52
11/28/2001	U Usage Entered		70.0000	5339	0.00	0.00	0.00	0.00	0.00	0.00
12/10/2001	Entered Usage	1		5409	0.00	0.00	0.00	0.00	0.00	0.00
17785					0.00	0.00	0.00	0.00	0.00	0.00
11/28/2001	B Bill		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
12/11/2001	NOV 28, '01 BILL DONE	11.10.01		0	177.08	430.50	0.00	0.00	0.00	1,066.20
18267					17.38	0.00	0.00	0.00	0.00	1,066.20
12/05/2001	R Receipt		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
12/05/2001	pymt rcv'd 12.04.01	1		0	235.40	430.50	0.00	0.00	0.00	1,124.52
16044					17.38	0.00	0.00	0.00	0.00	0.00
12/27/2001	R Receipt		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
12/28/2001	pymt rcv'd 12.27.01	1		0	177.08	430.50	0.00	0.00	0.00	1,066.20
23369					17.38	0.00	0.00	0.00	0.00	0.00
12/28/2001	U Usage Entered		99.0000	5409	0.00	0.00	0.00	0.00	0.00	0.00
01/09/2002	Entered Usage	1		5508	0.00	0.00	0.00	0.00	0.00	0.00
24615					0.00	0.00	0.00	0.00	0.00	0.00
12/28/2001	B Bill		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
01/10/2002	DEC 28, '01 BILLING	1/8102		0	227.40	430.50	0.00	0.00	0.00	1,116.52
25099					17.38	0.00	0.00	0.00	0.00	1,116.52
01/28/2002	U Usage Entered		135.0000	5508	0.00	0.00	0.00	0.00	0.00	0.00
01/29/2002	Entered Usage	1		5643	0.00	0.00	0.00	0.00	0.00	0.00
30331					0.00	0.00	0.00	0.00	0.00	0.00
01/28/2002	B Bill		0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
01/31/2002	JAN 28TH BILLING -	1-28102		0	299.40	430.50	0.00	0.00	0.00	1,188.52
30851					17.38	0.00	0.00	0.00	0.00	1,188.52

ACCOUNT HISTORY REPORT

Date: 02/14/2007

City Of Lakeport

Time: 3:31pm

Page: 2

 Trans Date Transaction Type Mult Usage Prev Read WATER 1 SEWER 1 FIRE SERVI TRASH/DISP BACK DOOR Other
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 Acct No: 36811.0 Cust Name: WESTSHORE RV RESORT Cycle: CLO Seq #: 0000034800
 Loc ID: MA S-001930-0000-00 Svc Addr: 1930 S MAIN ST Section: CLO Class: COMMERCIAL

Trans Date	Transaction Type	Mult Usage	Prev Read	WATER 1	SEWER 1	FIRE SERVI	TRASH/DISP	BACK DOOR	Other
01/28/2002	R Receipt	0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
01/29/2002	pymt rcv'd 1/28/02	1	0	227.40	430.50	0.00	0.00	0.00	1,116.52
	30086			17.38	0.00	0.00	0.00	0.00	0.00
02/26/2002	R Receipt	0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
02/27/2002	pymt rcv'd 2/26/02	1	0	299.40	430.50	0.00	0.00	0.00	1,188.52
	36959			17.38	0.00	0.00	0.00	0.00	0.00
02/28/2002	U Usage Entered	86.0000	5643	0.00	0.00	0.00	0.00	0.00	0.00
03/05/2002	Entered Usage	1	5729	0.00	0.00	0.00	0.00	0.00	0.00
	37524			0.00	0.00	0.00	0.00	0.00	0.00
02/28/2002	B Bill	0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
03/07/2002	FEB 28, '02 BILLING	1	0	201.40	430.50	0.00	0.00	0.00	1,090.52
	38383			17.38	0.00	0.00	0.00	0.00	1,090.52
03/18/2002	R Receipt	0.0000	0	291.90	57.38	91.96	0.00	0.00	0.00
03/19/2002	pymt rcv'd 3/18/02	1	0	201.40	430.50	0.00	0.00	0.00	1,090.52
	41854			17.38	0.00	0.00	0.00	0.00	0.00
03/28/2002	B Bill	0.0000	0	333.60	65.58	105.10	0.00	0.00	0.00
04/09/2002	MARCH 28, '02 BILLING	1	0	302.30	492.00	0.00	0.00	0.00	1,318.44
	45182			19.86	0.00	0.00	0.00	0.00	1,318.44
03/31/2002	U Usage Entered	129.0000	5729	0.00	0.00	0.00	0.00	0.00	0.00
04/03/2002	Usage Entered - R7	1	5858	0.00	0.00	0.00	0.00	0.00	0.00
	44430			0.00	0.00	0.00	0.00	0.00	0.00
04/29/2002	R Receipt	0.0000	0	333.60	65.58	105.10	0.00	0.00	0.00
04/29/2002	pymt rcv'd 4/29/02	1	0	302.30	492.00	0.00	0.00	0.00	1,318.44
	50400			19.86	0.00	0.00	0.00	0.00	0.00

ACCOUNT TOTALS: 6,971.68 1,203.58 1,405.68 0.00 0.00 0.00
 3,496.76 6,150.00 0.00 0.00 0.00 19,475.98
 622.00 248.28 0.00 0.00 0.00 0.00

GRAND TOTALS: 6,971.68 1,203.58 1,405.68 0.00 0.00 0.00
 3,496.76 6,150.00 0.00 0.00 0.00 19,475.98
 622.00 248.28 0.00 0.00 0.00 0.00

MARK L. RANFT
Attorney & Counselor at Law
215 West Standley Street, Suite 6
Ukiah, California 95482

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e-mail: mlranft@hotmail.com

February 2, 2007

Via fax and US mail

Steven J. Brookes
435 N. Main Street
Lakeport, CA 95453

re: 1930 South Main Street, Lakeport, Victorian Village Subdivision, Notice of Draft Connection Restriction Lakeport City Council Meeting of February 6, 2007

Dear Steven:

I am the attorney for Victorian Village Investments Inc., owners of real property located at 1930 South Main Street, Lakeport, California. I was able to read the January 18, 2007 letter from the The California Regional Water Quality Control Board, Central Valley Region, which concerned a "Cease and Desist Order and Connection Restriction" for the City of Lakeport Municipal Sewer District. I have been advised that the City Council would be considering matters related to this Order at the February 6, 2007 meeting. My client contends that the order should not affect its project.

Water Code Section 13301 provides in part, "When a regional board finds ... (The) board may ... (c) in the event of a threatened violation, take appropriate remedial or preventive action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, **cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order.** (emphasis added) Cease and desist orders may be issued directly by a board, after notice and hearing.

The plain reading of Water Code Section 13301 is clear that it does not apply to dischargers who did discharge into the system prior to the issuance of the cease and desist order. In the present case, my client, Victorian Village Investments Inc. clearly meets the definition of a prior and current discharger. At the time my client and its immediate predecessor in interest

acquired the real property, there were already approved and utilized wastewater connections in excess of the amount my client intends to utilize. There has been discharge through my client's sewer connections for periods of time through the last three decades.

Those sewer connections had been paid for and used for a period of time prior to my client's acquisition. At the time of those connections, there was a RUE rating in excess of the amount my client intends to utilize.

California Code of Regulations Title 23, Section 2244, states that ... "e) Prohibitions or restrictions, when adopted should include but not be limited to new residential, commercial, industrial, and/or governmental connections as deemed appropriate."

In the present case, my client contends that any use it may make of existing connections to new residential construction is beyond the scope of the current order. The predecessor in interest who initially developed the property, acquired permits, sought, and received approval for connections, in excess of the amount my client intends to utilize, all of which were previously put into service. My client intends to construct homes on the same property originally occupied by the recreational vehicle park, and with a less total connections. Although permits are being taken out for new construction, this is a situation which is more akin to a remodel at least from the standpoint of impact on the total connections available within the City of Lakeport.

For the above reasons, my client contends that his project is not subject to the Order referenced herein and that no prohibition be imposed either as to issuance of building permits, connections to the existing sewer connections, and/or issuance of certificates of completion at the appropriate time.

Sincerely,



Mark L. Ranft
Attorney at Law

cc: Client

CITY OF LAKEPORT

*Over 100 years of community
pride, progress, and service*



February 7, 2007

Mark L. Ranft
Attorney at Law
215 West Standley Street, Suite 6
Ukiah, CA 95482

Re: Your Correspondence Dated February 2, 2007

Dear Mr. Ranft:

Please be advised that City Attorney Steven Brookes referred your letter to me concerning Victorian Village and the Notice of Draft Sewer Connection Restriction. Given the fact that this Order has been issued by the Central Valley Water Quality Control Board, my recommendation is that you submit your correspondence directly to the Regional Board staff before the end of the comment period indicated in the Order (February 18). This will assure that you will be able to testify at the Regional Board meeting in Rancho Cordova on March 15 or 16, if necessary.

My interpretation of the Draft Order is that the City cannot issue building permits for any project in the City impacted by the sewer restriction.

Please don't hesitate to contact me should you have any questions or concerns about this matter.

Sincerely,

A handwritten signature in cursive script that reads "Richard Knoll".

RICHARD KNOLL
Acting City Manager

:tf

cc: City Council
City Attorney
Bill Irwin
Mark Brannigan