

**From:** Matt Keeling  
**To:** Matt Keeling  
**Date:** 11/7/2006 5:39:48 PM  
**Subject:** Fwd: Re: Las Palmas draft Order (with comment numbers added)

>>> <lawyerrct@comcast.net> 10/11/2006 9:26 AM >>>

Matt,

(1)

Thanks for your reply. I have some further comments as I have now reviewed the materials a bit more. In general, my concern is that since we do not control the water supply, are required to take all the water produced by the plant, and have only one thing to do with the water once we get it, keeping track of amounts and areas, etc., is redundant if not irrelevant. The information that would be important should come from the monitoring wells, but even that doesn't address what happens if the application of the water causes some salt or nutrient problems. If there are salts or nutrients, they need to be removed at the plant. Frankly, as a homeowner, I am a bit surprised that this whole system was approved without apparent consideration of the fact that it might not work or would have deleterious effects. If the recycled water sprinkling causes an aquifer problem, what is the alternative? Do we just bag the landscaping or stop flushing or what? And what happens to the sewage?

(2)

Anyway, here are my more specific comments: In the staff report summary, I do not believe it is accurate at this point to say that the agreement between Supplier and Users is "increasingly uncertain". Tom Peterson and I have agreed on the concepts necessary to complete the agreements, and he has sent me a draft, which I will get to soon (I'm spending my time on your stuff right now). I think it would be better to say that procedural and timing issues have delayed the agreement at this point and that an agreement should be forthcoming.

(3)

On page 3 of the staff report, you talk about the monitoring wells. This was the first I've heard of this. Can you tell me where the requirement was, where the wells were supposed to be and anything else you know about this? If they were required, then we have either or both a developer failure and a county enforcement failure, and I would like to know which before pursuing this.

(4)

As to the nutrient and salt plans, I repeat my general comments. We have no control over what is in the water when we receive it. We don't add anything to it once we get it. We have no choice but to sprinkle it (that I am aware of). How we can "ensure" that nitrogen doesn't leach is beyond me, other than cutting down on fertilizer. Same for the salts. This strikes me as a potential problem.

(5)

On page 4, the report refers to "daily metering", weekly monitoring, record keeping, quarterly updates to the County regarding daily flow rates etc, and annual testing of backflow. I don't think the HOA's will go for a program that looks like a full time job. And, as I pointed out, we don't have meters. What I would prefer would be something that says we will use automatic timers on the sprinklers (perhaps with some specified time maximum per valve), promptly repair any sprinkler malfunctions, and certify once or twice a year that we have complied.

(6)

As to groundwater monitoring, also on page 4, it seems that applies to the County, so I'm not sure if we as HOA's need to get involved?

(7)

In the proposed Order, it refers to the County as the Distributor until the Users form the Association, but it doesn't say what happens then, that I could see. Maybe I missed it.

(8)

If I interpret paragraph 79 correctly, we need to adjust our fertilizer if there is too much nitrogen. I don't know of anything else that we control that we could do, if there is a problem.

(9)

I think I understand all the salt stuff around paragraph 90 etc.(pages 13-16), but it seems the only thing that can be done is to prohibit self-regenerating water softeners if a problem develops. I don't think the

HOA's have the authority to do that, so I assume that would be the county. Bottom line, though, is I don't think there is anything the Users can do about it as Users. Maybe there are some alternatives I don't know about? Anyway, it seems to me that annual testing ought to be enough, rather than daily, weekly and quarterly reporting.

(10)

On page 23, paragraph 2, gives the Distributor (County) the ability to add additional Users. This should be limited to new Users approved by the existing Users, since we don't want to lose our irrigation water to someone else.

(11)

I don't think paragraph 7 means anything, since we don't have anything but tertiary disinfected water. Am I missing something?

(12)

In paragraph 11, I'm not sure what is involved in the backflow testing, so maybe someone could help me out on that--how many devices do we have, where are they, what needs to be done, how much does it cost? Remember, I have to sell this to a bunch of HOA's, and they will ask me this stuff.

(13)

In paragraph 14, while I understand the need for Cross Connection control, why do we need a "plan". Isn't the system physically constructed so that there will not be any cross connections? If so, I think we should just annually certify that we have made no physical changes to the system, and leave it at that. If the system is not physically as I think it is, then I will need to understand a bit more about cross connection plans.

(14)

As to paragraphs 15-19, my question is: what if it does? We don't treat the water, we have to use it, and we can only sprinkle. If it has an odor, or organic constituent concentrations, or whatever, what are we supposed to do? These seem to me to be treatment problems, not application problems, but maybe I'm missing something here. Let me know what we are expected to do if we run into any of these problems.

(15)

In paragraph 20, this is the same as my comments above about the monitoring wells. I don't know anything about them or why they aren't installed already.

(16)

Paragraphs 21 and 22 refer in part to crop irrigation, but we don't do that.

(17)

Paragraph 23 requires the Distributor (County) to submit an annual report. Do the HOA's need to be concerned with this?

(18)

Paragraph 25 refers to the Discharger, but I'm not sure if that means the County or the HOA's. But I do like the concept of a waiver, which may be the way to handle most of the reporting requirements. I would think that if we test or report once a year, and don't do anything to change the irrigation system, annual testing will alert everyone to potential nutrient or salt problems well in advance. (What we do then is a different question...)

(19)

I assume the rules and regulations under paragraph 29 will be developed by the County? The system is already built out and operating, so I'm not sure that adding rules and regulations will add much, but I understand the bureaucratic requirements to document the file. I wish we could just say that we'll turn on the sprinklers as needed and not overwater, but I know that's a different world.

(21)

In paragraph 33, there is a concept of legally binding contracts. The problem with this is that the HOA's are prohibited by their organizational documents (and perhaps by statute, even) from entering into any contract for more than a year without a homeowner vote. That is why we need a vote on the association, as you may recall. We weren't planning on any contracts beyond the association, so I haven't thought this one through.

(22)

In the monitoring and reporting requirements draft, at page 6, you require a list of the reuse sites with names, locations, etc. and the name of the hydrologic areas underlying each site. Can we just use the water balance list and certify whether or not we've added or subtracted any areas?

(23)

Paragraph 2 calls for a scaled map and monthly application rates in acre-feet and gallons for each recycled water use area in a format consistent with the water balance study. I don't see how that will be possible, and I don't see my HOA's buying into a system with that much detail. As mentioned above, my view is that we will have the system working mostly automatically on timers, and the key thing for us is to make sure that the pond levels are where they should be at various times of the year. So, I would prefer a practical approach. With the number of different entities, and some of them not even HOA's, I don't know how we would collect anything other than aggregate data anyway.

Those are my thoughts. Sorry for the length.

Bob Taylor