



Agenda Item: 5

Date: October 9, 2009

Subject: MJD Engineering Back Charge Claim – Storm Drain Issue

Staff Contact: Dan York, Operations Manager

Recommended Board Action:

Reject MJD Engineering's (MJD) back charge claim in the amount of \$25,822.03 for alleged lost time due to excessive flow in a 50" storm drain during a sewer pipeline project.

Discussion:

As an information item, the Directors were notified of this back charge claim during the September 21, 2009, Board of Directors Meeting. Mario J. DeSouza, owner of MJD, attended the subject meeting and introduced himself to the Directors.

On September 10, 2009, MJD filed a back charge claim (see Exhibit 1) for damages resulting from lost time on a sewer project on Watt Avenue (see Exhibit 2). The lost time was due to the alleged excessive amount of water in a 50" storm drain that prompted a County Inspector to stop the progress of a sewer pipe line crossing that particular storm drain. The following is a preliminary report outlining the circumstances leading to this damage claim by MJD.

Well 59A was rehabilitated by a District contractor in May 2009 to clear encrustation from the perforations that were approximately 90% blocked. The rehabilitation process was prompted by an increase in the manganese and iron levels beyond the Secondary Contaminant Level (SCL). These contaminants are regulated by the Environmental Protection Agency as secondary standards, which are generally regarded as aesthetic and not necessarily harmful to humans or wildlife.

The rehabilitation process was completed in late May 2009, with the well being placed back into service on June 19, 2009. Several hours after the well was placed into normal service and producing water into the distribution system, a number of customers began calling to register water quality concerns regarding taste and odor. Well 59A was suspected as being the source and was immediately taken out of service.

The water quality issues, iron (Fe) and manganese (Mn), were confirmed as emanating from Well 59A. Therefore, staff began an investigation of the water quality on June 23rd with a 1 hour test documenting the physical condition of the water being produced. It was necessary to begin flushing the well to waste in order to assist in redeveloping the well in the attempt to regain its previous water quality. The District has a National Pollutant Discharge Elimination System (NPDES) Permit with the California Regional Water Quality Control Board covering this

activity. Beginning on June 24th, the well was flushed to waste for the next eight (8) business days covering this activity. The well was pumped to waste only during normal business hours, 8:00 am until 4:30 pm, to allow staff an opportunity to test the water quality being produced from the well. With each successive day of flushing during this period, the water quality appeared to be improving. At that point staff decided to allow the well run to waste continually for an extended period of time to see if the Mn and Fe levels would continue to fall below the SCL.

The well pump at this site is driven by a variable frequency drive (VFD) so the production of this well varies from 1200 gallons per minute (gpm) to 2900 gpm. Most of the flushing to this point was done at 75% speed, or approximately 1200 gpm. This was due to staff being aware that the capacity of the storm drain system in the area around Well 59A was strained when the well was operating at 100% speed. At flows greater than 2500 gpm, the water would rise out of the drain inlet (DI) at 3908 Coyote Ridge Court and flow in the gutter past two houses before re-entering another DI at 3900 Coyote Ridge Court. Staff placed “Flushing for Water Quality” signs at three DI’s in and around Coyote Ridge Court.

The County of Sacramento was contacted to ensure this was okay and to inform them of the ongoing flushing. After several phone calls attempting to locate the correct department within the County, staff was given the phone number of Fernando Bugarin, Supervisor for Sacramento County Water Resources - Drainage Maintenance. Staff spoke with Mr. Bugarin relating the District’s intentions for long term flushing of the well, along with the issues with the drainage in the area. Mr. Bugarin informed staff that he was acutely aware of the drainage issues in this area and stated the County had recently completed upgrades to this storm drain system. Mr. Bugarin also stated the system could handle the flow, that it would not be an issue, and that it would probably help move some of the sediment in the drainage system downstream.

Having received approval from the County, staff proceeded with the continuous flushing of this well for the next sixteen (16) days, commencing on July 6, 2009. Staff ramped up the VFD drive to 95%, or approximately 2500 gpm, during normal business hours and reduced it to 75%, or 1200 gpm, for the remainder of each day. Staff received no customer complaints regarding drainage or noise issues during this period.

On July 21st, staff received a call from a concerned business owner on 30th Street in North Highlands regarding higher than usual levels of water in the drainage channel across from his business. He thought the District may have had a leak in the distribution system. Although staff was fairly sure it was the flow coming from Well 59A, the well was turned off for several hours to confirm this assumption. The water in the channel subsided to normal seasonal flows within an hour confirming that the elevated flows were a direct result of the well being flushed. A map (see Exhibit 2) of the area shows area storm drains and the open drainage channel that begins at the western edge of Watt Avenue. This drain channel is immediately adjacent to the location where MJD was completing their sewer project.

On July 22nd, staff was informed that the homeowner at 3908 Coyote Ridge Court had called Channel 10 News regarding the excessive water waste by the District. Staff immediately visited each resident in the area surrounding Coyote Ridge Court to explain the purpose of the flushing

and why the water flowed out of one DI and into another. That same day, staff made the decision to terminate the flushing program as the Mn and Fe levels had begun to level out and the Mn level was still above the secondary contaminant level or SCL. At this point, a decision was made to hire an outside well specialist to conduct zone sampling to determine if the Mn was being produced from a specific zone.

In order for the water quality specialist to conduct representative testing of aquifer parameters, the well had to again be pumped to waste. The test was scheduled for August 4th, therefore, the well was turned on the morning of August 3rd. The well was run at 2500 gpm to ensure the water tested by water quality specialist was representative. On August 4th, the test was completed, but the specialist had problems with the sampling equipment. A decision was made to return the following day, August 5th. Again, staff left the well running to ensure the water remained representative. Upon completion of the testing, the well was turned off at approximately 3:00 pm on Wednesday August 5th.

MJD claims their crews had been tracking down the source of the water for three days because the County would not allocate resources to help discover the source. MJD further claims that the District had been contacted by County personnel regarding the water source on August 4th. This is true, however, the individual who called was very succinct, asking only about potential leaks in a specific area. Staff relayed the information that there were no leaks in the area and the caller disconnected. No discussion of the nature of the problem was relayed to District staff at that time.

MJD first contacted District staff on the morning of Thursday, August 6th, when a voice mail was left at 9:00 am. Staff returned the phone message at 12:30 pm the same day and informed MJD that the sampling had been completed the day before and the well was already offline. Staff agreed to leave the well in a “locked off” status until MJD’s sewer pipe line project was completed.

This claim has no merit as the District’s activity, flushing a well following rehabilitation, while infrequent, is a standard and necessary activity in municipal well maintenance, and is a permissible, “low threat,” discharge. Because of the discharge flow rate, District staff took the extra measure of notifying the County and receiving permission to flush Well 59A from Fernando Bugarin, Supervisor for Sacramento County Water Resources - Drainage Maintenance. Staff has notified the District’s insurance carrier, ACWA/JPIA, of the claim and will send a copy of the claim rejection letter (see Exhibit 3) should the Board concur with staff’s recommended action on the back charge claim.

Fiscal Impact:

MJD’s back charge claim seeks \$25, 822.03 in reimbursement.

Strategic Plan Alignment:

Customer Service – 3.A. Operate in an open and public manner.

Discussing District business at public meetings allows customers to participate and provide input.

Claim Form

(A claim shall be presented by the claimant or by a person acting on his behalf.)

NAME OF DISTRICT:	
1	<p>Claimant name, address (mailing address if different), and phone number.</p> <p>Name: <u>MARIO DESOUZA dba MJD ENGINEERING</u></p> <p>Address(es): <u>P.O. Box 1078</u> <u>Rio Linda CA 95673</u></p> <p>Phone Number: ()</p>
2	<p>List name, address, and phone number of any witnesses.</p> <p>Name: <u>Jim Hofgesang - County Inspector / Terry Darrough</u></p> <p>Address: <u>3030 Explorer Dr #5 Sacto CA 95827</u></p> <p>Phone Number: <u>(916) 539-1079</u></p>
3	<p>List the date, time, place, and other circumstances of the occurrence or transaction, which gave rise to the claim asserted.</p> <p>Date: <u>8.3-8.6.09</u> Time: <u>Pm-9</u> Place: <u>WATT AVE / EIKHORN BLVD.</u></p> <p>Tell What Happened (give complete information):</p> <p style="text-align: center;"><u>SEE ATTACHED</u></p> <p style="text-align: center;"><i>NOTE: Attach any photographs you may have regarding this claim.</i></p>
4	<p>Give a general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim.</p> <p style="text-align: center;"><u>SEE ATTACHED</u></p>
5	<p>Give the name or names of the public employee or employees causing the injury, damage, or loss, if known.</p> <p><u>SACRAMENTO SUBURBAN WATER DISTRICT</u></p>
6	<p>The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.</p> <p style="text-align: center;"><u>SEE ATTACHED</u> <u>BACK CHARGE INVOICE</u></p>
<p>Date: <u>9.9.09</u> Time: _____ Signature: <u>[Signature]</u></p> <p style="text-align: center;">ANSWER ALL QUESTIONS. OMITTING INFORMATION COULD MAKE YOUR CLAIM LEGALLY INSUFFICIENT!</p>	

MJD ENGINEERING

A - General Engineer #406402 Issued 1981

Complete Underground Construction Contractor

P.O. BOX 1078

RIO LINDA, CA. 95673

September 09, 2009

Sacramento Suburban Water District /Dan York
3701 Marconi Ave. #100
Sacramento, CA. 95821-5303

RE: ARD-3-Trunk Sewer Relief - Watt Ave. Project
Excess Water in 50" Storm Drain - Back Charge

Mr. York;

Enclosed is an invoice back charging Sacramento Suburban Water District for time lost that MJD Engineering had occurred due to your agency not notifying all the proper agencies of flushing of a well located next to residential address 3854 Bainbridge Drive/ behind Holmes Elementary School. This type of flushing caused a direct impact on this project. After locating the problem comes to find out according to the resident next to this well he had indicated that the flushing had been going on night and day for well over 30 days and it kept his family from sleeping at night. Another witness at a business warehouse on 34th & Elkhorn Blvd which is next the County's drain channel indicated the same duration dates and stated that it was a huge wall of water that came down all of a sudden and continued for over 30 days and suddenly stopped. This business owner also stated that he called Sacramento Mosquito Abatement and they came out to investigate. As you read over MJD Engineering daily reports and Jim Hofgesang, Sacramento County Inspector on this project you'll clearly read that MJD had lost quite a bit of lost not just looking for the problem but lost time on this project (project is set to a time schedule, if delayed penalty is \$500.00 a day).

When the water source was located calls were made to Suburban Water District. Jim Arnez from your district called while talking to Mr. Arnez I happen to be at the well location with Terry Darrough, Senior Construction Inspector with Sacramento County which had asked me to take him to the site of the well. While I was on the phone with Mr. Arnez, Terry Darrough had asked for the name of the person that had given Mr. Arnez permission to due this type of flush. Mr. Arnez had said that he received permission from Fernando Buquarin, which is in High Maintenance Department, I spoke to Mr. Buquarin, Senior Maintenance Supervisor, gave him full detail of the well flushing and the information from witnesses and told him at Mr. Arnez said that he did nothing

wrong that he had permission from you (Mr. Buquarin). Come to find out "yes" Mr. Buquarin gave permission but, he said that Mr. Arnez was going to do "only a couple of hours of a minor flushing only". At that time Mr. Buquarin said he wouldn't of granted permission to do an excessive flushing that Mr. Arnez did because he didn't have the authority. Later that day Terry Darrough provided me with information that Fernando Buquarin, Senior Maintenance Supervisor in the Highway Maintenance Department and is not authorize to allow a flush of a well in excess of 2500 gallons a minute into a natural habitat that flows through one of the country's most toxic water site - McCellan Air Force Base and Magpie Creek- and that Suburban Water District needed a permit. It seems that if a well needs to be flushed because it's not healthy for people to drink that you shouldn't put it back into the environment which where it came from. If a permit was requested all county agencies would have known of this flush and MJD Engineering would have been in contact with Sacramento Suburban Water District to coordinate a shutdown of the well flushing to allow us to perform our work and for this reason a direct impact on this project occurred.

Below are contact Names and phone numbers to seek more information. Please contact me to discuss this invoice and to come to an honorable agreement.

Thank You,

Mario J. DeSouza Sr.
MJD Engineering
916 202-3793 cell

Terry Darrough/ Senior Construction Inspector - County of Sacramento 916 875-2760

Fernando Buquarin/Senior Maintenance Supervisor-Highway Maintenance 916 875-5240

* 916 925-7762 office

* 916 920-1706 fax

MJD Engineering

P.O.Box 1078
 Rio Linda Ca. 95673
 A General Engineer # 406402
 Issued 1981

Office: 916 925 7762
 Fax: 916 920 1706

Date: 9/8/2009

BACK CHARGE

Back Charge to:		Job Name:	Work Performed:		Contract Section:	through	8/6/2009
Sacramento Suburban Water District 3701 Marconi Avenue Suite 100 Sacramento California 95821-5303		972 7171 869 7359 Jim Atenz	ARD-3 TRUNK SEWER EXTENSION RELIEF-WATT AVE		WATT AVENUE IMPROVEMENTS LLC	8/3/2009	OFF SITE 18" SEWER
DESCRIPTON							
STOP EXCAVATION EXCESS WATER IN 50" STORM DRAIN							
SUPPLY DESCRIPTION							
Description	EA/LFSF	Unit Costs	Subtotal	Equipment Description	Equip. Number	Regular Hours	Hourly Rate
50" x 12' SHORING RAIL / PLYWOOD 20ea x 17.00ea a day = \$340.00 / 8h = \$42.50	26	\$ 44.00	\$ 1,144.00	JD690 EXCAVATOR	JD690	4	\$95.00
SAFETY SIGN/ TRAILER 360.00 a day/ 8h = \$7.50	26	\$ 7.87	\$ 204.62	VOLVO EXCAVATOR	VO240	4	\$125.00
2ea 10'x12' ALUMINUM TRENCH SHIELD 1160.00 a day/ 8h = \$145.00	26	\$ 34.63	\$ 900.38	400 KOBELCO EXCAVATOR	KO400	4	\$175.00
38" COMPACTON WHEEL EXCAVATOR \$260 a day/ 8h = \$4.07	26	\$ 4.07	\$ 105.82	4yd Loader	4YDJD	4	\$95.00
1ea SET MANTLE SHORING BOX \$160.25 a day/ 8h = \$20.10	26	\$ 20.10	\$ 522.60	JD310 BIH	JD310	4	\$55.00
TOILETS \$1.25 a day/ 8h = \$1.56	26	\$ 0.54	\$ 14.16	JD710 BIH	JD710	0	\$75.00
8ea STEEL PLATES 8'x18'x1/2" x \$18.00ea a day = \$144.00 / 8h = \$18.00	26	\$ 13.88	\$ 360.88	Foreman Truck	2700	8	\$15.00
4ea LIGHT TOWERS \$52.00ea a day = \$208.00 / 8h = \$26.00	26	\$ 13.10	\$ 338.60	Foreman Truck #2	D190	0	\$15.00
2ea ARROW BOARDS \$69.00ea a day = \$138.00 / 8h = \$17.25	26	\$ 17.35	\$ 451.10	14yd Dump Truck	FO4400	4	\$55.00
46ea STEEL 12'x6'x1/2" x \$37.50ea a day = \$1710.00 / 8h = \$213.75	26	\$ 21.09	\$ 548.34	14yd Dump Truck Transfer	FO4497	4	\$65.00
STREET SWEEPER x \$45.00 a day/ 8h = \$5.63	26	\$ 5.63	\$ 146.38	CHANGE ORDER NOTES			
OFFICE TRAILER x \$11.00 a day/ 8h = \$1.46	26	\$ 1.46	\$ 37.96	See Attached Foreman's Daily Report			
				Change Order Represents Day Worked & Only Billed to Date that is Specified.			
				32234			
				Labor Subtotal			
				Equipment Subtotal			
				Supplies Subtotal			
				Outside Rental Equipment			
				Sales-Tax 8.5%			
				Profit 10%			
				Overhead 8%			
				Total			

MJD Engineering

Friday, August 28, 2009

WATT AVE RELIEF TRUNK EXTENSION SUMMARY of BACK CHARGE HOURS to SACRAMENTO SUBURBAN WATER District WATER IN 50" STORM PIPE

JOB NO: 90-03
JOB NAME:

ENPL #	EMPLOYEE NAME	LABOR CODES	SR-SPTEND		PM-MANAGER		OP-Operator		F - Foreman		LG - Labor		PL-Pipelayer		T- Truck Driver		TOTAL
			8/4/2009 9AM	STANDBY	8/3/2009 9PM	STANDBY	8/4/2009 PM	STANDBY	8/5/2009 AM	STANDBY	8/5/2009 PM	STANDBY	8/6/2009 AM	STANDBY	8/6/2009 PM	STANDBY	
	MARIO DE SOUZA SR	PI/CP	4	6													26
	MARIO DE SOUZA JR	SP/OP	6														15
	KEVIN DARLING	F/OP	6														15
	JUSTIN LEE	CP/PL	6														10
	ART SPROLES	TI/PL	6														10
	BILL RICHIE	TI/PL	6														10
	MIKE SETZER	OP/PL	6														10
	MATT DE SOUZA	PL	8														10
	MICHAEL DE SOUZA	OP/PL	6														10
	VINCE DOUGHTY	PL	6														10
	EDGAR LOPEZ	PL	6														10
	IGNACIO CISNEROS	PL	6														0
																	0
																	0

MJD Engineering Equipment

EQUIPMENT	EQUIP. #	8/3/2009PM		8/4/2009PM		8/5/2009AM		8/5/2009PM		8/6/2009AM		8/6/2009PM		STANDBY HOURS
		STANDBY	4	STANDBY	4	STANDBY	8	STANDBY	8	STANDBY	8	STANDBY	4	
JD690 EXCAVATOR	JD690	4	4											24
VOLVO EXCAVATOR	VOL280	4	4											18
KOBELO EXCAVATOR	KOBA00	4	4											24
4YD LOADER	JD450	4	4											24
JD310 BH	JD310	4	4											24
JD710 BH	JD710													0
2ea FORMAN TRUCK	FT99	8	8											8
WATER WAGON	W4580													0
14yd DUMP TRUCK	F900	4	4											20
DUMP TRUCK TRANSFER	F900	4	4											24
AC SAW CUTTER														0

RENTAL EQUIP. DESCRIPTION

EQUIPMENT	8/3/2009PM		8/4/2009AM		8/4/2009PM		8/5/2009AM		8/5/2009PM		8/6/2009AM		8/6/2009PM		Total
	STANDBY	8	STANDBY	8	STANDBY	8	STANDBY	8	STANDBY	8	STANDBY	8	STANDBY	8	
4EA LIGHT TOWERS	8	8													24
2EA ARROW BOARDS	8	8													24
4EA STEEL PLATES 6X10	8	8													28
GRADAL	8	8													26
STREET SWEEPER	8	8													26
OFFICE TRAILER	8	8													26
SHORING RAIL / PLYWOOD	8	8													28
SAFETY SIGNS	8	8													26
ALUMINUM TRENCH BOX															0
36" COMPACTION WHEEL	8	8													28
MANHOLE SHORING BOX	8	8													28
TOILETS	8	8													28
6ea STEEL PLATES 8X16	8	8													28