



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSANA A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

July 23, 2004

AGENDA: August 3, 2004

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

PETITIONS FROM FELTON REQUESTING ESTABLISHMENT OF A COMMUNITY FACILITIES DISTRICT TO ACQUIRE THE WATER SYSTEM WHICH SERVES THE AREA

Dear Members of the Board:

On June 22, 2004 your Board adopted Policies and Practices for Land Secured Financing ("Policies and Practices") which among other things provides that a Land Secured Financing may be initiated by the owners/residents of the property subject to payment of the assessments or special tax. At that time we advised you that an organization known as FLOW (Friends of **Locally** Owned Water) was circulating a petition in Felton which requested that the Board of Supervisors take the necessary actions to establish a Community Facilities District to finance the potential acquisition of the water system which now serves the area.

On July 15, 2004 FLOW submitted petitions to the County Elections Department. The Elections Department has now completed its examination of the signatures on the FLOW petitions and determined the number of registered voters residing in the petition area who signed the petition.

As noted in the attached Clerk's Certification of Examination of Mello-Roos District Formation Petition, the Elections Department has determined that the petition is sufficient and contains 991 valid signatures. Elections has indicated that the petition was 77.8% valid which exceeds the threshold established by the County's Policies and Practices for the waiver of the advance funding requirement.

Waiver of Advance Funding

The Policies and Practices adopted by your Board on June 22, 2004 provide that an advance reimbursement agreement shall be executed and a sum sufficient to pay all fees and costs for the Special District formation shall be deposited with the County by the proponents of the Community Facilities District prior to the beginning of formation proceedings, unless the advance funding requirement is waived by the Board in its discretion. Based on the results of the FLOW Petitions it is our recommendation that your Board waive the advance funding requirement and authorize this office to work with the County's Bond Counsel, the County's Financial Advisor and the San Lorenzo Valley Water District on satisfying the conditions for establishing a Community Facilities District which would finance the acquisition of the private water system now serving Felton.

In anticipation of FLOW's successful petition drive the Board of Supervisors appropriated \$50,000 in the 2004-05 County Administrative Office Budget for professional services – Financial Advisor and Bond Counsel – required to establish the Felton Community Facilities District. These expenses will be reimbursed by the Community Facilities District when it is established.

Steps in the Formation of the Community Facilities District

If your Board waives the advance funding requirement, then this office, with the assistance of Bond Counsel and Financial Advisor, will commence the formation process and over the course of the next few months the County will:

- ✓ conduct a Rate and Method of Apportionment (RMA) Study which will recommend the tax rate for different classes of property;
- J negotiate a Joint Facilities Use Agreement with the San Lorenzo Valley Water District;
- J adopt a Resolution of Intention which includes the maximum tax rate for different classes of property;
- ✓ hold a Public Hearing;
- J adopt a Resolution of Formation; and
- J conduct an Election.

Priorities

At this time our priorities involve:

- the Rate and Method of Apportionment Study ("RMA"); and
- the Joint Facilities Use Agreement.

The RMA will be conducted by the County's Financial Advisor - Harrell and Company. The RMA is a necessary component of the Resolution of Intention.

The Joint Facilities Use Agreement is necessary because the Community Facilities District is a financing entity which, pursuant to statute, may not operate a water system. Before the Board of Supervisors can adopt the Resolution of Formation for the Community Facilities District the County must have an agreement with the operating entity which in this case is the San Lorenzo Valley Water District.

The Joint Facilities Use Agreement is between the County and the San Lorenzo Valley Water District and will be negotiated by this office and bond counsel. As part of the negotiation process it is our intention to meet with representatives of FLOW regarding the elements of the Joint Facilities Agreement.

At this time the RMA Study and the Joint Facilities Agreement are the two most critical elements in bringing this matter to an election where the voters in Felton can decide if they want to acquire the water system which serves their community.

Conclusion

In conclusion, it is RECOMMENDED that your Board take the following actions:

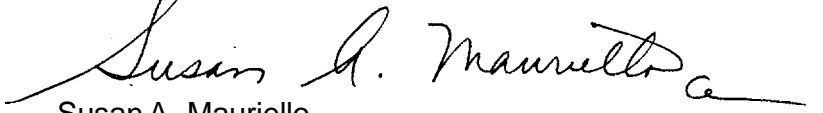
1. accept Clerk's Certification of Examination of Mello-Roos District Formation Petition;
2. waive the advance funding requirement for the formation of the Community Facilities District as provided for in the County's Policies and Practices for Land Secured Financing of Public Improvements;
3. authorize the expenditure of budget funds not to exceed \$50,000 for Bond Counsel and Financial Advisor in the formation of the District and authorize the County Administrative Officer to negotiate and sign the appropriate agreements; and
4. authorize the County Administrative Office to work with the County's Bond Counsel, the County's Financial Advisor, representatives of FLOW and the

**BOARD OF SUPERVISORS
PETITION FOR COMMUNITY FACILITIES DISTRICT**

**AGENDA: August 3, 2004
Page 4**

San Lorenzo Valley Water District **on** satisfying the conditions for establishing a Community Facilities District which would finance the acquisition of the private water system now serving Felton.

Very truly yours,



Susan A. Mauriello
County Administrative Officer

Attachment

cc: Environmental Health
FLOW
San Lorenzo Valley Water District
Rutan and Tucker
Harrell and Company
CalAm



County of Santa Cruz

COUNTY CLERK / ELECTIONS

701 OCEAN STREET, ROOM 210, SANTA CRUZ, CA 95060-4076
831-454-2060 TOLL-FREE: 866-282-5900 FAX: 831 454-2445 TDD: 831-454-2123
E-MAIL: gail.pellerin@co.santa-cruz.ca.us
Web Sites: www.sccoclerk.com & www.votescount.com

GAIL L. PELLERIN, COUNTY CLERK

CLERK'S CERTIFICATE OF EXAMINATION OF MELLO-ROOS DISTRICT FORMATION PETITION

I, Gail L. Pellerin, County Clerk of Santa Cruz County, California, hereby certify that:

The Petition to Establish Community Assessment District for Felton Water System Acquisition has been filed with this office on July 15, 2004. Said petition consists of 173 sections;

Each section contains signatures purporting to be the signatures of qualified electors of Santa Cruz County;

The petition sections at the time of filing contain an affidavit of the person who solicited the signatures and the dates between which the purported qualified electors signed this petition;

The affiant stated he/she solicited the signatures upon that section, that all of the signatures were made in his/her presence, and that to the best of his/her knowledge and belief each signature was the genuine signature of the person whose name it purports it to be;

After the proponent filed this petition, the County Clerk used the random sampling technique for verification of signatures as provided in California Elections Code. The random sampling included an examination of at least 500 signatures or 3 percent, whichever was greater.


The County Clerk's Office verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition and from that examination, have determined the following facts regarding this petition:

- | | |
|---|-------------|
| 1. Number of signatures filed by proponent | <u>1305</u> |
| 2. Number of signatures verified | <u>500</u> |
| A. Number of signatures found SUFFICIENT..... | <u>389</u> |
| B. Number of signatures found NOT SUFFICIENT. ... | <u>11</u> |
| C. Number of DUPLICATE signatures | <u>6</u> |

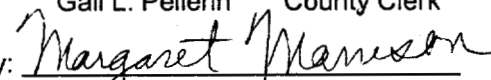
The number of required valid signatures'is 838. The petition was 77.8% valid, by accounting for duplicates using the Secretary of State system, results in 991 valid signatures . The petition is sufficient.

Method of Verification: DFM Associates Program

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 23rd of July, 2004.



Gail L. Pellerin County Clerk

By: 

Margaret Morrison Deputy

SAN LORENZO VALLEY

(SANTA CRUZ COUNTY)

PROPERTY OWNERS' ASSOCIATION

POST OFFICE BOX 325
BEN LOMOND, CALIFORNIA 95005

Santa Cruz County Board of Supervisors
701 Ocean Avenue
Santa Cruz, CA. 95060

July 29, 2004

AGENDA: August 3, 2004, Item #63

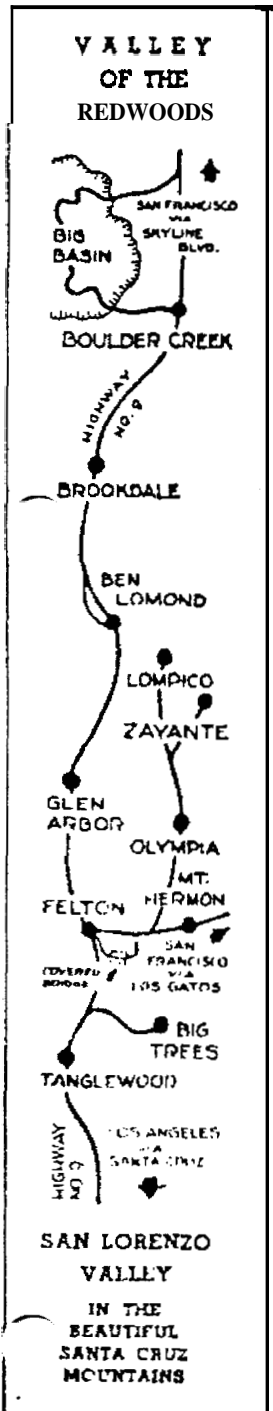
Dear Supervisors:

The San Lorenzo Valley Property Owners' Association believes that the decision to proceed with the formation of a special tax district to fund an eminent domain action is misguided and will have a devastating impact on property owning and renting taxpayers. This action by the County sends a strong message that business is not welcome in our county; and it will result in higher taxes without the rate relief that is promised. I urge the Board of Supervisors to reject this costly and unwarranted intrusion on property rights.

Although some Felton residents clearly want to see Cal-Am out of Felton, few want to pay the new taxes that will result if this board proceeds with the formation of the Mello-Roos district. The San Lorenzo Valley Property Owners' Association recently conducted mail and phone surveys to taxpayers in the Valley. The results are clear: In Felton, only 29% of letter respondents and 25% of phone respondents wished to proceed with a takeover that would raise their taxes. (See attached survey results.)

Let's be clear on this point; FLOW is disingenuous when it suggests that a government takeover of the Felton water system would result in savings for customers. Attached you will find copies of my two recent water bills from SLVWD and Cal-Am. The Cal-Am bill is \$23 more than the SLVWD bill for the same amount of water used. However, this \$23 difference is the surcharge that is paid by Felton customers for the water treatment plant and will continue to be paid by Felton customers if SLVWD takes over the water system.

FLOW, SLVWD and this Board of Supervisors will not tell the citizens how many bonds they plan to issue, but we all know that it will cost tens of millions of dollars. Citizens in Felton will have to shoulder the responsibility to pay hundreds or thousands of dollars in new property taxes every year. Homeowners who cannot afford this onerous new tax will risk losing their property to the very government that imposed this burden because Mello-Roos taxes must be paid by all homeowners, even seniors on fixed incomes.



63

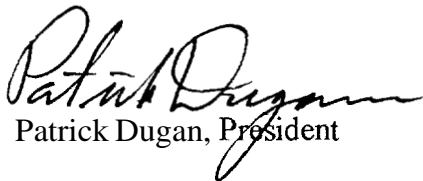
Page 2 of 2

SLVPOA Letter to Bd of Supervisors, dtd. July 29 ,2004

AGENDA: August 3,2004, Item #63

Eminent domain is a power that should be exercised only as a last resort, not to make political statements about the role of business in society. The San Lorenzo Valley Property Owners' Association remains opposed to this unnecessary attack on private property rights and the creation of a new tax district that will raise property taxes by thousands of dollars. Please reject the proposed resolution.

Peace and Freedom,



Patrick Dugan, President

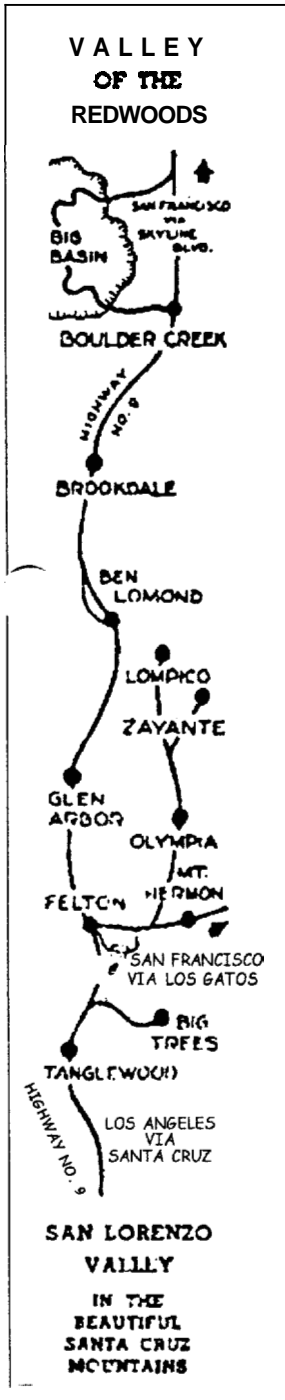
INCL SLVPOA Survey Letter
SLVPOA Letter Survey Results
SLVPOA Telephone Survey Results
Felton
SLVWD
Dugan water bill – Cal American Water
Dugan water bill - SLVWD

SAN LORENZO VALLEY

(SANTA CRUZ COUNTY)

PROPERTY OWNERS' ASSOCIATION

POST OFFICE BOX 325
BEN LOMOND, CALIFORNIA 95005



Dear Neighbor,

Some politicians and disgruntled residents are trying to take over California American Water's Felton water system through a process called 'eminent domain.' This process effectively condemns the water company's property so its sale can be ordered by a court.

These takeover advocates want to increase your taxes by creating a Mello-Roos Community Facilities District in Felton to pay for control of the water system. That's right -- more taxes!

It's easy for politicians and outsiders to advocate taking over the Felton water system, because when the ultimate bill comes due they won't pay one dime. When they make speeches or write letters to newspapers, they carefully avoid mentioning very important facts: new taxes on the people of Felton.

They also have not disclosed that local residents do not set the price of the water system. A judge and jury decide the price and residents get stuck with the bill for the water system and the attorney fees.

Because your tax costs could increase by thousands of dollars per year, we urge you to carefully consider how much this will cost you.

Recently, a member of the Montara Water & Sanitary District briefed Felton residents on the costs Montara paid after taking over the California American Water system just up the coast. He pointed out their system is similar in size to the Felton water system. The cost was more than \$11.2 million or approximately \$6,800 for every household. They also spent several million dollars in loan interest, legal and engineering costs - all of which increased the ultimate cost the citizens actually paid.

At a time when basic community services are being slashed because of county budget problems, it's irresponsible to spend tax dollars to buy a water system from an unwilling seller. The Felton water system already works and provides reliable water service under the oversight of the U.S. EPA and the California Public Utilities Commission. Should this be a priority when our community needs funding to improve schools, roads or public safety services? Moreover, today our rates can only be raised through an order from the California Public Utilities Commission. If the Felton system becomes publicly owned, rates can be raised whenever district directors want.

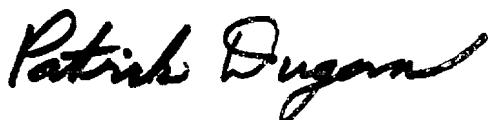
As the facts become clear, we hope threats to condemn California American Water's system will end, so we can all concentrate on the pressing budget issues that threaten basic local services.

Since our inception in 1936, the mission of the San Lorenzo Valley Property Owners' Association is the protection of private property rights guaranteed under the U.S. Constitution. With the support of local citizens and organizations we fought off the takeover of private property by the county, which attempted to push "eminent domain" redevelopment down our throats. Again, the politicians are coming at us in an attempt to confiscate private property at Felton taxpayers' expense.

Please reject this insidious backdoor attempt at the takeover of private property.

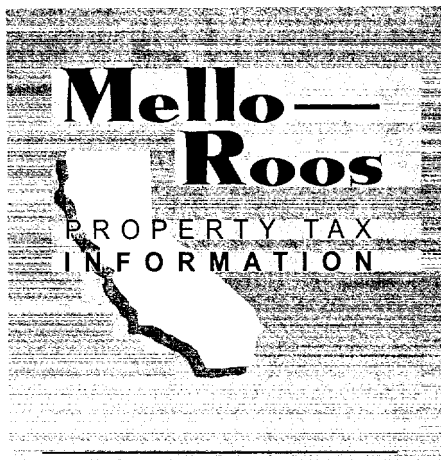
As a SLV resident you can help support our efforts by joining the SLV Property Owners' Association. Please contact us through our website at www.SLVPOA.org.

Private Property and Freedom are inseparable,



Patrick Dugan, President
Board of Directors
San Lorenzo Valley Property Owners' Association

P.S. Enclosed are copies of information developed by the independent organization, California Tax Data. You may be especially interested in the discussion of foreclosure for failure to pay these new taxes. You can review more information from them on the Internet at www.mello-roos.com.



What is Mello-Roos?

Background:

In 1978 Californians enacted Proposition 13, which limited many local public agencies ability to finance new projects. In 1982, Senator Henry Mello and Assemblyman Mike Roos affected the passage of the Community Facilities District Act (CFD). This act authorized local governments and developers to create CFDs for the purpose of selling tax-exempt bonds to fund public improvements. Subsequently, property owners that participate in the CFDs pay a "special tax" to repay the bonds.

Mello-Roos Community Facilities District Act:

The Act allows any county, city, special district, school district or joint powers of authority to establish a "community Facilities District" which allows for the financing of public services and facilities. The services and facilities Mello-Roos Districts can provide include streets, police protection, fire protection, ambulatory, elementary schools, parks, libraries, museums, and cultural facilities.

A requisite for the Mello-Roos districts' establishment is that it be approved by two-thirds margin of qualified voters in the district. If there are fewer than twelve registered voters within the proposed district, the vote may be passed by current landowners. At the close of legal proceedings, an established Mello-Roos District has all the legal privileges of a legally sanctioned governmental body.

Responsibilities of Property Owners in the Mello-Roos Districts:

Property owners in Mello-Roos Districts are responsible for payment of the "special tax." The amount of the "special tax" is not (directly) based on the value of the property. Special taxes are based on mathematical formulas that take into account property characteristics such as square footage of the home and parcel size. The special tax is typically included in the annual County tax bill, however it can also be paid off on a monthly basis.

Legal Rights of the Community Facilities District:

A Mello-Roos District has the legal right to adopt stringent penalties and foreclosure priorities in the event that the special tax payment is delinquent. Ergo, if the "special tax" is not paid, the District may exercise its legal right to foreclose and sell the property. Foreclosure rights can be initiated after 150-180 days in arrears.

Disclosure (California Civil Code §§1102.6):

Seller shall make a good faith effort to obtain a disclosure "Notice of Special Tax" from local agencies which levy on the property a special tax pursuant to the Mello-Roos Community Facilities District Act, and shall promptly deliver to the prospective buyer any such notice made available by those agencies. If the Transfer Disclosure statement or the Mello-Roos disclosure notice is delivered to Buyer after the offer is signed, Buyer shall have the right to terminate this Agreement within three (3) days after delivery in person, or five (5) days after delivery by deposit in the mail, by giving written notice of termination to the Seller or Seller's agent.

"Any county, city, special district, school district or joint powers of authority can establish a 'Community Facilities District' which allows for the financing of public services and facilities"

1011 Brioso, Suite 110
Costa Mesa, CA 92627
TEL 949-645-3698
Fax 949-631-1487

www.mello-roos.com



POA Letter Response
 (Based on Pick-up Date from Post Office)

	6/28/2004	6/29/2004	7/1/2004	7/2/2004	7/6/2004	7/7/2004	7/8/2004	7/9/2004	7/12/2004	7/13/2004	7/20/2004	7/23/2004	AREA TOTALS	Percentage
Supports Takeover														
Felton	17	5	7	2	0	1	5	1	0	2	0	2	42	29%
Ben Lomond	0	4	2	0	0	1	1	0	0	0	1	1	15	8%
Boulder Creek	0	1	6	0	0	1	3	1	1	8	1	0	22	8%
Brookdale	0	0	0	0	0	0	0	0	0	1	0	0	1	3%
Scotts Valley	0	1	0	0	0	0	1	0	0	0	0	0	2	2%
TOTAL	17	11	15	2	0	3	10	2	1	17	1	3	82	
Opposes Increased Rates														
Felton	21	9	15	3	0	2	9	5	3	0	5	3	75	52%
Ben Lomond	2	53	46	9	1	9	15	12	3	0	6	8	162	84%
Boulder Creek	1	59	67	21	1	18	27	16	7	0	9	10	236	85%
Brookdale	0	6	8	3	0	2	6	1	2	0	3	0	34	94%
Scotts Valley	1	30	19	3	0	2	8	1	3	0	2	0	69	81%
Other	0	0	0	0	0	0	0	0	1	0	0	0	1	0%
TOTAL	25	157	155	39	2	33	65	35	19	0	25	22	577	
Undecided														
Felton	10	3	6	1	1	0	2	1	1	0	0	2	27	19%
Ben Lomond	0	4	4	1	0	1	2	0	1	0	0	2	15	8%
Boulder Creek	0	7	4	1	0	2	1	2	1	0	0	1	19	7%
Brookdale	0	0	0	0	0	0	0	0	1	0	0	0	1	3%
Scotts Valley	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
TOTAL	10	14	14	3	1	3	5	3	4	0	0	3	57	

	52	183	180	44	5	41	81	40	2	17	27	30	TOTAL
TOTAL RECEIVED													735
TOTALS													
Felton													144
Ben Lomond													192
Boulder Creek													277
Brookdale													36
Scotts Valley													85
Other													1
TOTAL													735

Other
 Reply with no response
 Envelopes mailed with no content
 Returned/Undeliverable

Reply with no response	3	0	0	1	0	0	0	0	0	0	0	0	4
Envelopes mailed with no content	0	0	14	0	0	0	0	0	0	0	0	0	18
Returned/Undeliverable	0	73	0	0	36	0	21	0	0	0	0	1	145

POA Phone Call Response
(Cumulative Reports by Day)

6/29/2004

6/30/2004

7/1/2004

FELTON CALLS

Q1: Were you aware of this possible property tax increase?

YES	35	49.30%	103	43.10%	119	43.59%
NO	10	14.08%	56	23.43%	64	23.44%
Undecided	4	5.63%	19	7.95%	19	6.98%
Did not know	0	0.00%	7	2.93%	8	2.93%
Needs more information	1	1.41%	3	1.26%	3	1.10%
Refused to answer	11	15.49%	33	13.81%	36	13.19%
Does not take surveys	10	14.08%	18	7.53%	24	8.79%
TOTAL	71	99.99%	239	100.00%	273	100.00%

Q2: Do you favor or oppose a property tax increase of up to \$116/year on Felton homes and businesses to take over the Felton water system?

FAVOR	14	28.57%	44	23.76%	49	23.44%
OPPOSE	19	38.78%	70	37.84%	82	39.23%
Undecided	8	16.33%	40	21.62%	44	21.05%
Did not know	2	4.08%	10	5.41%	10	4.78%
Needs more information	4	8.16%	13	7.03%	15	7.18%
Refused to answer	2	4.08%	8	4.32%	9	4.31%
TOTAL	49	100.00%	185	100.00%	209	100.00%

Messages Left on Answering Machines

TOTAL	55	293
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7/1/2004

6/30/2004

6/29/2004

SLVWD CALLS

Q1: Were you aware of the cost of this?

YES	716	33.32%
NO	787	36.62%
Undecided	34	1.58%
Did not know	73	3.40%
Needs more information	43	2.00%
Refused to answer	200	9.31%
Does not take surveys	286	13.77%
TOTAL	2,149	100.00%

YES	573	32.30%
NO	685	38.61%
Undecided	26	1.47%
Did not know	66	3.72%
Needs more information	37	2.09%
Refused to answer	171	9.64%
Does not take surveys	219	12.18%
TOTAL	1,774	100.01%

YES	282	33.73%
NO	285	34.09%
Undecided	15	1.79%
Did not know	35	4.19%
Needs more information	22	2.63%
Refused to answer	71	8.49%
Does not take surveys	128	15.07%
TOTAL	836	99.99%

Q2: Do you favor opposing more money on this project?

FAVOR	185	11.38%
OPPOSE	673	41.39%
Undecided	296	18.20%
Did not know	135	8.30%
Needs more information	241	14.82%
Refused to answer	96	5.90%
TOTAL	1,626	100.00%

FAVOR	151	11.09%
OPPOSE	564	41.44%
Undecided	238	17.49%
Did not know	120	8.82%
Needs more information	206	15.14%
Refused to answer	82	6.02%
TOTAL	1,361	100.00%

FAVOR	126	17.60%
OPPOSE	76	10.61%
Undecided	231	32.26%
Did not know	105	14.66%
Needs more information	60	8.38%
Refused to answer	118	16.48%
TOTAL	716	99.99%

Messages Left on Answering Machines 478

Callible Record: 6,219

Completed Calls 4,445 71.47%

California American Water

Customer Account Information

For Service To: C Dugan

Account Number:

Premise Number:

Billing Period & Meter Information

Billing Date: Mar 10, 2004

Billing Period: Jan 08 to Mar 04 (56 days)

Next reading on/about: May 05, 2004

Rate Type: Residential

Meter readings in current billing period:

Meter Number 12091 is a 5/8-inch meter.

Present-actual 749

Last-actual 741

100 CF used 8

100 Cu.Ft = approx 748 Gallons

Gallons used 6000

Billing Summary

-----Prior Balance-----

Balance from last bill

Payments as of Mar 10, 2004. Thanks!

Total prior balance, Mar 10, 2004

-----Current Water Charges-----

Basic Service

Water Charge (\$2.925000 x 8.00)

Total water charges, Mar 10, 2004

-----Other Current Charges-----

Felton Floating Discount

Water Surcharge - BiMonthly

Total other charges, Mar 10, 2004

-----Taxes-----

PUC Surcharge

Total taxes, Mar 10, 2004

-----TOTAL AMOUNT DUE-----

\$86.57

-86.57

.00

32.80

23.40

56.20

-11.24

23.00

11.76

.63

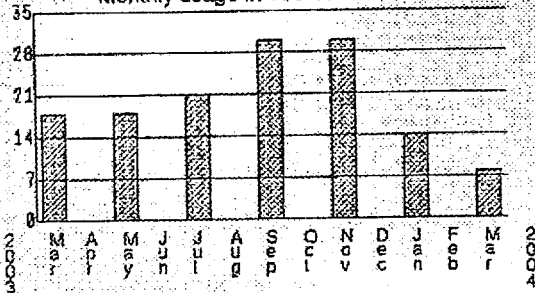
.63

\$68.59

2/5-15-04

Water Usage Comparison

Monthly usage in 100 Cubic Feet



Messages from California American Water

* Please visit our website at www.calamwater.com for conservation tips and information.

Customer Service: 1-800-794-7350 (24 Hours)

Emergency: 1-800-794-7350 (24 Hours)

Visit us on the INTERNET at: www.calamwater.com

San Lorenzo Valley Water District

KEEP THIS PORTION FOR YOUR RECORDS

S0487

This statement covers a two-month billing period. All current charges are payable on or before the due date.

ACCOUNT NUMBER	SERVICE ADDRESS	METER NUMBER/SIZE
----------------	-----------------	-------------------



E ZAYANTE RD

51818913 3/4"

DUE DATE	SERVICE FROM	SERVICE TO	PRIOR READ	CURRENT READ	USAGE
04/23/04	01/21/04	03/22/04	202	210	8

TYPE OF SERVICE/CHARGES	AMOUNT	USAGE INFORMATION	
		THIS YEAR	PRIOR YEAR
PREVIOUS BALANCE	43.85		
PAYMENT RECEIVED - THANK YOU	43.85 CR		
CURRENT CHARGES:			
BASIC SERVICE CHARGE	31.60		
TIER 1 WATER: 8 @ 1.7500	14.00		
		Number of Days	61
		Total Units	8
		Total Gallons	5984
		Average per Day	98
			1496
			24

1 UNIT = 748 GALLONS

pd 3-29-04
#322

TOTAL AMOUNT DUE	\$	45.60
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THERE HAS BEEN A 1% INCREASE ON THE BASIC SERVICE CHARGE EFFECTIVE JANUARY 15, 2004.