



Mill Creek Water Reclamation District

September 1, 2009
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Ms. Dawn Thompson
Associate Planner
Staff Secretary to the Wastewater Committee
Chicago Metropolitan Agency for Planning
233 South Wacker Drive
Suite 800, Sears Tower
Chicago, Illinois 60606

Re: Grand Prairie Sanitary District
New Land Treatment System
CMAP Water Quality Review Number 09-WQ-005

Dear Ms. Thompson:

In connection with the above-referenced matter, and because of the numerous mischaracterizations and misrepresentations made by the Grand Prairie Sanitary District and/or the landowners, we feel that it is important to set forth the basic factual background and chronology of events that cannot reasonably be disputed. Ironically, much of the following can be verified simply by reviewing the materials submitted by Grand Prairie or the landowners themselves.

1. On April 11, 2006, the owners of the Settlements of LaFox property, Foxford LLC and Wyndham Deerpoint (the "Owners") entered into a Utility Services Agreement with Kent W. Shodeen, as Trustee of the Kent W. Shodeen Trust No. 1 ("Shodeen"). A copy of the Utility Services Agreement was enclosed with the August 4, 2009 letter from Victor Filippini of Holland & Knight. This agreement established the financial agreements between the Owners and Shodeen and confirmed that the Owners had agreed to pay a fee of \$1.5 million to the Mill Creek Water Reclamation District ("MCWRD"). Thus, contrary to statements made by Grand Prairie and/or the Owners at the last Wastewater Committee meeting, the Owners had agreed to all of the financial terms relating to the proposed annexation to the MCWRD in April of 2006. The required \$1.5 million payment to the MCWRD was specifically set forth in Paragraph 4 of the Utility Services Agreement.

2. In July of 2006, the Owners entered into a Reimbursement Agreement with the MCWRD in which the Owners confirmed that their desire to annex into the MCWRD and agreed to pay for the MCWRD's third party costs in connection with the proposed annexation. After entering into this Reimbursement Agreement, the Owners requested that the MCWRD proceed to amend its FPA to include the Settlements of LaFox property. The MCWRD proceeded with its FPA amendment in October of 2006 at the Owners' request.

3. From September of 2006 through May of 2008, the MCWRD and the Owners negotiated the terms of the annexation, exchanged numerous drafts of an annexation agreement, and worked out the plans for the necessary infrastructure improvements. The Owners requested the MCWRD to review and approve plans, enter into agreements with third parties and generally plan to serve the subject property. Hundreds, if not thousands, of man-hours were spent on these items. At all times, the Owners confirmed their intent to annex into the MCWRD and expressed their desire to complete the proposed annexation as soon as possible. Many of the discussions and communications were with the Owners' representative, Tim Kellogg, who now appears to also be serving as the General Manager for Grand Prairie. Throughout all of this time, the Owners led the MCWRD to believe that they were annexing into the MCWRD. There were no signs to the contrary.

4. In March of 2007, the IEPA approved the expansion of the MCWRD Facility Planning Area to include the Settlements of LaFox development. As you know, the approval of the FPA amendment included review and analysis of the MCWRD's facilities and proposed improvements. Notably, the Owners (i) requested that the MCWRD proceed with the amendment of its FPA, (ii) provided necessary engineering and other plans, materials and documents, and (iii) fully supported the MCWRD's efforts to amend its FPA boundaries to include the subject property. Please remember that the MCWRD proceeded with this FPA amendment at the request and direction of the Owners, and with their full support.

5. In October of 2007, the Owners appeared at a MCWRD public hearing and made a public presentation describing the project, confirming their desire to be annexed into the MCWRD and outlining some of the benefits relating to the proposed annexation. The presentation at the public hearing was consistent with every other sign from the Owner. In reliance on all of the assurances, agreements and positive signs from the Owners, the MCWRD caused numerous improvements to be constructed that would serve the Settlements development. The MCWRD proceeded with these improvements (which have been previously described), because (a) the agreement with the Owners had been virtually finalized, (b) the Owners had led the MCWRD to believe that they were eager to finalize the annexation as soon as possible, (c) the subject property had already been incorporated into the MCWRD's FPA, (d) the MCWRD desired to be able to provide service within the timeframes requested by the Owners, and (e) based upon two years of discussions, meetings and mutual understandings, the MCWRD had modified its long-term plans to provide for annexing and servicing the Settlements property.

6. In February of 2008, counsel for the Owners confirmed that the form of Pre-Annexation Agreement with the MCWRD was basically acceptable to the Owners and proposed that the parties arrange for the execution of the document as soon as possible.

7. In May, 2008, new counsel for the Owners unilaterally and without discussion submitted a substantially revised document. Contrary to assertions made at the Wastewater Committee meeting, all of the last minute revisions were drafted and proposed by the Owners. This was a dramatic departure from the deal that the parties had spent two (2) years negotiating.

8. In June of 2008, the Owners sent a letter to the MCWRD indicating that they were no longer willing to cover the MCWRD's expenses in connection with the annexation.

9. In July of 2008, the MCWRD advised counsel for the Owners, that the Owners' proposed, unilateral changes were not acceptable, but that the MCWRD remained interested in annexing the subject property and was willing to explore alternative structures.

10. Neither the Owners nor anyone from Grand Prairie contacted the MCWRD between July, 2008 and March, 2009. Then, in March of 2009, Grand Prairie initiated the subject amendment request.

Finally, we would like to clear up a couple of other misrepresentations. First, the MCWRD was established by court order after an election of the residents within its boundaries. The MCWRD is an independent governmental entity and is not affiliated with Shodeen. The MCWRD's objection to Grand Prairie's amendment request is based entirely on the best interests of the MCWRD and the residents that it serves. So that there is no uncertainty, the MCWRD remains interested in, and is in fact counting on, serving the Settlements property.

Unlike Grand Prairie's unsupported assertions and theories, the facts in this letter are easily verifiable. We hope that this helps to clarify some of the critical issues involved in this matter.

Sincerely

MILL CREEK WATER RECLAMATION DISTRICT

By: Brian Grinstead
Brian Grinstead, President