

Mountain Valley Association
A California Non-profit Corporation
11408 Halter Drive
Tehachapi, CA 93561
661.750.9044

October 23, 2017

Dear Members:

Quorum was not reached for the October 14, 2017 Mountain Valley Association Annual Meeting due to insufficient ballots. Per Davis-Sterling guidelines a second attempt must be made to reach quorum, this meeting is scheduled to take place November 11, 2017, time and location will be provided by the Management Trust Company in a follow up notice.

It has come to the Board of Directors attention that many rumors and false accusations have been made about the Board and the Directors. We chose to remain silent on these topics to focus on business, however the time has come to address them. We take these accusations very seriously and can assure you that these are either completely false or skewed due to missing information and context. Rest assured, we have worked diligently to serve the community in the best manner possible even in the face of such opposition. Below we will address each of these accusations and provide a rebuttal to the contrary where available:

A: *\$10,000.00 is missing from the Association's account!* - False

R: Attached is the 3rd quarter Financial report for member review. The Board of Directors produces financial statements in accordance with the Bylaws and the Davis-Sterling Act via an accounting firm. Any member may request a full audit of the finances if so desired. The Board supports complete transparency and will facilitate any request. Exhibit 1

A: *A request was sent to the Members to make the Association a 1-Member Board of Directors without financial accountability!* - False.

R: No such request was discussed, drafted or sent to anyone since this never happened. In fact, this Board has worked diligently to follow the Bylaws and Davis-Sterling rules and has adopted an ethics policy as encouraged by Davis-Sterling. Exhibit 2

A: *The Association Board is charging \$500 late fees for outstanding dues!* - False

R: The late fee increased from \$10 to \$12. The late fee increase was voted on by the previous board, however not put into practice until 2017. Exhibit 3

A: *Official Association documents were altered/edited and falsified!* - False

R: Unapproved Annual Meeting Minutes were re-written to remove items that didn't belong per legalities (i.e. Lots with outstanding dues). These meeting minutes along with the originals were brought to the 2016 Annual meeting for discussion of which to vote on and approve. The meeting did not take place since quorum was not reached, therefore the meeting minutes were never recorded.

A: *The board violated a required agreement of the East Kern County Air Pollution District!* - False.

R: Several members have brought this to the Boards attention citing they had documentation to support the claim. When asked to produce such documentation, none was (or has been) provided. The Board did review all Association records and found no agreement. Further the Board contacted the County, which also could not find any agreement on file.

A: *Mountain Valley Association ceased to exist as a proper and legal homeowner association!* - False.

R: There is a dispute questioning the legitimacy of Jason Vierra and Audrey Johnston sitting on the Board. The facts are as follows:

- a. Joan Tyer, Bryan Bigley and Elizabeth Kachmar were duly elected to the MVA Board.
- b. Randy Hardenbrook and Oscar Perez were not properly seated on the board to replace Rita Leonard and Pat Birley who resigned at the end of 2015.
- c. Bryan Bigley resigned from the Board leaving Joan Tyer and Elizabeth Kachmar as the only two legitimate Board members.
- d. Joan Tyer and Elizabeth Kachmar appointed Jason Vierra and Audrey Johnston to the Board, which they had every right and duty to do. Exhibit 4.

Other claims have been made regarding positions of the Board of Directors that are true or partly true, however have been used out of context or without all information to provide an accurate story. Below is information regarding those claims with additional information to communicate our position:

A: *The board says our HOA is NOT responsible for the repairs on Sand Canyon Rd!* - Partly True

R: There is a discrepancy between the Articles of Incorporation and the Bylaws regarding the Association's responsibility and authority to maintain non-dedicated easement roads (Sand Canyon Rd. from the end of the County Road at the mailboxes to the entrance of Tract 3312 at Spur Court, and Bonanza Rd to Equestrian Drive). This poses legal and liability issues if the Board utilizes funds to maintain that portion of Sand Canyon Rd. outside Tract 3312. The MVA Articles of Incorporation do include the maintenance of ingress and egress to the Tract, however no provision is authorized for the Board of Directors and Road Committee to act upon this within the Bylaws. The proper way to address this is to re-write the Bylaws and include ingress and egress into the text. In order to do so would require member approval of the Bylaws modification, something this Board is not against. In fact, this Board requested and received quotes to have the Bylaws rewritten, they have come in around \$5000 - \$6000. Since then we have discussed rewriting them ourselves, and simply requesting legal review to save cost. Exhibit 5

A: *The board is not repairing the damages on Sand Canyon Road outside Tract 3312!* - True

R: This board has not acted on repairing that section of Sand Canyon Rd for two reasons. First is because of the discrepancy noted above in the Articles of Incorporation and the MVA Bylaws. Second, the Board does acknowledge Sand Canyon Rd between the Mailbox Location and Tract 3312 has degraded since Quail Valley Water District began construction on their water project however any repairs should be made by Quail Valley Water District. Quail Valley Water District has stated that they will return the road to as good as or better condition than when the work started. The Board of Directors does feel the Association should not bear the burden of repairing any roads that another entity damages and looks forward to Quail Valley Water District repairing those sections it degraded and damaged. Further this Board feels that the Bylaws need to be updated to give authorization to the Board before making any repairs of the roads outside of the developed area. Exhibit 6

This Board appreciates the opportunity to serve the community during these past two years. As with any organization there are ups and downs, challenges and successes, wins and losses. Since most of the work happens behind the scenes we wanted to highlight some of the successes we've had working together as a team to effectively manage the Association.

- 1) Hired a Law Firm specializing in HOAs to support in all Association Legal matters
- 2) Hired the Management Trust to facilitate all election proceedings
- 3) Adopted election rules per Davis-Stirling
- 4) Adopted and followed an Ethics Policy
- 5) Organized all MVA documentation
- 6) Polled the Association for ways to save funds Yearly financial review/restating bylaws
- 7) Polled the Association with a road survey in 2016 asking for member input on plans
- 8) Graded ALL dirt roads throughout the tract
- 9) Added road base to several of the dirt roads to protect against erosion
- 10) Filled Hackamore trench with large rock and dirt for longer-term solution
- 11) Added large rocks in Sunview Drive trench to eliminate continued erosion
- 12) Filed and won two lawsuits for the return of unauthorized fund distributions
- 13) Held regular meetings, posted agendas and minutes as required
- 14) Published newsletters to keep the members up to date on association activities
- 15) Applied for a \$50,000 road-paving grant
- 16) Held a recall meeting (as requested by 5% of the membership) per Davis-Sterling and HOA regulations
- 17) Rescinded improper liens filed by previous Board Directors
- 18) Created a new, detailed assessment statement
- 19) Worked with property owners to bring nine delinquent accounts current
- 20) Cancelled 5 outstanding debit cards received by the previous Board of Directors
- 21) Reestablished the 2-signature check process per the HOA By-Laws

If granted a second term at the close of the election process, the current Board plans to continue down the path of hard work and dedication to improve the community and ensure the Board runs smoothly and efficiently. Some of the items we plan to focus on will include the following:

- 1) Maintain all roads in the tract including:
 - a) Securing a Road Committee for guidance of road maintenance and development
 - b) Filling pot holes on paved roads
 - c) Lay additional road base to the recently graded dirt roads to secure them from erosion
- 2) Apply for and secure a \$50,000 road-paving grant
- 3) Develop one of the MVA Community Lots to include storage facilities for MVA assets
- 4) Develop one of the MVA Community Lots to include a meeting location for Association matters

Thank you for your support, we look forward to the possibility of serving another term.

Sincerely,

2017 MVA Board of Directors

Jason Viera, Elizabeth Kachmar, Joan Tyer, Audrey Johnston

Email: mvehoa@outlook.com

Exhibit 1

Mountain Valley Financial Statement

Mountain Valley Association
 A California Non-profit Corporation
11408 Halter Drive
Tehachapi, CA 93561
 661.750.9044

Profit / Loss Statement

					2017
					25,069.87
					2017
					2017
Beginning Checking Balance					25,069.87
Income					
	Q1	Q2	Q3	Q4	
Association Dues	16,440.00	5,543.00	500.00		22,483.00
Other		600.00	900.00	11.70	1,511.70
				<u>Total</u>	<u>23,994.70</u>
Expenses					
Legal Costs	6,669.22	728.75	3,790.47	26.60	11,215.04
Association Management	1,476.40				1,476.40
Court Costs	217.50				217.50
Postal and Supplies	302.35	276.34	160.12	27.78	766.59
Notary Services	600.00	600.00	870.00		2,070.00
Road Grading	10,000.00	10,000.00			20,000.00
Accounting Services		675.00			675.00
Insurance	3,291.00	516.00			3,807.00
Mileage Reimbursement		112.35	23.54		135.89
Bank Fees	9.00	9.00	3.00		21.00
County Fees		437.00			437.00
Miscellaneous / Other	100.00				100.00
				<u>300.00</u>	<u>400.00</u>
				<u>Total</u>	<u>41,221.42</u>
Ending Checking Balance					7,843.15

Balance Sheet

		2017
Assets		
Cash - Primary Checking		7,843.15
Cash - Reserve Bank Account		10,000.00
Accounts Receivable		17,770.00
Computer / Printer / Supplies		1,000.00
Road Maintenance Tools / Supplies		500.00
		<u>37,113.15</u>
Total		37,113.15
Liabilities & Shareholders Equity		
Liabilities		
Accounts Payable		0.00
Shareholders Equity		0.00
		<u>37,113.15</u>
Total		37,113.15

Exhibit 2

Meeting Minutes Adopting Ethics Policy

Minutes of the 6/23/17 Regular Meeting of the Board of Directors of the Mountain Valley Association

Held at 11604 Paint Way, Tehachapi, CA

Meeting called to order 10:00 a.m. by President Vierra. Quorum met.

1. Board members present: Jason Vierra, President; Liz Kachmar, Vice President; Joan Tyer, Sec/Treas; Audrey Johnston; Director [arrived late – commenced voting on 6.f]

2. Open Forum: Members in attendance allowed 3 minutes to speak.

3. Minutes: Motion by Kachmar to adopt minutes of the 3/31/17 regular meeting as written. Vierra 2nd. Motion carried 3-0.

4. Reports:

Treasurer: \$12,369.67 checking - \$10,003.55 reserve. 25 lots remain unpaid.

President: Road grading completed in a timely manner per contract with Weldon

5. Unfinished business:

5.a: No 2017 Road Committee in place. Vierra will prepare a letter of request to enclose with Minutes mailed out. There must be a committee in place to move ahead on repairing the paved portions in Tract 3312.

5.b: Road grant – Vierra read aloud the letter of denial for Stable. Does not yet meet the requirements.

5.c: CCR/Bylaw update/revision – Tyer motioned to table discussion and resume at next meeting in order to obtain costs involved. Vierra 2nd. Motion carried 3-0

6. New Business:

6.a. Motion by Kachmar to hire The Management Trust again for 2017 election. Tyer 2nd. Motion carried 3-0.

6.b. Motion by Kachmar to adopt Ethics Policy presented (guidance re Board Responsibilities, Professional Conduct, Conflicts of Interest). Signing a pledge optional. Vierra 2nd. Motion carried 3-0. Tyer signed pledge. ←

6.c. Executive session/disciplinary hearing for members in arrears for 2017 scheduled for July 21 @ 10:00 a.m.

6.d. Motion by Vierra to approve correction to minutes of the regular meeting held 12/29/16. Tyer 2nd Motion carried 3-0. Name of person listed as in attendance as a Board member to be removed; was not a legal board member – not elected, not appointed, not reflected in any 2015 minutes.

6.e. Yearly review completed and presented. Per **Civil Code 5305** a yearly review by a CPA is only required if association income is over \$75K per year. MVA does not meet that requirement. Discussion/vote re continuing to pay over \$600.00 per year for this review tabled.

6.f. Motion by Vierra to file liens on 2017 delinquencies. Kachmar 2nd. Motion carried 4-0.

6.g. Motion by Vierra to renew Retainer Agreement with Eiror, Rocabs & Powers for legal counsel. Tyer 2nd. Motion carried 4-0. Executed contract and check for non-refundable retainer to be sent next month.

7. Community news/announcements: Tyer reported on positive feedback from the Spring Newsletter.

8. Future Agenda Items: CCR/Bylaw restate costs; required reserve funding study/plan; new law regarding harassment claims; set date, location and time for Annual Members Meeting

9. Next regular meeting: Friday, July 21, 2017 @ 9:00 a.m. At above location.

10. Adjournment: Meeting adjourned 11:00 a.m. to Executive Session – Small claims appeal, proper lien protocol for filing against 25 unpaid lots, disruptive behavior during meetings by members.

MVA Adopted Ethics Policy

Exhibit 2 cont.

ETHICS POLICY FOR DIRECTORS & COMMITTEE MEMBERS of the Mountain Valley Association Adopted: June 23, 2017

The Board of Directors has adopted the following ethics policy for its board members and committees. This policy is intended to provide guidance with ethical issues and a mechanism for addressing unethical conduct.

A. BOARD RESPONSIBILITIES

The general duties for directors are to enforce the association's governing documents, collect and preserve the association's financial resources, insure the association's assets against loss, and keep the common areas in a state of good repair. To fulfill that responsibility, directors must:

- regularly attend board meetings,
- review material provided in preparation for board meetings,
- review the association's financial reports, and
- make reasonable inquiry before making decisions.

B. PROFESSIONAL CONDUCT

In general, directors and committee members must conduct all dealings with vendors and employees with honesty and fairness, and safeguard information that belongs to the association.

1. Self-Dealing. Self-dealing occurs when directors or committee members make decisions that materially benefit themselves or their relatives at the expense of the association. "Relatives" include a person's spouse, parents, siblings, children, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone who shares the person's residence. Benefits include money, privileges, special benefits, gifts or other item of value. Accordingly, no director or committee member may:

- solicit or receive any compensation from the association for serving on the board or any committee,
- make promises to vendors unless with prior approval from the board,
- solicit or receive, any gift, gratuity, favor, entertainment, loan, or any other thing of value for themselves or their relatives from a person or company who is seeking a business or financial relationship with the association,
- seek preferential treatment for themselves or their relatives,
- use association property, services, equipment or business for the gain or benefit of themselves or their relatives, except as is provided for all members of the association.

2. Confidential Information. Directors and committee members are responsible for protecting the association's confidential information. As such they may not use confidential information for the benefit of themselves or their relatives. Except when disclosure is duly authorized or legally mandated, no director or committee member may disclose confidential information. Confidential information includes, without limitation:

- private personal information of fellow directors and committee members,
- private personnel information of the association's employees,
- disciplinary actions against members of the association,
- assessment collection information against members of the association, and
- legal disputes in which the association is or may be involved--directors may not discuss such matters with persons not on the board without the prior approval of the association's legal counsel. Failure to follow these restrictions could constitute a breach of the attorney-client privilege and loss of confidential information.

3. Misrepresentation. Directors and committee members may not knowingly misrepresent facts. All association data, records and reports must be accurate and truthful and prepared in a proper manner.

4. Proper Decorum. Directors and committee members are obligated to act with proper decorum. Although they may disagree with the opinions of others on the board or committee, they must act with respect and dignity and not make personal attacks on others. Accordingly, directors and committee members must focus on issues, not personalities and conduct themselves with courtesy toward each other and toward employees, managing agents, vendors and members of the association. Directors shall act in accordance with board decisions and shall not act unilaterally or contrary to the board's decisions.

C. WHEN CONFLICTS OF INTEREST ARISE

Situations may arise that are not expressly covered by this policy or where the proper course of action is unclear. Directors and committee members should immediately raise such situations with the board. If appropriate, the board will seek guidance from the association's legal counsel.

1. Disclosure & Recusal. Directors and committee members must immediately disclose the existence of any conflict of interest, whether their own or others. Directors and committee members must withdraw from participation in decisions in which they have a material interest.

2. Violations of Policy. Directors and committee members who violate the association's ethic's policy are deemed to be acting outside the course and scope of their authority. Anyone in violation of this policy may be subject to disciplinary action, including, but not limited to:

- censure,
- removal from committees,
- removal as an officer of the board,
- request for resignation from the board,
- recall by the membership, and
- legal proceedings.

Prior to taking any of the actions described above, the board shall appoint an executive committee to investigate the violation. The committee shall review the evidence of violation, endeavor to meet with the director/committee member believed to be in violation, confer with the association's legal counsel, and present its findings and recommendations to the board for appropriate action. The board shall endeavor to meet with the director/committee member in executive session prior to imposing disciplinary action against that person.

Exhibit 3

Insert Minutes for Late Fees Increase

Minutes of the Mountain Valley Homeowners Association

Date: 7/26/12

Attendees: Bigley, Gerring, Grodewald, Young, Schlitz

Agenda: Treasurer Report, Road Committee Report, Opens.

Gerring opened meeting, recognized guests.

Grodewald motioned to accept minutes as distributed.
Second Young
Motion carried 5-0.

Treasurer Report:
Grodewald presented Treasurer information report. \$7500+. This amount includes payment for road grant. Provided P&L sheet for YTD 2012.
Presented Legal expense sheet for all costs associated.

Unable to find collection agency to take accounts, but agencies want up front cash to start.

Provided answers from lawyer on board questions re for unpaid assessments, etc.. HOA liens are typically foreclosures (primary liens have precedence). Will call

Bigley motioned to accept treasurer's report as presented.
Second Young
Motion carried 5-0

Road Work Committee Report:
Gerring reported on road committee. Repairs on home roads.

G Young updated on county grant. Money approved (\$5,000) to the contractor. Must be done within 1 year. Young motioned to proceed with project as described. \$59,000 total cost.
Second Grodewald.
Motion carried 5-0

New Board Business

Bigley motioned to distribute letter for annual meeting with corrections.
Second Young
Motion carried 5-0

Gerring updated on J Koresko Lawsuit(s). No new movement in the courts, no news from lawyers.

Young motioned to seek second opinion by spending \$600 (or less) with an alternate lawyer (Wilmington).
Second Bigley
Motion carried 5-0

Young motioned to send a letter to Serpico AFTER second opinion if needed to inform serpico that we will not pay or authorize additional money towards the lawsuit.
Second Grodewald
Motion carried 4-1 motion carries

Grodewald motioned to increase late fee to \$12
Second Young
Motion carried 5-0

Opens from floor:
None

Next meeting:
August 30th, 7 pm, Quail Valley Ranch House

Motion adjourn made by Grodewald
second Young. Motion carried. Meeting adjourned.

Exhibit 4

Excerpt from the MVA Bylaws regarding authorization of the Directors to fill vacancies with a majority of the remaining Directors.

Section 4.5. Filling Vacancies.

- (a) A vacancy on the Board of Directors created by the removal of a Director by the Members shall be filled by the Members.**
- (b) A vacancy on the Board of Directors created by a reason other than removal of a Director by the Members shall be filled by a majority of the remaining Directors, whether or not less than a quorum, or by a sole Director. The Members may elect a Director at any time to fill such vacancy not filled within a reasonable time by the Directors.**
- (c) Each Director elected to fill a vacancy shall Serve for the remainder of the term of the Director he or she replaces.**

Exhibit 5

MVA Articles of Incorporation - Primary purpose of the Association includes the care and maintenance of non-dedicated Access Roads to the Subdivision:

ARTICLES OF INCORPORATION
OF
MOUNTAIN VALLEY ASSOCIATION

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, have this day associated ourselves together for the purpose of forming a corporation under the laws of the State of California, as a non-profit corporation under the provisions of Part 3, of Division 2, Title 1, of the Corporations Code, as set forth in the Articles of Incorporation:

AND THAT WE HEREBY CERTIFY:

FIRST: That the name of the corporation is:

MOUNTAIN VALLEY ASSOCIATION

SECOND:

A. The specific and primary purposes for which this corporation is formed are:

1. To assume the ownership, the operation and the care and maintenance of all of the following property located within that certain subdivision described as tract number 3312 in Kern County California as such map is recorded in the Office of the Kern County Recorder;

(1) Any and all non-dedicated streets in said subdivision and non-dedicated access roads to said subdivision;

MVA Road Committee Defined - The Road Committee is given the right to supervise maintenance, repair and improvement of all roads and streets in the Development:

ARTICLE 7 COMMITTEES

Section 7.1. Road Committee. Within thirty (30) days after the first day of January of each year, the Board of Directors shall appoint a Road Committee consisting of five (5) Association Members. Not more than two (2) Road Committee Members shall be members of the Board of Directors. The chairperson of the Road Committee shall be selected and appointed by the majority vote of the Committee members. The Road Committee shall supervise the maintenance, repair and improvement of all roads and streets in the Development. The Road Committee shall have primary responsibility for: (1) the solicitation of bids for road and street maintenance, repair and improvement; (2) ensure that all road and street signs are in good condition and state of repair; (3) ensure that all signs required by Kern County ordinances are maintained in good condition and state of repair; (4) investigate and recommend to the Board of Directors methods of road and street maintenance, repair and improvement, including, but not necessarily limited to, dust control, general road and street preservation, maintenance, repair and improvement, lighting, and culverts and other appropriate drainage and runoff control mechanisms; and (5) investigate and recommend to the Board of Directors financing sources for road and street maintenance, repair and

Exhibit 5 cont.

Tract 8312 Map including Sand Canyon Road outside of the boundaries of the Tract.

TRACT NO. 3312

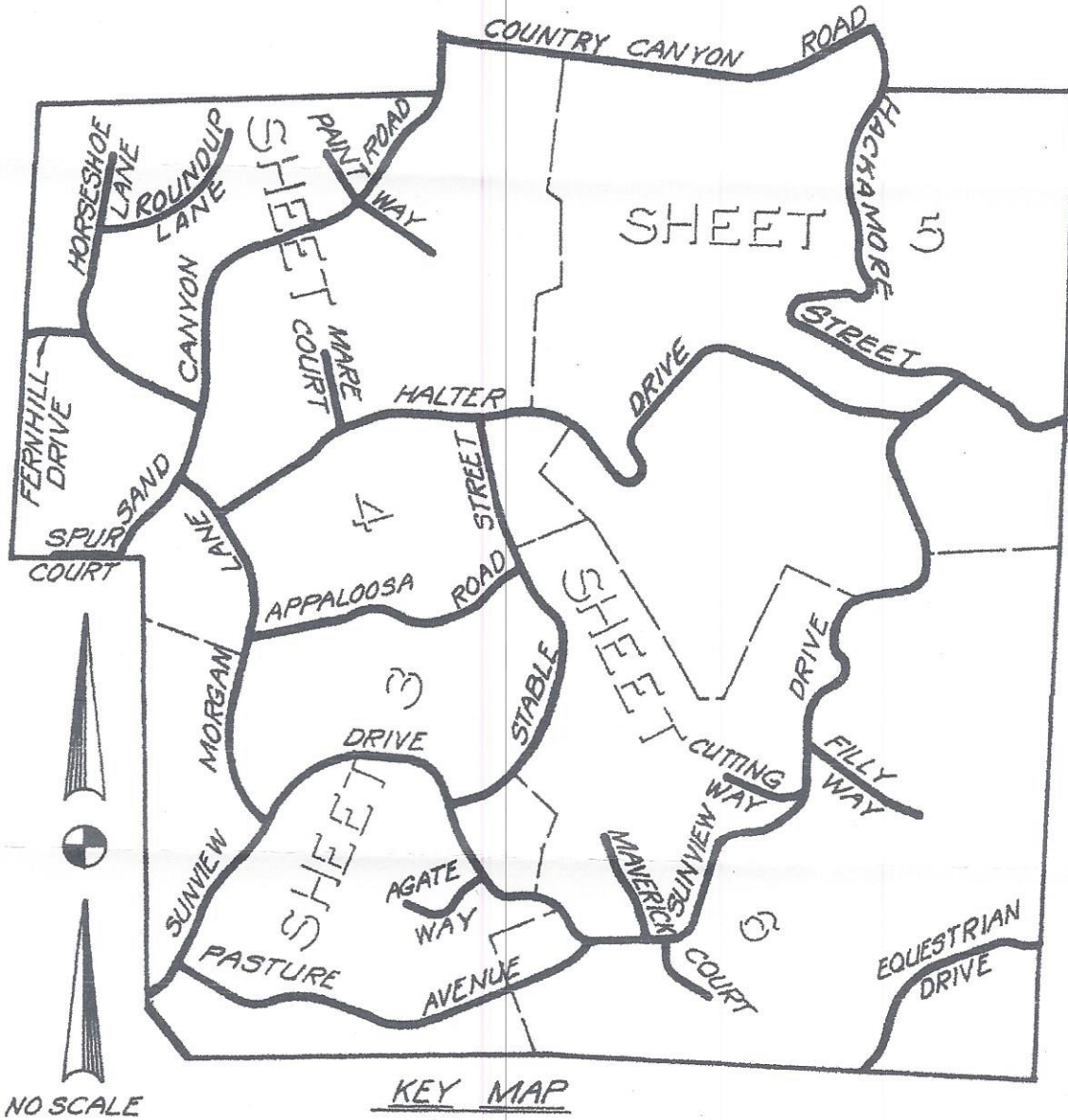


Exhibit 6

Letter from QVWD to Joan Tyer



A STATE OF CALIFORNIA PUBLIC AGENCY

QUAIL VALLEY WATER DISTRICT

BOARD OF DIRECTORS

- Jim Boatman
Matt Daggett
Rita Leonard
Enrique Lopez
Dick Sims

17 July, 2017

Joan Tyer
785 Tucker Road
PMB G-116
Tehachapi, CA 93561

Dear Mrs. Tyer:

Thank you for your concern regarding the condition of Sand Canyon Road in the vicinity of Quail Valley Water District's current construction project. Your understanding that this project is grant funded is correct. The purpose of the grant is to convey water meeting all State water quality standards from wells on the west side of the District, replacing water from wells that no longer meet these standards. The project does not expand the boundaries of Quail Valley Water District.

As you are aware, the non-county maintained portion of Sand Canyon Road was surfaced over 10 years ago with recycled asphalt singles and was in poor condition with cracks and potholes prior to the start of our project.

With that said, it is the intent of Quail Valley Water District to leave Sand Canyon Road in as good or better condition than it was in when we started. The project is ongoing and permanent repairs would be premature. Prior to project completion, our contractor will be making permanent asphalt repairs at each water line crossing location and Quail Valley Water District will identify additional locations where repairs will be required to be completed by our contractor due to construction activities.

If there is a specific location or locations where you believe that construction related damage requires immediate attention, please contact me directly and I will work with our contractor to determine the cause and extent of damage and take any necessary corrective action.

Regarding the creek crossing on Sand Canyon, the culvert is in the County maintained portion of Sand Canyon Road and is the County's responsibility. The culvert is and has been plugged with sand for several years and is not designed for storm flows-it is an 8" culvert to convey nuisance water while storm water will flow over the road. Our contractor is being directed to clear the rock and dirt from the flow-path on the

24750 SAND CANYON ROAD • TEHACHAPI, CALIFORNIA 93561 • 661-822-1923 • FAX 661-822-1923
www.qvwd.org