

CHRONOLOGY OF EVENTS BETWEEN THE YEARS 1999 TO 2002

THE DOCUMENTS REFERENCED IN THIS CHRONOLOGY WERE OBTAINED THROUGH THE CALIFORNIA PUBLIC RECORDS ACT OR FROM OTHER PUBLIC RECORDS. THE COMPLETE TEXT OF THE DOCUMENTS QUOTED IN PART IN THIS CHRONOLOGY ARE PROVIDED IN THE TWO BINDERS (A & B) THAT ARE ATTACHED TO THESE COMPLAINTS. (MEETING MINUTE AUDIO TAPES ARE AVAILABLE FROM CITY OF UKIAH AND THE REDWOOD VALLEY COUNTY WATER DISTRICT.) THE DOCUMENTS IN SAID BINDERS ARE IN CHRONOLOGICAL ORDER AND LISTED BY EXHIBIT NUMBERS. THERE IS A TABLE OF CONTENTS IN EACH BINDER LISTING ALL OF THE REFERENCED DOCUMENTS.

THE CHRONOLOGY IS PREPARED FOR YOUR CONVENIENCE DUE TO THE FACT THAT IT IS EASIER TO UNDERSTAND THE EVENTS THAT HAVE TAKEN PLACE IN CHRONOLOGICAL ORDER THAN OUT OF CONTEXT. HOWEVER, THE DOCUMENTS THEMSELVES CAN STAND ALONE AS THEY DO PROVIDE A CLEAR PICTURE OF THE ACTIONS AND EVENTS THAT HAVE BEEN TAKING PLACE FOR THE PAST TWO YEARS.

PLEASE NOTE THAT THIS DOCUMENT WAS ALSO PREPARED BECAUSE IT SHOWS THE VARIOUS LAW VIOLATIONS THAT ARE ALLEGED IN THE COMPLAINTS FILED WITH THIS CHRONOLOGY.

Under Attorney General's Opinions Volume 84, Opinion No. 00-906 – February 20, 2001, Request by: MEMBER OF THE STATE SENATE, Opinion by: Bill Lockyer, Attorney General: "...The Ralph M. Brown Act generally requires the legislative body of a local public agency to hold its meetings open to the public...The purposes of the Brown Act are thus to allow the public to attend, observe, monitor, and participate in the decision-making process at the local level of government. Not only are the actions taken by the legislative body to be monitored by the public but also the deliberations leading to the actions taken..." (The complete text of this opinion is at the heart of these complaints, along with other sections of the Ralph M. Brown Act itself.)

Redwood Valley County Water District
(707) 485-0679
Post Office Box 399, Redwood Valley, CA 95470
2000-2002

Manager: Keith W. Tiemann
Attorney Paul Minasian
Attorney David Rapport
Members of the Board of Directors:
Donald E. Butow, Chairman
Derek G. Ross
Sanford A. Dwight
William L. Howe
Robert F. Parker

Note: Board Member Derek Ross resigned from the RVCWD Board - February 2002.
Note: In 1999, Katrina Frey was Chairman of the Board & Robert F. Parker was not on the RVCWD Board – this changed in January 2000.

**Russian River Flood Control District
(707) 462-6586 or (707) 462-1961
Post Office Box 2980, Ukiah, CA 95482
1999- December 7, 2001**

**Chairman Lee Howard
Vice Chairman Tom Ashurst
Trustees:
Dan Rogina
Stephen N. Thomas
Bill Townsend
Executive Director Barbara Spazek
Attorney Marc Del Piero
Attorney Michael Jackson
Attorney David McMurchie**

Table of Contents #7 – Copy of Mendocino County Judgment #42059 – Mendocino County Russian River Flood Control and Water Conservation Improvement District, Plaintiff, vs. Redwood Valley County Water District, Defendants, dated: May 1980. This is the lawsuit that allows the RVCWD to purchase only “surplus water” from the RRFCD and it establishes how payment is to be made for said water.

“The District [RVCWD] is interested in developing a contract with the Flood Control District for the sale of the surplus water acquired from Sonoma County Water Agency so that the transaction can occur as soon as the surplus water contract is officially ratified. In this regard, the District [RVCWD] has enclosed a draft contract for consideration by the Flood Control District. The draft contract was developed by Attorney Paul Minasian in October, 1991, was submitted to the Flood Control District through their attorney [at that time], Tom Johnson. The District would request that we meet with a representative to discuss a proposed contact at your earliest opportunity so that we may enter into negotiations to develop an agreement that is satisfactory to both agencies. Please communicate your comments either to the District directly or through its agent, Nicholas Tibbetts or Attorney David Rapport.” Sincerely, Katrina Frey RVCWD - 1999

- 1) **Meeting Minutes for the RVCWD on November 4, 1999:** “Nick Tibbetts reported he attended the Flood Control District’s meeting. They appointed an ad hoc committee, consisting of Lee Howard and Tom Ashhurst...Sonoma County has three petitions before the water board. One is the surplus water contract...He [Nick Tibbetts] had a conversation with Randy Poole, Manager of the Sonoma county Water Agency...Randy suggested that once we get set up we might consider talking to the SCWA because it is really their petition and we want to make sure they are willing to go forward with Redwood...Derek Ross thought they wanted to put the LAFCO annexation [Goforth Annexation] together with the water negotiations...Mr. Rapport advised Nick the LAFCO annexation has been continued to the January meeting. Katrina [Chairman Frey] wondered if it would be to Redwood’s advantage to separate the two so everyone knows it is separated. David [Rapport] agreed

and said it is worth meeting with them to see what their concerns are about the annexation...Michael Delbar Mendocino County Supervisor reminded the Board that LAFCO may meet on January 10th, 2000, but whatever they are submitting should be prior to that so the executive officer can distribute it to the LAFCO commissioners.”

- 2) **RVCWD Minutes dated: December 2, 1999:** “ Derek Ross reported on the AD Hoc Committee Meeting for Surplus water Contract Negotiations with the Flood Control District. He felt the meeting went well and was very amicable. Derek indicated he received a big shock when they found out there is an overlapping of Districts on the south end of the Redwood Valley District boundaries, which includes the proposed “Goforth” annexation. All Redwood would have to do is enter into an agreement with Flood Control to service those customers in their district boundaries. Derek said whether Redwood wishes to explore this avenue would have to be discussed...Derek further reported that the Flood Control District also talked about a possible annexation, going back to the valley-wide water district recommended by the Valley Wide Task Force. Derek feels this will become a necessity because of what is happening with Potter Valley Tunnel.”

“STATUS REPORT FROM NICK TIBBETTS ON WATER PURCHASE AGREEMENT WITH MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL & WATER CONSERVATION IMPROVEMENT DISTRICT”, Redwood Valley County Water District Minutes for the December 2, 1999, meeting:

“...Two items were on the agenda, the annexation Goforth Annexation and the surplus water agreement...Nick further reported they went on to the surplus water agreement which is of great interest to Redwood Valley. He believes everyone is on record where everyone is going to push the situation. They will meet again in January. Between now and then he Nick Tibbetts and David Rapport will meet to discuss things...the questions at the meeting that Redwood Valley was asked how much water are they RVCWD looking for? Four thousand-acre feet was mentioned...Representatives of the Flood Control District raised three subsequent issues about which they want Redwood Valley to think. One had to do with the question of overlapping Districts. It was raised as a possibility that the other section they serve which is in the Flood Control District could be serviced by Redwood Valley with a contractual agreement and although Redwood Valley would service the people, the water would be Flood Control’s...**The other item raised was if Redwood Valley would be interested in an annexation or merger between the two districts. Flood Control appears to be interested. Redwood Valley might need to send a signal if that is something they should look at down the road...** “

- 3) **January 5, 2000 - RVCWD Meeting Minutes under i.** Appointment of Representative and Alternate to Negotiate with Flood Control: “...Derek (Ross) also thinks it might be a good idea to discuss this business in regard to possible annexation.

- 4) **RVCWD Meeting Minutes from February 5, 2000:** "...Charlie Barra...distributed copies of the findings of the Valley-Wide Task Force which he felt should help the Board make some decisions...water will get more expensive because of shortages. Expensive water affects everyone at the bottom of the economic ladder. When you sit on a Board, it is very important that you consider yourself a public servant without an agenda. It is important that they look at all of the people in Redwood Valley and take care of their needs...Chairman Butow advised that Mr. Barra has volunteered to help out on the Ad Hoc Committee formed to negotiate a contract with the Russian River Flood Control District..."

"STATUS REPORT ON WATER PURCHASE AGREEMENT WITH THE MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL DISTRICT (MCRRFC)":

"...Mr. Butow found the meeting very interesting. What is really pertinent to this District is the last three pages of the minutes which indicate a contract with Redwood Valley would help Flood Control prove their water right...Nick Tibbetts felt there was a good give and take discussion at the Ad Hoc Meeting...The meeting focused on two things. One was could Redwood Valley go ahead and finalize a water contract...The other thing that became a major part of the discussion was should we look at consolidation or going forward with a valley-wide district...Marc Del Piero advised the District [RRFCD] they should slow down with the Sonoma County contract because it was not necessarily advantageous. His other message was for Flood Control to perfect their license. If they need to get rid of 2000 acre feet, Redwood Valley would be a good way to go...in those 1/29/2000 minutes, Flood Control directed an action not to send the contract down to Sonoma County."

"...Nick feels this poses some questions. When we left the negotiation, we were on the track of two different issues, the contract and perfecting their water right...Don Butow indicated he walked out of the meeting feeling the Flood Control District was going to study not only the Sonoma contract, but they were going to seriously look at perfecting their water right...Nick's sense is they are very concerned about the future of their 8,000 acre feet...Don Butow was wondering if Flood Control offered them a contract to sell them 2000 acre feet of water in order to perfect their water right, would it be a firmer contract? David [Rapport] agreed that if our contract with them was a firm contract, it would help. **However, there may be a legal question because Redwood Valley is not inside their district boundaries...Derek Ross felt that if Redwood Valley was annexed into their district, that would solve the problem.** Nick indicated taking parallel tracts, the contract and possible annexation, might provide a little insurance in case something goes sideways."

"...David [Rapport] advised there are different ways to become part of the Flood Control District. One is annexation, another is to consolidate. In consolidation local voters may feel they do not have as much local control and he thinks that would be a political issue. He agreed the solution is to become part of the Flood Control District...there is a discussion of the 1980 lawsuit at this point...He [David Rapport] does not know if the moratorium would be lifted now if they went back to the Judge because of the change in water conditions. For that reason he thinks becoming part of the District would be the answer..."

“...Derek Ross mentioned that when he first came on the Board, it dawned on him they did not have a firm water right...they need an absolute water right. All of the surplus water agreements do not mean anything....To Bob Parker’s question if it was totally impossible for them to get an agreement with Sonoma County, David said yes, in Decision 1620 the State placed conditions on any agreement between Sonoma County and Redwood Valley that would make the water available to Redwood Valley in a dry or critical year. Judge Luther said those conditions make it impossible to contract with Sonoma County. The other reason is Sonoma County said they do not want to negotiate with Redwood Valley...”

“...Bob Parker asked what consolidation meant to Redwood. David Rapport explained it would allow Flood Control to perfect their water right. Under the appropriative rights system you apply for water to the State and you receive a permit. Then in the future, when you are able to use all of the water, you apply for a license. Once it is licensed, they cannot take that water back. If you are forced to go to license before using all of your water beneficially, you could lose some of the water under your permit...”

“...David Rapport said he read two things into the meeting. One was the Sonoma contract may not spell out all the understandings the people had when it was signed and all of these understandings need to be included or they will not be adequately protected. Also, it may result in them waiving rights they did not think of waiving. The other thing he heard is they don’t feel they are getting anything that is of value to them because the water would not be there when it is needed...” Drought conditions, etc.

“...Derek Ross advised Flood Control wanted to know where this Board stood on annexation. Chairman Butow requested a motion from the Board saying they would be willing to go forward with an annexation, or consolidation, or some type joining. It was his opinion the Board was in agreement. Derek Ross motioned this Board would like to explore all areas of annexation or whatever is necessary to firm up a water right for the District. **David asked if that is intended to be to the exclusion of pursuing a contract.** Mr. Ross amended his motion to include continuing with contract negotiations. William Howe seconded the amendment and the motion was approved...”

- 5) **On March 28, 2000**, Lee Howard, **Chairman of the Russian River Flood Control District** wrote a letter to the RVCWD regarding annexation: “With this letter we would like to initiate a formal process in which the service area in Redwood Valley approved by the State Water Resources Control Board’s Decision WR-79-15 is annexed into the Mendocino County Russian River Flood Control and Water Conservation Improvement District. For this process we recommend the District be the lead agent. We look forward to beginning this process by adopting matching resolutions from both Boards to support annexation. We look forward to working with you on this annexation and should you have any questions, I will be attending your April regular meeting.” CC: LAFCO, Mendocino County Board of Supervisors

6) **March 2, 2000, Minutes of the Redwood Valley County Water District: “STATUS REPORT ON WATER PURCHASE AGREEMENT WITH THE MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL DISTRICT (MCRRFC)”**:

“Nick Tibbetts advised the agreement is potentially stalled. The Ad Hoc Committee met on Monday, February 28th. Present were Don Butow, David Rapport, Charlie Barra, Lee Howard, Clay Brennan and Barbara Spazek, and himself. The negotiations were on two tracks. Nick wanted to start the contract negotiations because he thought it would not be too difficult. Flood Control has chosen to stand back and look at the Sonoma County contract because they have had two attorneys indicate to them there may be some problems. It is his belief the surplus agreement is viable for Redwood Valley. They could also secure water by a possible annexation or consolidation. A new possibility would be a direct contract with Flood Control with a firm commitment...”

“...Mr. Tibbetts mentioned the other possibility which is to enter into a firm water purchase agreement. He thinks that is the preference because it is a viable way to go. He recommends continuing discussions with Flood Control and continuing the schedule for the Ad Hoc meetings...The problem with a firm water contract, according to Nick, is the judge has already made a finding that Flood Control is already using its 8,000 acre feet within their district. The judge may say everyone will have a less proportionate amount of water and you still cannot show you have an adequate supply...Bob Parker thought it would be better to pursue a firm right through annexation...David Rapport advised him you already have a surplus water agreement with the Flood Control District which is unending. Derek Ross reiterated the fact Flood Control was looking at Redwood Valley to firm up their water right. David Rapport felt they could use that now...”

“...David said it would depend on what you have to say **in terms of the contract**...He though it would be prudent to enter into negotiations to see what Flood Control may want...”

7) **April 6, 2000**, letter to the Board of Directors of the RRFCD from the City of Ukiah, Jim Maston Mayor, cc to Redwood Valley CWD. “We understand that you took action at your **March 27, 2000**, meeting...Sonoma County Water Agency – Update and discussion of status of Surplus Water Contract with the Sonoma County Water Agency...we understand that you do not intend to extend the SCWA contract, in effect, terminating the agreement...”

“...The SCWA contract would have entitled the Flood Control District and its contractors to purchase up to 13,000[?] acre feet of **surplus water** from SCWA...**This water could become vital to future development in the Ukiah Valley**, if demand exceeds the 8,000 acre feet available under the Flood Control District water permit...”

“...The City of Ukiah believes that the agreement should be extend for one year...The one year extension would have given SCWA more time to process its petition to the State Board. **It would also have given the Flood Control District and other affected parties more time to consider the effect of any changes in water availability that may result from (1) the proceedings pending before the Federal Energy Regulatory Commission (FERC) concerning Eel River diversions through the Potter Valley Project and (2) the Endangered Species consultation currently taking place on the Russian River...**”

“...We urge you to call a special meeting to reconsider the action you took at your March 27th, meeting prior to sending a letter to SCWA...”

**Ukiah City Council
2000
300 Seminary Avenue
Ukiah, California 95482
Manager Candace Horsley
Attorney David Rapport
Attorney Gary Weatherford
Mayor Jim Mastin**

Note: Copies of this letter were sent to the County of Mendocino and all of the county water districts. **The City of Ukiah Attorney of record is David Rapport.**

- 8) **RVCWD Minutes dated: April 6, 2000.** Agenda Item #2 Closed Session: “Conference with legal counsel, existing litigation; Section 54956.9(a) - Name of Case Mendocino County Russian River Flood Control District & Water Conservation Improvement District vs. Redwood Valley County Water District. Open Session. Possible action regarding initiation of annexation process and execution of surplus water agreement. Possible appointment of new Ad Hoc Committee Member...”

***** This April 6, 2000, RVCWD Closed Session Board Meeting may have been in violation of the Brown Act. There is a standing 1980 lawsuit that was settled years ago and is still in effect at this time. However, the RVCWD has no existing litigation that is currently active at this time and there has apparently been no new threat of litigation. When the RVCWD Board came back into open session the items discussed had nothing to do with any threatened, proposed or past settled lawsuits. It appeared to be instead a discussion of other issues (See April 6, 2000 RVCWD Meeting Minutes Pages 4-6). It is believed that the closed meeting was to discuss getting the RRFCDD to rescind their letter to the Sonoma County Water Agency (SCWA), advising them of their intention not to sign the extension. Part of the minutes of the April 6, 2000, meeting are as follows:**

“...At 8:45 p.m. the Board re-entered open session and proceeded with discussion under Item #2: **Chairman, Don Butow, was instructed by his Board to ask Mr. Howard, in the spirit of**

cooperation on this annexation issue, would he be willing to rescind Flood Control's letter to Sonoma County Advising them of their intention not to sign the extension. Lee Howard said he would have to see what his Board would say...Mr. Howard advised it would be agendaized...Chairman Butow then informed Mr. Howard they would be responding to Flood Control's letter based on the recommendations of their attorney countering Flood Control's letter. They will have some request for information such as who will be the lead agent. Their letter will indicate they are interested in going forward with annexation and need information on these issues..."

"...The discussion returned to going forward with a letter to the Flood Control District expressing their interest in proceeding with the annexation process and listing the terms and conditions. Mr. Butow assumed an ad hoc committee would be formed...Mr. Tibbetts established the fact the Board is on the record requesting the Flood Control District to formalize their request...He Don Butow concluded the letter would be sent formally after they hammered out the terms and comments..."

9) **April 7, 2000**, letter to the City of Ukiah from the Russian River County Flood Control District: "...At your request we have added to our agenda for the April 8, 2000, the item "Reconsideration of Sonoma County Water Agency Surplus Water Contract...I Lee Howard would like to point out some facts regarding this item. First, the contract had expired May 19, 1999. **This contract was for surplus water only and our Counsel advised us that little, if any, surplus water would be available...**I find it difficult to believe that we have not kept you informed as your legal counsel David Rapport has met with our legal counsel on several occasions with a full ranging discussion of this item. Further, your counsel was invited, and attended a meeting with the Sonoma County Water Agency on March 23, 2000, and had every opportunity to keep you fully apprised of the situation. **In our opinion, there is no justification for being mystified at our decision since the contract bought us nothing and gave away our rights...**"

10) **April 8, 2000**, Meeting Minutes for the RVCWD that was continued from a previous meeting to the Mendocino County Russian River and Water Conservation Improvement District Meeting on April 8, 2000: "**RECONSIDERATION OF EXTENSION OF EXPIRED SURPLUS WATER CONTRACT WITH THE SONOMA COUNTY WATER AGENCY.**"

Note: This item was added at the request of the City of Ukiah.

David Rapport gave an explanation of why this issue was important to the City of Ukiah and the Redwood Valley County Water District. Note: Mr. Rapport represents both the City of Ukiah and the Redwood Valley County Water District as well as several other Mendocino County Water Districts at this time.

Nick Tibbetts, representing Redwood Valley, "...At the Ad Hoc Committee meetings with the Flood Control District, it has always been Redwood Valley's position to take a dual approach. One was the option of having the surplus water agreement being there and the second was the whole question of annexation. They believe that approach protects

Redwood's interest and there is nothing in the extension that binds the Flood Control District and puts it at a disadvantage..."

"...Marc Del Piero, Flood Control District Counsel, explained the issues related to the contract...have been discussed with the district board members in the past...He Marc Del Piero was not going to raise this issue, but for the fact that the document presented this morning by Redwood Valley raises it, and that is about the ability of the Flood Control District and its Board of Directors to get out of a one year extension. Once they agree to allow SCWA to go forward with an application before the SWRCB and the board renders a decision, the district and its Board are virtually precluded from challenging the application by virtue of the fact that the Flood Control District agreed to the filing of the application in the first place. He mentioned this because there is a provision that makes it look like Flood Control has the prerogative of withdrawing at the last minute if it feels that the draft decision is detrimental. Once the Flood Control joins with the SCWA as a co-applicant and it has waived its right to object, they are precluded from challenging any decision made by the SWRCB. The only exception to this would be if their district were successful in begging the State not to act. The SWRCB has the sole ability to grant or withdraw water rights..."

"...He Marc Del Piero pointed out this is being presented as one year extension and it is being offered to the Flood Control District to maintain its prerogatives. It does not in his opinion. What it does is bind them to the agreement and basically puts their water rights and the future of the Flood Control District, as well as Mendocino County, in the hands of the SCWA..."

"Ukiah City Manger, Candace Horsely, who arrived late, was extended the courtesy of the floor...The Council would like the opportunity to look at this more closely because it will affect the City of Ukiah..."

"Mark Del Piero wanted to make one additional point of which he felt the Flood Control Board Members needed to be aware. When a proposal is jointly made to the SWRCB, or a proposal is submitted by a part with the acquiescence or agreement of a second part, which would be the case if this contract, which expired a year ago and is not in effect, were to be re-adopted, the terms of that agreement would be incorporated into the SWRCB permit modification requirements. Whether or not this contract could be terminated, if you chose to re-enter it, under the conduct of the SWRCB, you would still be bound by the contract because it would be incorporated into the terms of change of place of use. The State Board would be the Agency rendering the decision as to the Flood Control District's water rights and the water rights of the SCWA. They are clearly held by the SWRCB's decision..."

"...Mr. Del Piero advised both he and another attorney in Sacramento hired by the Flood Control District, independently reached the same conclusions. Given the listing of three anadromous fishery runs on the Russian River and what has taken place since 1992, **this**

contract would place historical water rights at some risk because ultimately what it does is put the right the Flood Control District at risk in the event Federal agencies demand an increase of in-stream flow. It might even reverse priority right in terms of this District RRFCD and water contractors from SCWA. Because of the language of the agreement, the contractors could, in fact, receive water before Mendocino County..”

“...Steve Thomas [RRFCD Trustee] asked to make a few comments...The matter has not been taken lightly and the SCWA has said in no uncertain terms, there will be no changes to this contract. In other words, the contract as drafted in 1992, stands today...He addressed Redwood Valley specifically and said he knows they have counted on this contract to lift the [court ordered] moratorium and instill some normalcy in water issues in Redwood Valley. It is to that end Flood Control has committed time and dollars. They have heard from three different legal counsels that extending the expired contract does, in fact, bind them. He is not prepared to take that step...”

“...Bill Townsend said he attended the meeting with Randy Poole and Lee Howard and they asked three times if the SCWA would change any of the language in the contract. They said absolutely not...he is not willing to sign the extension...”

End of Redwood Valley portion of this meeting.

Notes: The Sonoma County Water Agency would never give the RRFCD a firm yield number for “surplus water” to be sold to the Russian River Flood Control District. The “Surplus Water” would only be sold to the Russian River Flood Control District until such time as Sonoma County needed this water. In addition, it is also believed that the SCWA, at this time, refused to negotiate with RVCWD independently for the purchase of surplus water.

**11) April 8, 2000 Minutes of the Russian River Flood Control Board Meeting:
“LICENSING OF WATER RIGHT PERMIT”**

“...Lee Howard, in the interim, reported to the Board that Redwood Valley did receive their letter regarding annexation and he did attend their meeting as he was instructed. They indicated they would be sending a letter regarding the annexation and their overview...”

“...Mr. Howard then explained the main purpose of today’s meeting was the District’s request to go to license...Attorney Michael Jackson thinks the District is totally unencumbered and is in a position to go forward and secure its water rights for the future...He finds it difficult in any way for Sonoma County to defeat the water right, but in his experience you prepare for the worst...Lee Howard mentioned the decision regarding the City’s water rights versus the District’s [RRFCD] water rights. They appear to be ambiguous in the decision (Pre-1949 and Post-1949 users). They are divided out in the initial form, but they then

reference the City's and the Flood Control's rights. He wondered if that would be clarified...**Mr. Jackson said that should be one purpose which is to bring clarity...There are many water rights in the valley. When you read the decisions, the only decisions that appear convoluted are the ones that mention the City...**

Note: Candace Horsely and David Rapport were present at this meeting.

“...Gary Akerstrom mentioned the accounting that has been in place for 25 years. Redwood Valley, although not in the District, has been accounted for in the reports. The City of Ukiah and Masonite and the pre-1949 users have been treated as Pre '49 in the accounting. The only problem is that in certain years there is no water and the usage comes out of project water. In 1977 (a drought year) the District fully appropriated its 8,000 acre-feet. This accounting was something he went over with Harry O’Leary at the State. When the District applied for license at Mr. O’Leary’s recommendation, the State indicated their inspector had incorrectly calculated the Pre-1949 usage. Their theory is we should not account for Pre-1949 water...”

Note: The City of Ukiah, at this time apparently was not reporting their use of RRFCD water.

It is believed it was at this point that the City of Ukiah realized its predicament. They apparently had been pumping Russian River Flood Control District water at various times in the past few years, especially in 1996 and 1997, during the drought years. In addition, they apparently were aware that they had been, in recent years, pumping Russian River Flood Control District Water and apparently not reporting it to the proper authorities. With the “surplus water” contract talks between the Russian River Flood Control District and the SWCA permanently discontinued there was no hope that there would be additional “surplus water” for the City to use in the future in excess of the RRFCD’s 8,000 acre-feet for new development projects, etc. The City of Ukiah’s new problem was then the Redwood Valley County Water District.

The City of Ukiah was supporting Redwood Valley’s annexation or consolidation into the Russian River Flood Control District at this time, through Attorney Rapport. The support had been predicated on contract negotiations in the future for approximately 13,000+/- acre-feet of “surplus water”. Since there now would be no additional “surplus water” from the Sonoma County Water Agency the only water available was RRFCD’s 8,000 acre-feet. This finite 8,000 acre-feet had to be shared by everyone within the Russian River Flood Control District (RRFCD) boundaries, and this included various county water agencies and the City of Ukiah. Without the extra “surplus water” from the Sonoma County Water Agency all of these entities would have to share the 8,000 acre-feet of water. (The RVCWD was not within the RRFCD boundary.)

The City of Ukiah and the other county water districts realized that the addition of the Redwood Valley County Water District to the RRFCD would mean that there would be 2,400+/- acre-feet of water subtracted from the 8,000 acre-foot allotment between the months of March and November each year. This would severely reduce the amount of water each entity within the RRFCD boundaries would have to for their own use.

In addition, if the RRFCD went to license the RRFCD would have to legally clarify the City of Ukiah's water right and allot them a fixed amount of water by contract. This would mean that eventually it would come to light that the City's water rights were no better than the rights of anyone else within the RRFCD boundaries. It would also be revealed that the City of Ukiah has been pumping RRFCD water at various times each year. The revelation that the City of Ukiah may be short of water instead of having an excess of water would be detrimental to continued growth planned by the City of Ukiah.

Thus, the City of Ukiah had to take action. The first subtle action was to derail the RVCWD from becoming part of the RRFCD and the other was to delay the licensing process of the RRFCD. Since David Rapport was the City of Ukiah's Attorney and was the Attorney for the RVCWD he would be in a position to influence the RVCWD with regard to the annexation or any future water contract with RRFCD. The City of Ukiah also had to influence the other water districts to work to delay the RRFCD from going to license. Since David Rapport (conflict of interest problems), had apparently been advising Calpella, Willow, RVCWD, and the Millview County Water Districts on legal matters in past years he would be in a perfect position to influence these other water districts regarding water issues with the RRFCD.

The City of Ukiah, in requesting approximately 4,000 acre-feet of water from the Russian River Flood Control District with their water application to the Russian River Flood Control District in September 2001, took the first step in a process to obtain as much water for the City of Ukiah as possible. If the City of Ukiah could delay the process and reverse the interim water agreements, there would be a possibility they could influence the RRFCD Board to give them more water out of the 8,000 acre-foot allotments at a later date. The City of Ukiah was perfectly willing to use the other water districts to obtain this end, and once again, Attorney Rapport was in the perfect position to influence the other water districts since he represented all of them in some capacity with the exception of the HPUD. In this endeavor the City of Ukiah found the 4 other Mendocino County Water District to be willing participants in this scheme designed to benefit the City of Ukiah.

If the City of Ukiah could slow down or stop the RRFCD from going forward with the interim water agreements then everyone could continue to pump unlimited amounts of water stating that it was all being taken out of RRFCD's 8,000 acre-feet, when everyone knew that, as a whole, the 8,000 acre-foot limit was being exceeded. (No one knew by how much because of lack of metering and checking of water rights of those withdrawing water.

- 12) **April 10, 2000**, Minutes from the Willow County Water District: "...The Directors reviewed correspondence between the Russian River Flood Control District and the City of Ukiah. RRFCD has been negotiating with Sonoma County for the last six years for an additional 13,000 acre feet of surplus water...The Flood Control District's attorney advised them not to sign the agreement...A special Flood Control Meeting was held Saturday so all parties involved would be informed. **Director Hatch attended this meeting and reported that an attorney for the Flood Control District reiterated the opinion that the agreement should not be signed.** The Flood Control District stood behind their decision not to sign the contract with Sonoma County...They are now pursuing licensing the 8,000 acre feet they now have. This 8,000 acre feet is fully allocated..."
- 13) **On April 13, 2000, Don Butow, Chairman of the Redwood Valley County Water District sent a letter to the Mendocino County Russian River Flood Control District** regarding RVCWD terms for annexation into the RRFCD. Although the Board had discussed this letter in a previous meeting, it was mailed on **April 13, 2000**, just six days before their meeting on **April 19, 2000**, before any of the other Board members had seen or approved of this letter. It reads in part: "...The Redwood Valley Board favors an annexation into the Flood Control District and will adopt the necessary resolutions, undertake the necessary proceedings and generally actively support and work for the approval of such an annexation, provided the Flood Control District agrees to the following conditions..."

Don Butow then proceeded to tell the RRFCD his terms for annexation. The "conditions" were such that most of them would be unacceptable to the RRFCD. Note: it appears that Redwood Valley CWD never approached LAFCO, as would have been required for approval of this annexation. **The mailing of this letter to the Russian River Flood Control District without RVCWD Board approval marks the beginning of the time when various members of the Board begin to violate the Brown Act by taking action that was not approved by the entire Board of Directors in a public meeting.**

- 14) **May 1, 2000**, Letter to the RVCWD from Rosalind Peterson Regarding **alleged Brown Act Violations by the Board.**
- 15) **May 3, 2000**, Letter to the RVCWD from Rosalind Peterson outlining other **alleged Brown Act Violations.**
- 16) **RVCWD Meeting Minutes for May 4, 2000: "STATUS REPORT ON ANNEXATION PROCESS AND SURPLUS WATER AGREEMENT."**

"Nick Tibbetts wanted to update the Board on this subject, adding it would be his final update. At the April 6th meeting, he reported the Flood Control District took the position they wanted to terminate discussions with the Sonoma County Water Agency...**He does not feel he needs to be involved with the annexation process...**Mr. Tibbetts then

submitted a memo, which he read, and is made part of these minutes...**He recommends the Board pursue the annexation...**"

"...Derek did not hear anything in the meeting that would involve area of origin with the annexation...Barbara indicated the only thing she hears was they had hired the attorney to go forward with their licensing..."

"...Derek continued saying the other item this Board asked was for them to give final approval with LAFCO. You do not have a choice with LAFCO. They have the final decision. **If you apply for annexation to LAFCO you are stuck with it.** That is what LAFCO told him. The only real question this Board is left with is do we want to join. He thinks it should be as soon as possible..."

Note that the letter regarding conditions for annexation, dated April 13, 2000, to the RRFCD never came up at this meeting. Chairman Butow failed to produce this document or to even advise the RVCWD Board of Directors that this letter was sent out under his signature. Brown Act Violation? How does one individual act independently of the entire RVCWD Board especially in a matter that has very important consequences for all of the customers of the RVCWD?

17) **June 1, 2000 Meeting Minutes RVCWD: "CONSIDER APPROVAL OF LETTER TO MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL AND WATER CONSERVATION IMPROVEMENT DISTRICT STATE CONDITIONS FOR ANNEXATION AND REQUIRING A RESPONSE."**

"Derek Ross asked for a copy of the previous April 13, 2000 letter sent to the Flood Control District and asked that Charlie Barra receive one...Don Butow apologized and wanted to go on record in regard to the confusion of the letter...He Butow talked to David Rapport who said this has to follow procedures. Don't just jump in casually. Don said David then told him he would have to do some research and make it correct. Don told David fine. They got the letter from David, **Don signed it and sent it off without Board approval...Derek Ross clarified he told them his Board had not seen a copy of the letter...Derek Ross pointed out this letter was sent out in lieu of the Ad Hoc Committee of which he was chairman.** He talked to Lee Howard about some other matter and found out the Ad Hoc meeting had been canceled. **As a Board Member, he did not approve the letter...Derek said as a member of the Board, it did not have Board approval and in the future, as chairman of the Ad Hoc Committee he would like to be notified...**"

"...David Rapport thought they were taking advantage of the costs, what Redwood Valley is talking about is becoming part of the Flood Control District, but retaining autonomy...In regard to the annexation, Mr. Barra said he read the report that the Russian River District needs Redwood Valley...Derek Ross clarified that they are talking about annexation, not consolidation. The problem he has with the letter is its intent. He feels that it is wrong. **They (RVCWD) say they want to join the district and then they put a list of burdens on them (RRFCD) that are minuscule and**

unnecessary. He continued that LAFCO said you cannot pull out. He thinks the letter should simply say we are interested and we will pay our share of the costs...

“...Bob Parker asked David Rapport about LAFCO. David thought LAFCO would approve and then the conducting authority would have to conduct a hearing. At that hearing, they can either approve or disapprove that annexation. He explained the Russian River Flood Control District could be the conducting authority. LAFCO has authority over certain types of conditions. If the conducting authority found those conditions were not advantageous, they could stop the annexation. In this letter, you are asking Flood Control to be the conducting authority. The District wants to be annexed. They will be in the allowed use and will benefit from Flood Control’s water right...”

“...Bob Parker feels it is mutually beneficial. He sees no reason not to go forward...Mr. Barra asked why you would want to kill something that would produce mutual benefits, don’t fool with it...David Rapport said it is not a case of trusting Lee Howard or the RRFCD Board. The annexation process is the ability for an individual to protest. LAFCO has to respond to all that and they may decide to do something that neither district would want...It may require mitigation that Redwood Valley does not want to deal with...He Derek Ross thinks this District should say we would join and we will pay our share of the expense. The letter offended the Flood Control Board...It was Derek Ross’ comment that this letter is making an argument and the Board is going to blow it...”

“...Mr. Parker suggested changing the sixth paragraph to say we will pay half of the cost and leaving we will pay our own attorney’s fees. **We have the right to withdraw, but we should say we will pay half the cost...**Derek Ross felt the line “please let us know if the Flood Control District agrees to these conditions, otherwise we would like to request a counter proposal” should be included...David Rapport suggested, “Please let me know your response to these conditions...”

The Board approved the motion to change the wording of the letter. (The RVCWD meeting minutes will verify this information.)

“...Chairman Butow advised he would appoint an Ad Hoc Committee to discuss these items and how they would proceed with annexation. He then appointed himself and Bob Parker. Derek Ross requested he be appointed because he had experience. Sanford Dwight agreed with Don’s suggestion say these are negotiations that are going to be very important to Redwood Valley...David Rapport did not know if they communicated to the Flood Control District that they want an Ad Hoc Committee. Don Butow was going to ask. They RRFCD have already received the first letter. In sending the modification, a cover letter will be included and the committee could be mentioned in that letter...”

***** Note: This original April 13, 2000, letter to the RRFCD was never revised or mailed to the RRFCD even though changes were discussed and a new letter was to be mailed to the RRFCD with the changes discussed during this meeting. It was also confirmed in this meeting that the Board never approved of the original letter to the RRFCD that was dated April 13, 2000 and mailed to the RRFCD. In a letter dated December 14, 2001, Manager Keith Tiemann stated, "...I find no copy in the files of a letter to the Flood Control district revising a first letter dated April 13, 2000. There is a letter dated June 15, 2001, but it does not appear to be addressing revisions to a previous letter..."**

- 18) **June 12, 2000, Willow County Water District Meeting Minutes:** "Manager Redding discussed the Russian River Flood Control District Negative Declaration and Public Notice with Attorney Rapport...Attorney Rapport will notify the District Willow if there is anything he feels should be challenged. Written comments must be submitted by June 23. The Flood Control meeting is June 26..."

Willow County Water District

2000-2002

Manager: David Redding

President: William Larramendy

Board Members

Jack Kummert, Gary Nevill, B. Bradford Scott, Charles Hale

Attorney Michael Heaton (See November 23, 2001, FAX Message)

Attorney Daniel Gallery

Attorney David Rapport

Please Note: Judy Hatch was Chairman of the Willow Water District until she resigned, due to the fact that she was elected to the Russian River Flood Control Board, on November 6, 2001.

- 19) **Minutes of the Meeting for June 14, 2000, RVCWD: "CONSIDER LETTER TO MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL AND WATER CONSERVATION IMPROVEMENT DISTRICT CONCERNING THE ANNEXATION PROCESS."**

"...At the last meeting, they agreed to send the letter which was previously sent in error, according to the Chairman (Butow). Since that time Ad Hoc Committee members, Bob Parker and Don Butow, had an opportunity to visit with Lee Howard who expressed he was unhappy with the letter April 13, 2000. In the meantime, Don was informed by David Rapport that he would have a possible conflict of interest City of Ukiah, etc. and Mr. Butow contacted attorney, Paul Minasian..."

Note: David J. Rapport on May 30, 2000, responded to my inquiry about his conflict of interest in some of the matters before the Redwood Valley CWD. (See attached letter in Binder A.)

- A. He has represented the City of Ukiah as its City Attorney since 1983.
- B. He has provided legal services to the Calpella County Water District and the Willow County Water District.
- C. He has provided legal services to the Millview County Water District.

D. Quote from Page #4 of the May 29, 2000, Memorandum to the RVCWD: “...All of these agencies all the County Water Districts and the City of Ukiah have an interest in the PG&E license amendment proceedings currently pending before the Federal Energy Regulatory Commission (“FERC”) that could reduce the amount of water diverted from the Eel River into the Russian River, the pending consultation under the Endangered Species Act currently taking place on the Russian River, and the proposed annexation of Redwood Valley into the Flood Control District...”

“...This latter proceeding may have the greatest potential for conflicts of interest. While all of the agencies may decide independently to support the annexation, any one of them could decide to oppose it. If any of them sought my advice or analysis concerning the annexation, I would have divided loyalties. For this reason, the District may decide that Paul Minasian should represent its interests in connection with the annexation. I will probably recommend to my other clients that they obtain independent representation, if they want legal advice or assistance in connection with that annexation. These potential conflicts may diminish after each agency determines its position...”

June 14, 2000, meeting continues...

“...Paul Minasian suggested just making a general statement that you are willing to discuss this annexation. He brought up a couple of things to Don, one of which was the District does not have the power to finance a political campaign for annexation. It was his opinion the annexation would have to go to the voters...Mr. Butow then read a letter he drafted to the Flood Control District expressing Mr. Minasian’s thoughts. In addition, he included the fact that both Districts have everything to gain and it was his opinion the Ad Hoc Committee could address any comments that may arise. He **Don Butow** also advised them they have retained Paul Minasian to assist them in this effort...Bob **Parker** asked David Rapport if he had any comments, which he did not...Don explained the letter he received from Mr. Minasian was addressed to him as an individual. He asked Mr. Rapport if it should be distributed to the Board. David did not think it was necessary if it was addressed to Don...Bob Parker moved the Board accept the letter drafted by Chairman Butow...” **Approved by the Board.**

***** The above meeting brought three issues to light: 1) One was Chairman Don Butow had hired Paul Minasian without the approval of the RVCWD Board, 2) Chairman Butow had received a letter from Attorney Minasian that was addressed to him as an individual but was regarding RVCWD issues, and 3) Attorney Rapport, did not think its was necessary to distribute said letter to the rest of the Board even though it addressed issues currently before the RVCWD Board. Why wasn't this letter made available to the RVCWD Board and to the public? More Brown Act Violations?**

20) July 6, 2000 RVCWD Meeting Minutes: A motion unanimously approved authorizing utilization of Paul Minasian as lead counsel on the annexation proceedings approximately one month after he was hired by Chairman Don Butow without RVCWD Board approval.

21) July 11, 2000, Minutes from the Hopland Public Utility District, HPUD, New Business:
“...After some discussion, Director Biaggi made a motion, that...the Board [HPUD], go forward with the **lawsuit** against the Russian River flood Control District's, Adoption of Ordinance 00-1...Director Ruff made a motion to direct Staff, Evert Jacobson, write a letter to the Board of Supervisors asking them to look into the Russian River Flood Control District's recent actions and statements regarding control and acquisition of water rights...**the Board directed Staff to contact the other water districts and concerned parties, to join with us in the lawsuit...**”

Hopland Public Utilities District

Post Office Box 386

Hopland, California 95449

General Manager: Everett Jacobsen

Board Members

President: Judith Leonard

Board of Directors:

Richard Ruff, Robert Danek, Jeff Biaggi, Linda Ward

(Robert Danek was appointed to the HPUD Board on November 13, 2001, to replace Linda Ward.)

(Christina Rae was appointed to the HPUD Board on December 11, 2001.)

Both motions passed unanimously.

22) July 13, 2000, analysis of Eel River Diversion North by County Engineering Company, Gary Akerstrom, regarding the Eel River diversion plan by the RVCWD: “...In analyzing the workings of the proposed Eel River Diversion, we find that when the diverted water is available in the winter; there is no place to store it because all the reservoirs are full...There may be a permit to pump Eel River Water, but there is not place to store the water...”

23) August 3, 2000, Letter from Christopher J. Neary to Evert Jacobson, HPUD: “...For the purpose of enlisting water agencies to join with Hopland PUD in responding to Russian

River Ordinance No. 00-01 the following outline the matters which are relevant for their consideration...”

24) **On August 11-12, 2000**, Glenda Anderson wrote a news article in the Ukiah Daily Journal regarding the metering for Russian River Water usage. The RRFCD is surveying the river for water pumps (Pat Ford was doing survey for the RRFCD).

25) **August 14, 2000**, In the HPUD Minutes, Evert Jacobson, Manager of the Hopland Utility District, addressed the Board on the **lawsuit** that is in the works against the Flood Control District. He reviewed with the Directors the objections his District has to the Flood Control’s Ordinance 00-1 establishing rules and regulations for the sale of water and to the method in which this Ordinance was passed...He asked that the Board sign a Motion for Joinder and contribute to the cost of the lawsuit...Director Scott asked what they anticipated the cost to be. Attorney Neary gave the Hopland Board an estimate of \$6,000...The Board will defer to the next meeting any decision on financial support of the lawsuit...”

26) **August 29, 2000, Letter to RVCWD from RRFCD RE:** “...However, after five decades the Board of Trustees must now advise all residents, landowners, diverters, and all public agencies that the District is quickly nearing the time that all of its 8,000 acre feet of diverted water will be allocated and put to full beneficial use. Under the terms of the original approval of our water rights, our successful utilization of our full water allocation was both anticipated and required as early as 1985.”

“...By this letter, the Board of Directors wishes to advise you that proposed new consumptive uses of District water can no longer be guaranteed. **Further, if your agency or district is responsible for approving discretionary projects, permanent land use developments, or any other projects or developments subject to evaluation or review pursuant to the California Environmental Quality Act (CEQA), the Board of Trustees must advise you that project proponents should secure a District water allocation from our agency prior to their project’s final consideration and approval if they intend to use District water not only within its boundaries, but within its place of use...**”

27) **There was no discussion of the annexation during the September 2000 meetings.**

28) **September 11, 2000**, Minutes of the Willow County Water District: “...Manager Redding reported he has been in touch with Dan Gallery, a Water Rights Attorney from Sacramento. The reports to the Water Resources Board need to be amended. This attorney will also look into the possibility of obtaining water rights from the City of Ukiah...Manager Redding reviewed with the Board the letter from Hopland’s attorney to the Flood Control District asking them to voluntarily change the wording of their Ordinance 00-01. There has been no official response from the Flood Control District. **The Board**

discussed contributing financially to Hopland’s lawsuit, but took no action at this time...”

- 29) **Minutes from October 5, 2000, RVCWD:** “Chairman Butow said he had a situation going with Paul Minasian. That he didn’t call him all the time, but had two things going that he’s covering right now...the annexation issue and the one with the Bureau of Reclamation....”

When did the RVCWD Board approve or discuss in a public meeting Attorney Minasian having contact with the Bureau of Reclamation?

- 30) **October 9, 2000, Willow County Water District Agenda & Minutes:** “...Manager Redding will meet with Attorney Daniel Gallery, the water rights attorney, the week of October 23, 2000, to review the District’s State Water Rights. Manager Redding informed the Directors that, after last month’s Board meeting where the possibility of Willow getting additional water rights from the City of Ukiah was discussed, Jean Harmon who is the chairperson of Millview Water District and was in attendance at this meeting, contacted the City of Ukiah and inquired as to the reasons they were giving their water right to Willow. Manager Redding wanted to clarify that the City of Ukiah and Willow were a long way from coming to an agreement, if any. **The Board took no action on support for Hopland’s proposed lawsuit against the RRFCD. Manager Redding was advised not to contact Attorney Neary personally, but to direct any questions regarding the lawsuit to Manager Jacobson.**

- 31) **November 13, 2000, Willow County Water District Agenda and Meeting Minutes:** “...Manager Redding talked to Manager Jacobson of the Hopland PUD regarding the lawsuit against the Flood Control District. The lawsuit has not been filed...” Manager Redding met with Dan Gallery, the water rights attorney the Board has retained to review the water rights of the District. Attorney Gallery was supplied with a lot of information to determine if the District has actually ever been using Russian River Flood Control water...Attorney Gallery...will get back to the District with his findings. Manager Redding stated that he reviewed the water statistics supplied to the Water Resources Control Board by the Flood Control District for 1997. **The District has 4,600 acre-feet and Redwood Valley used 2,800 acre-feet of this total. Redwood Valley is not a member of the Flood Control District. Manager Redding feels these statistics should be addressed to the Flood Control District...**

- 32) **December 7, 2000, Minutes, RVCWD public hearing on Water Rate Increases.** The only reference to annexation was on Page #2: “...This District has some immediate needs that have to be addressed if the Board is to meet your water needs: 1) A permanent water source being addressed by (a) annexation. Negotiations are going forward with Russian River Flood Control District...”

- 33) **December 11, 2000, Minutes of the HPUD:** “...Manger Jacobson of Hopland has meetings scheduled with the Districts that are supportive of their potential lawsuit

against the Flood Control District to discuss the progress of the lawsuit...The District's water rights attorney will have a report for the District regarding the District's water rights in the near future. **Manager Redding is keeping him apprised on the action of the Flood Control District. Director Hatch has been attending the Flood Control District meetings.** Patrick Ford has been hired by the Flood Control District to survey the Russian River from Calpella to the Sonoma County line to identify all intakes into the river. He stopped at the office to ask to meet with Manager Redding and take Global Positioning on the District's wells..."

"...Manager Redding contacted Attorney Gallery and drafted a letter to Mr. Ford for Mr. Gallery's review. Attorney Gallery made some changes and the letter was sent to Mr. Ford. Manager Redding read the letter, dated December 5, 2000, to the Board...Manager Redding and Directors Hale, Larramendy, Hatch and Kummert attended the Flood Control workshop on December 2, 2000. The Flood Control District's position in the past was that District's 8,000 acre feet of water was not fully appropriated. However, now they are trying to show that the entire 8,000 acre-feet is being used so that their water rights will be changed from a permit to a license. They feel this will ensure that none of the 8,000 acre-feet can be taken away. Then they feel they can go back and apply for more water under Point of Origin..."

- 34) January 4, 2001 RVCWD Meeting Minutes (Page 4):** "...Chairman Butow introduced Chuck Marshall, a representative from the Bureau of Reclamation with whom the board has been negotiating regarding the loan...**Mr. Marshall stated that he had been waiting for some time to see what action the Board would take regarding the rate increase, it would have an effect on what they were looking at regarding a repayment period, annual fees, interest, etc. He states that what was really going to "kill" the District in regards to the loan is that if you loose irrigation customers and you only have domestic because the interest rate this is assigned to that loan is variable and depends on how the domestic usage is in comparison to overall usage. Right now it's about 1/3 domestic and 2/3 irrigation...**" See minutes for more information on this subject.

- 35) January 8, 2001,** Willow County Water District Agenda & Meeting Minutes: "...Dan Gallery, the District's water rights attorney, is reviewing the video tapes of the Flood Control Workshop. **The District has not yet received a report form Attorney Gallery...Manager Redding met with representatives from Hopland and Millview, along with Attorneys Rapport and Neary to discuss Hopland's strategy...**"

They were all getting ready to initiate a lawsuit against RRFC.

- 36) January 16, 2001,** Letter to RVCWD from Rosalind Peterson, regarding **Brown Act violations by the RVCWD.**

Note: Starting in January 2001, the RVCWD started a process where increasingly the Board of Directors and/or their Manager began violating the Brown Act. As the year progressed, detailed in letters to the Board from Rosalind Peterson, various members of the Board began to make decisions that were not brought before the entire RVCWD Board in public meetings. The RVCWD also began to violate the California Public Records Act as well with regard to providing copies of various documents to the public in a timely manner, etc.

37) There is no record of Discussion of the Annexation in the RVCWD Board Meeting Minutes for the Month of February 2001.

38) **February 12 & 19, 2001**, Willow County Water District Agenda & Meeting Minutes: "...Evert Jacobson, Manager of the Hopland Public Utility District, reviewed with the Board the letter to the Mendocino County Board of Supervisors regarding a request to agendize water policy issues related to the Russian River Flood Control District. This letter was prepared by Hopland's Attorney and has been signed by the Hopland PUD and Millview Water. They would like Willow to sign the letter also. **The Hopland PUD has filed a lawsuit against the RRFCD...**" The Board voted unanimously to approve said letter on February 7, 2001, to the Mendocino County Board of Supervisors.

39) **February 26, 2001**, Letter to RVCWD from Rosalind Peterson regarding Brown Act Violations by the RVCWD – See Page #4.

40) There is no record of Discussion of the Annexation in the RVCWD Board Meeting Minutes for the Month of March 2001.

41) **March 4, 2001**, Letter to the RVCWD from Rosalind Peterson regarding Brown Act Violations – Closed Session item and public records information.

42) **March 14, 2001**, Millview County Water District Meeting Minutes: "...3. Motion to place a closed session on agenda pending Litigation by Director Budrow Second Cardoza Carried...8. Closed Session under 5495-9 sub-section B article. Adjourn to closed meeting at 6:50 P.M. Reconvene at 7:15. No Action was taken during closed session.

Millview County Water District

General Manager: Tim Bradley

Board President: Kenneth Budrow

Board of Directors

Jerrold Cardoza, Weldon Jones, Michael Weiling, Dick Bozart

Attorney Christopher Neary

Attorney David Rapport

Attorney Janet K. Goldsmith

(In 2001, Jean Harmon was President until she moved out of the District.)

This meeting was held in violation of the Brown Act. No other information was provided regarding this item in violation of the Brown Act on how these items are to be reported on the Agenda.

43) There is no Record of Discussion of the Annexation in the RVCWD Board Meeting Minutes for the Month of April 2001.

44) **April 1, 2001, Letter to the RVCWD from Rosalind Peterson regarding Brown Act Violations.**

45) **May 1, 2001, Letter to RVCWD from Rosalind Peterson regarding possible Brown Act Violations.**

46) **May, 2, 2001, Letter from Christopher J. Neary to David J. Rapport, regarding the HPUD vs. RRFCD Lawsuit.**

47) **May 3, 2001, Letter from Rosalind Peterson to RVCWD regarding alleged Brown Act violations.**

48) **May 3, 2001, RVCWD Meeting Agenda & Minutes (Page #3):** State Department of Health representative David Clark met with Directors Parker, Butow and Manager Tiemann. "...Mr. Parker states that Mr. Clark was prompted by Ms. Peterson's letter but that he also wanted to know what RVCWD would do if the surplus water from the RRFCD were cut off? Director Ross comments that we do have a drought plan that was enacted..."

No other references were made regarding annexation or any related issues were discussed at this meeting.

49) **May 11, 2001 – RVCWD Mail Log Note:** Minasian outline of possible agreement with the RRFCD to resolve judgment terms – lawsuit.

This outline was never presented or discussed in any public RVCWD Board Meeting – Violation of the Brown Act? Who decided whether to accept this outline, revise or change it?

50) **May 18, 2001, Fax from Janet K. Goldsmith to Millview County Water District regarding:** "...Tim-Please sign and fax the legal services agreement to me...The agreement will need to be approved by the Millview Board, but we can at least get the SWRCB file right away..."

- 51) **There was no public discussion of annexation in the June 7, 2001, meeting minutes.** RVCWD Agenda dated June 7, 2001, Closed Session: “Government Code section 54956, subsection (b): ‘A point has been reached where in the opinion of the legislative body of the local agency on the advice of its legal counsel based on existing facts and circumstances there is a significant exposure to litigation against the local agency.’ Subject Availability and Use of water from Lake Mendocino during the period of April through October annually. Action Proposed: The Board will meet with their attorneys and may provide direction regarding the subject.”

“...Chairman Butow announces that the Board is going into closed session to discuss litigation as to water and water rights and he will report back to the board again sometime in the future...The Board adjourned closed session at approx. 8:15 P.M. and came back to order...The closed session report is that we received counsel from our attorney in regards to litigation as to water and water rights. We have instructed him (Paul Minasian & David Rapport) to proceed and he (Minasian) will report back to us sometime in the future...”

***** The Board, during the June 7, 2001, meeting, must have made a decision on some issue because they instructed Mr. Minasian to “proceed”. The vote of the Board and/or the decision must be made public or the meeting is in violation of the Brown Act? Was this closed session meeting held in violation of the Brown Act?**

- 52) **May 24, 2001 – Millview County Water District Minutes: “...3...Attorney Rapport pointed out that he had some conflicts of interests with regard to some issues the District may be addressing in the future and felt the District should seek other legal counsel...4. Review agreement for legal services submitted by Janet Goldsmith, Attorney. Board Action: Motion...to authorize the General Manager to secure the services of Attorney Janet Goldsmith, Carried...”** Included E-Mail of May 18, 2001, from Janet Goldsmith and Agreement for Legal Services.

- 53) **June 4, 2001 – Letter to RVCWD from Rosalind Peterson regarding alleged Brown Act Violations.**

- 54) **June 7, 2001 – RVCWD Meeting Agenda – Note Closed Session Item + June 7, 2001, Meeting Minutes: “...2. Closed Session...The closed session report is that we received counsel from our attorney in regards to litigation as to water and water rights. We have instructed him to proceed and he will report back to us sometime in the future...”**

Was this closed session held in Violation of the Brown Act + Agendized properly?

- 55) **June 11, 2001, Agenda & Minutes of the Willow County Water District: “...There is a meeting scheduled with the managers of water districts in the valley to discuss water issues in the valley...”**

- 56) RVCWD Log Note dated **June 12, 2001**: Paul Minasian sent a draft letter to RVCWD Attorney Del Piero for approval by a committee for the RVCWD Board of Directors.

This letter was never brought before the RVCWD Board of Directors at any public meeting of the RVCWD. (Violation of Brown Act to do the people's business in private.) Who decided to accept or deny the information in this draft?

- 57) **June 13, 2001** – Millview County Water District Agenda – **Note Closed Session Item. Note check detail shows both Rapport and Neary have been paid for legal services.**
- 58) **June 19, 2001** – **Letter to RVCWD from Rosalind Peterson regarding alleged Brown Act Violations.**
- 59) **June 25, 2001**, Note in Mail Log RE: Attorney Minasian sent the RVCWD Board a copy of a letter to RRFCD Marc Del Piero regarding a possible agreement between RVCWD and the RRFCD.

This letter was never brought before the RVCWD Board of Directors at any public meeting nor was it approved at any public meeting. (Violation of the Brown Act?)

- 60) **June 26, 2001, Letter from RRFCD to RVCWD** regarding contract with Russian River Flood Control District. "...The Board of Trustees of the Mendocino County Russian River Flood Control and Water Conservation Improvement District [RRFCD] has asked me [Lee Howard, Chairman] to send you this correspondence, notice, and request, to your Board of Directors to insure that your District has been fully advised of the current status and condition of our water rights and supplies from the Russian River and Lake Mendocino...Pursuant to the Board's plans and directions, its counsels, Marc Del Piero and Michael Jackson, have discussed and met with your Attorney, Paul Minasian, on several occasions with the express interest of addressing Redwood Valley's water needs over the next several years. Those multiple discussion have taken place over the last several months and we have appreciated Mr. Minasian's willingness to engage in thoughtful conversation and consideration of these complex issues..."

"...In the next several weeks, RRFCD anticipates offering general contracts for water supplies and beneficial uses to owners of lands situated within the District boundaries. The Board hoped to have resolved Redwood Valley's future water supply issues for the next several years through a special contract prior to issuance of these general contracts. This is why our attorneys entered into discussions with Mr. Minasian months ago..."

"Additionally, in the event that no contract is executed between our District and Redwood Valley, we will provide you with documentation of any surplus water, should any remain, from our 8,000 acre-foot allocation. In the event that no surplus water exists we will notify you, pursuant to Section 7 of the judgment (No. 42059) governing water allocations between our districts, that no further surplus water is available from our

supplies...As we know your District is aware, we believe that our District achieved full use of its water supplies in 1999. Given this ever-increasing demand for water in Mendocino County, we hope this letter helps your Board in taking appropriate actions to protect your constituents, their families, their livelihoods, their business interests, and their existing and future needs for water...

- 61) **July 3, 2001**, RVCWD Log Note: Minasian sent the RVCWD a document regarding possible explanation to public or media why RVCWD is not moving to execute contract with RRFCD.

See July 10, 2001, meeting agenda with regard to this Log Note item.

- 62) **July 9, 2001** – Willow County Water District Agenda: "...8.a. Report on Status of Report from District Water Rights Attorney.

- 63) **RVCWD Meeting Minutes for July 10, 2001**: "...**Rosalind Peterson states that she notices that the June 26, 2001 letter from the Russian River Flood Control District is not on the agenda...**Chairman Butow: **We have opted not to address this issue.** We have decided to let the attorney discuss this...No one has been presented with a proposal to either accept or reject. This is not public or ready for the public...We still do not have a contract before us. **The Board has chosen not to respond to the letter** and we understand that the paper (Ukiah Daily Journal newspaper) did not choose to report on this. **This is confidential until it is decided.** To have one side or the other go ahead before a decision, makes it, the discussions, harder. **We chose not to respond...**Until they offer us something that we can say yea or nay to, there is nothing to discuss. We still have a court order for them to find us water. That is still on the table and we are not going to give it up, that is for publication if anyone wants to know. So we are going to go forward, the best way we can, with what few cards we have to play..."

"...Chairman Butow: What I can say publicly, is that there was no contract...Paul Minasian, our attorney is dealing directly and in negotiation with Del Piero and Jackson. They are working out whatever it is to be worked out and when they get ready, they will report back to us when there is a document or something to present to us for our approval. They are meeting regularly...Director Ross: We basically don't have any water rights."

Chairman Don Butow's statement in the meeting that, "...This is confidential until it is decided..." appears to be in direct conflict with the Brown Act. (See 6/25/2001 memo from RVCWD Manager Tiemann's Mail Log.)

- 64) **July 11, 2001**, Millview County Water District Agenda: "...10.0 Closed Session. Discussion of potential litigation under Gov. Code 54956.9 (c) one case. Evaluation of public employee General Manager under Gov. Code 54657..." There are no other closed session items listed on this agenda. The Minutes of the Millview County Water District

dated July 11, 2001, the Board goes into closed session on the above item and then the Board reconvenes at 7:20 P.M. to discuss two closed session items. The second item is noted as follows: "...Discussion of potential litigation under Gov Code 54956.9 (c) one case – the Board met with Counsel Neary. Motion: to give counsel direction to proceed. Budrow/Wieling. CARRIED..."

The second closed session item was not on their agenda for this meeting. Therefore, this action was not properly noticed under the Brown Act. In addition, there is no notification of the subject matter for this closed session item in Violation of the Brown Act. The action by the Board of Directors to approve this closed session item is also in violation of the Brown Act. The Board gave Counsel direction to proceed with what for what purpose? What was their voting record on this issue?

65) July 20, 2001 Letter from the Redwood Valley County Water District to the Russian River Flood Control District: "...I [Don Butow] have delayed responding to your letter of June 26, 2001, because it did not appear any response was necessary. However, certain inferences regarding a contract offer and possible repercussions should we not accept the offer...calls for some kind of response...I think you would agree that both Districts would be well served to let our attorneys work through these issues "behind closed doors", advising each of us under the protections of "attorney-client privilege" until there is something positive to act upon and report to our Districts and the general public..."

Chairman Don Butow apparently feels that secrecy is required. Why? The purpose of the Brown Act is to allow the public these directors represent to participate in the process. Since there is no litigation involved in this matter the public and the other RVCWD Board members should have a right to know what is being discussed "behind closed doors". Does this mean that some members of the RVCWD Board or all of them may be engaged in serial meetings since they don't question the actions taking place at this time in public meetings?

66) July 20, 2001, Press Release from Chairman Don Butow, to the Ukiah Daily Journal regarding a letter received from the RRFCD. It reads in part, "...Some time ago both districts [RVCWD and RRFCD] decided to have their respective attorneys meet behind closed doors and work out the various approaches to Redwood Valley's water needs and then report back to their Districts when they had something substantive to report. Redwood Valley feels that this is the appropriate way to conduct such negotiations..."

It appears from this letter that the RVCWD Board, especially Chairman Don Butow, does not understand that the people's business is to be conducted in public.

67) **July 23, 2001, The Russian River Flood Control District wrote a letter to everyone within its boundaries and released this letter to the press.** This document explains the reasons why the RRFCD has commenced an application process for its customers and the purpose for the Interim Water Agreements. The RRFCD is asking everyone in its boundaries to apply by filling out an application that might lead to later signing an Interim Water Agreement with the RRFCD.

68) **August 8, 2001**, Millview County Water District Minutes: "...7.3 Letter from Russian River Flood Control District. Notice of Interim Water Supply Agreement. Lee Howard explained as Chairman the RRFCD process, the permits, rights, contracts to the board and other issues related to an upcoming meeting mentioned in the letter. MOTION: To table this until the next meeting and more information is gathered. Bozart/Wieling. Carried..." + Public Expression letter regarding alleged Brown Act Violations.

The month of August 2001 produced some interesting meetings and information that came out regarding the RVCWD and the RRFCD.

A) The regular meeting of the RRFCD District was on August 27, 2001, and some of the issues to be discussed were about the RVCWD. (Note that Director Ross attended this meeting.)

B) Chairman Butow scheduled a Special Meeting of the RVCWD to take place at the same time on the same day, August 27, 2001, as the regularly scheduled meeting of the RRFCD, to discuss their current status with the Russian River Flood Control District.

71) August 13, 2001 – Willow County Water District Meeting Minutes: "...Director Kummert stated the Board should not discuss the Status of the Report from the District Water Rights Attorney as the Chairman of the Flood Control District was in attendance and the report dealt with the District's dealings with the Flood Control District. Director Hatch noted that the Report was earmarked "Private and Confidential Attorney Client Communication"..."

76) August 15, 2001, RVCWD Log Note: Attorney Minasian sent Manager Tiemann and Don Butow a copy of possible agreement between RVCWD and RRFCD.

This agreement is never discussed before the full board of the RVCWD in a public meeting. Brown Act Violation?

77) August 16, 2001, Letter from Paul Minasian to Sonoma County Water Agency regarding conference call to discuss water purchase for RVCWD from SCWA.

78) August 20, 2001, Mail Log Note: Attorney Minasian sent Chairman Don Butow a copy of possible agreement between RRFCD and RVCWD that has been sent to RRFCD Attorney Marc Del Piero.

This letter was never discussed before the RVCWD Board in a public meeting. Violation of the Brown Act?

79) August 20, 2001, Letter from RRFCD to RVCWD and Chairman Don Butow, regarding a water contract between the two districts. "...On Thursday, August 16, 2001, you **Butow** left a message with the office asking when we were going to provide to the Board of Directors of the Redwood Valley County Water District a contract mentioned in the Executive Director's Letter of June 26, 2001. **Please note that letter indicated our Board had hoped to have a special contract in place with Redwood Valley before any of the general contracts to individuals living within the District's boundaries were distributed. To that end, in January of this year, our Board instructed our attorneys to meet and enter into negotiations with your attorney for just such a contract. It was our desire to try to address the needs of the citizens of Redwood Valley recognizing the water shortages that we are experiencing this year. As has been mentioned to you, the attorneys either met in person or by phone several times. Our Board's desire to address the needs of your constituents was clearly communicated to your representative.** It was left that your representative was to contact your Board and receive authorization from your full Board to continue the preparation of a final contract with our attorney. We have been expecting your full Board's response for months...I certainly hope this clears up any misconception you may have about a prepared "contract" being offered to Redwood Valley. No such contract could or can exist without the benefit of some type of negotiations or the willingness of your full Board of Directors to deal with the water shortage problems facing the Ukiah Valley..."

80) August 23, 2001, Willow County Water District Minutes (Continued Meeting from August 13, 2001): "...Director Kummert stated the Board should not discuss the Status of the Report from the District Water Right Attorney as the Chairman of the Flood Control District was in attendance and the report dealt with the District's dealings with the Flood Control District. Director Hatch noted that the Report was earmarked "Private and Confidential Attorney Client Communication"...**The Board directed staff to include a closed session item to discuss anticipated litigation on the agenda of the next regular meeting of the Board and arrange to have the District attorney present for the meeting...**"

81) August 23, 2001, Letter to RVCWD from Rosalind Peterson regarding the fact that the RVCWD decided to hold a special meeting on the same night as the RRFCD meeting where the issue of water for RVCWD was to be discussed.

82) August 24, 2001, RVCWD Log Note: Attorney Minasian sent Manager Tiemann, an opinion on potential conflict of interest with City Attorney, David Rapport.

The RVCWD Board never approved of Attorney Minasian writing an opinion on Rapport's conflict of interest in any public meeting. In addition, when did the Board approve paying for Minasian to write this document? Attorney Rapport could have written his own opinion and document at his expense. Violation of the Brown Act & misuse of RVCWD funds?

83) The minutes of the RVCWD Meeting on August 27, 2001, contained the following:

“...Mr. Minasian addressed the question of whether residents of the overlapping boundaries between the District and the Flood Control District, who have been paying taxes to the Flood Control District have entitlement to the 8,000 A.F. **He thinks the chances are pretty small because the State Water Board designated where those 8,000 A.F. could be used and none was in Redwood Valley.** However, if the contracts are returned, the Flood Control District may honor it and the State Water Board may even honor it. The landowners so affected may want to talk to their own attorneys and send in their contracts and pay their money and take their chances. **If the contract is good, those users would have to ask the District to wheel the water to them. The users will have to pay the Flood Control district for that water on top of District Charges and the economics of scale may soon disappear...**”

“...It is possible that Sonoma County will talk directly to Redwood Valley, but it is not very likely...The District will be asking Sonoma County if they would rather have the money we are presently paying to the Flood Control District for surplus water...Repayment to the Bureau of Reclamation would also be very difficult without a firm water right, because we don't have a reliable system which brings in revenue in the summer...”

“...Pam Ricetti said she heard that Randy Poole of the Sonoma County would only sell water to Redwood Valley for \$800.00/A.F. Mr. Minasian said that is incorrect because that is the price that Sonoma County sells to Marin County and other counties outside the Russian river basin except for Mendocino County which they will sell to for \$40.00/A.F. as a good neighbor gesture...”

What guarantee do we have regarding the \$40.00 per acre-foot? There is no current agreement as of December 2001, with the Sonoma County Water Agency. The RVCWD has been paying approximately \$12.00 per acre-foot to the Russian River Flood Control District. Our Board is giving that up in order to pay Sonoma County \$40.00 + per acre-foot? Where is this figure in writing for verification? The economics of this move is detrimental to the customers of the Redwood Valley County Water District. In addition, the Sonoma County Water charges it others surplus customers in excess of \$600.00 per acre-foot, per their surplus water charges schedule (2001).

“...Tom Johnson Attorney asked to make a few comments. He had represented the Flood Control district in the 1980 court judgment and for 17 or 18 years thereafter...He thought the problems would go away with the signing of a contract with Sonoma County for 13,000 A.F. of “**surplus water**”. There were problems with the contract. At the time of negotiating, it seemed that the risks were acceptable because it solved the short term problem...He wants to see Redwood Valley and the Flood Control District work together in a joint powers authority rather than continue a destructive battle against each other...Redwood Valley has to solve its long term water problem and the only way it can do that is with storage. He doesn't know what the short term solution to the problem is...”

84) See Letter to RVCWD dated **January 12, 1988**, from RRFCD Attorney Tom Johnson to RVCWD regarding the “surplus water judgment currently in effect at this time.) “When it is determined that such surplus water no longer exists or will not be available in any given water year, Redwood Valley would be notified that such water is not available and asked to comply with the terms of the judgment and voluntarily shut off the pumping plant. **In the event that Redwood Valley carried through with its threat not to turn off its pumping plant under such circumstances, I feel confident that both our district and the Sonoma County Water Agency would immediately move to have Redwood Valley's pumping plant shut down.**...Redwood Valley's residential users would have a priority over Redwood Valley's agricultural users, but neither Redwood Valley's residential nor agricultural users would have a priority over municipal, industrial or agricultural uses within the Mendocino County Russian River flood Control and...users within the Sonoma County Water Agency District, nor...users within the area that is serviced by the Sonoma County Water Agency and lying outside the Sonoma County Water Agency districts boundaries...”

85) August 27, 2001, part of the RVCWD Meeting Minutes continues:

“...Director Parker said he would like to file for storage space in Lake Mendocino. Mr. Minasian said that the filing would just sit somewhere for 20 years because all the water is presently allocated. He cannot in good conscience recommend that course of action, but he is sure the Board can find an attorney somewhere who will take their money and make a filing...”

“...It was answered that Redwood Valley has requested to be annexed and the Flood Control District recently offered annexation...Chairman Butow answered...As far as the District knows, any contract is still in negotiation...”

“...Director Dwight...said people are beginning to realize that there is a very big problem in Mendocino County with water and that Redwood Valley is only a miniscule part of that problem and water use...”

“Chairman Butow asked Paul Minasian if the annexation issue is going to go anywhere. Mr. Minasian started by saying that annexation does not automatically say the District will share equally in the 8,000 A.F. with other member agencies. The

State Water Board first needs to rescind their order that the District water will be surplus to the needs of the Flood Control District...”

Note: Has this problem been decided by court order when the RRFCD sued the RVCWD?

“...Director Parker thinks the District should continue to pressure the Flood Control District about annexation and Mr. Minasian agreed...Chairman Butow wanted to discuss what should be done about the Flood Control District contract and the worst case scenario where the letter comes from the Flood Control District saying that they project using 8,000 A.F. and for Redwood Valley to stop using because no surplus water is available...”

“...Mr. Minasian said the District would send a letter to Sonoma County saying the District has a right to arbitrate as to whether they are using their 8,000 A.F., but we don’t want to spend too much money because the State Water Board is going to be asking the same question. **The District would then offer to pay Sonoma County the money that would otherwise be paid to the Flood Control District ...**”

Note: Is the RVCWD trying to blackmail RRFCD into giving the RVCWD water?

“...His strong belief is that the State Health Department would, at some point, call Sonoma County and ask if they object to continuing to provide water to Redwood Valley Domestic users...At some point, irrigation water will probably have to be curtailed in fairness to Sonoma County. In a drought case, Sonoma County will have to file a complaint and ask Redwood Valley not to take their water...”

“...Chairman Butow asked if Sonoma County would allow the District to buy direct, at least temporarily, until we can get storage developed. Mr. Minasian said that is what we are pursuing now with an offer to Sonoma county to buy some of their storage...Mr. Minasian reiterated that the formal offer from the contract with Sonoma County was for \$35-\$40.00 per A.F...”

“...Chairman Butow...proposed that Redwood Valley send a letter to the Flood Control District to reserve certain waters on behalf of domestic and irrigation users located in both districts...Director Parker...thinks Mendocino County needs to develop a county-wide organization to develop and distribute Mendocino County water for the benefit of everyone...He said we need to act cooperatively with the Flood Control District to accomplish a common good...”

86)Quotes from the RVCWD handout at the August 27, 2001 meeting in Redwood Valley.
“...Sonoma County has indicated that it will not contract directly with Redwood Valley without the Improvement District agreeing to the terms, establishing a type of peace on the river...” Regarding landowners in Redwood Valley who are in the Russian River Flood Control District Boundaries: “...Redwood Valley could wheel the water for those users, but the system costs without a large volume for service to all landowners will be high...”

***** The RVCWD, on August 31, 2001, sent in applications for all 25 landowners in Redwood Valley who are in the RRFCD even though they could have made applications on their own, including Butow’s own relatives. This action was mentioned in passing by Chairman Don Butow in the August 27, 2001, Board Meeting. However, no formal action was taken by the Board authorizing this action. Brown Act Violation?**

87)Russian River Flood Control & Water Conservation District Agenda for August 27, 2001. #8 Ordinance #00-1 discussion and possible action regarding Implementation of prerequisites necessitated by Ordinance #00-1, including, but not limited to, Russian River Water Use Inventory and Water Diversions.

#a. (1) Passed Policy #01-3 regarding Water allocations outside of the district will be available on a surplus basis only.

#12. Redwood Valley County Water District’s Request for Water Supply Contract. Please note that Chairman Butow had called a Special Meeting of the RVCWD in Redwood Valley knowing that this meeting was taking place at the same time as the RRFCD’s Meeting. Director Butow and Paul Minasian should have been at the RRFCD meeting.

#12 a. – Copy of response to Redwood’s request for an existing contract.

#12b. – Request from Redwood’s Attorney for Possible Agreement between Redwood and MCRRFC & WCID.

88)Letter from Attorney Minasian to the Redwood Valley County Water District dated: August 28, 2001, RE: Pursuit of Permanent May – October Water Supply.

“...1. Storage: ...You recognize that this will only buttress you during the first year of the drought and that the cost may be extreme but that some additional storage will pay off in the long run...”

“...2. Sonoma County Negotiations: We will continue to pursue Sonoma County. The advantage of this alternative is it is cheap. It is not likely to be successful but we will not invest very much money in determining whether it can be successful...”

“...3. **Slow the Improvement district’s efforts to prove use of the 8,000 acre-feet.** If there is a way to slow down the Improvement District from determining the 8,000 acre feet has been fully used...” (**This letter lists several ways to slow down the RRFCD. This includes using the State Water Resources Control Board in this endeavor.) “...**The theory here is that the longer we can receive the water, the greater chance we have of developing any of the above alternatives, and although a frontal court action declaring that the Improvement District can never use the full 8,000 acre feet and, therefore, our surplus contract is effectively solid gold is likely to be rebuffed by a judge, we may be able to get that result by indirection...**”

***** Note: At this time some members of the RVCWD have begun to attack the RRFCD and its members who are running for re-election. The City of Ukiah has apparently become involved in personal attacks against members of the RRFCD Board, has enlisted the Mendocino County Board of Supervisors and the Inland Water & Power Agency in trying to slow the process at this point. All of them are claiming that they did not know about the Interim Water Agreement process. They all knew that the licensing process to quantify RRFCD’s 8,000 acre-feet of water had been going on for years. A political campaign is mounted against individual Board Members running for re-election at this time, led, in my opinion, by the members of the RVCWD Board with the City of Ukiah cheerleading in the background through Attorney Rapport. Various letters from lawyers and agencies, representing various interests, begin to be written to the RRFCD Board hoping to delay the process.**

The City of Ukiah and the other county water districts begin to mount a strong campaign to stop the allotment of water by the RRFCD. Why? Everyone has known since the July 2000 ordinance was passed by the RRFCD to determine short-term firm yields. The Russian River Flood Control District has been having meetings for over a year on these issues and they have held public hearings at various times in 2001.

Who will gain the most from these delaying tactics and what is the objective?

The City of Ukiah – There will be no investigation of their Pre-49 water rights and no one will find out they have been pumping RRFCD water that has not been reported. The City of Ukiah apparently would like to stop the process to retain the status quo. In addition, the City of Ukiah apparently feels that a new board would then go back and try and negotiate the rejected “surplus water” agreement with the Sonoma County Water Agency. This was the goal of the City of Ukiah. No interim water contracts or metering of water and then everyone could keep pumping unlimited amounts of water. The City of Ukiah definitely wants to have a bigger share of the 8,000 acre-feet of water that is held by the RRFCD.

A) The Redwood Valley County Water District who failed to be annexed into the RRFCD and did not negotiate a water contract with RRFCD. If it is determined by RRFCD there is no surplus water they are in trouble, especially the agricultural users who may have their water supply shut off. In order to not loose face with their customers RVCWD now goes on full attack and blames the RRFCD Board for their failure. What better way to redirect the public from knowing that RVCWD failed to perform their duties. Also they would be slowing or stopping the RRFCD process in order to continue to keep pumping unlimited amounts of water now and in the future.

B) Apparently the only hope for the City of Ukiah and the RVCWD is to stop the interim agreements and the allocation of water to users within the RRFCD.

89) August 30, 2001, a draft copy of the City of Ukiah Resolution 2002-09 "...RESOLUTION OF THE CITY OF THE CITY COUNCIL OF THE CITY OF UKIAH REQUESTING THE MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL & WATER CONSERVATION IMPROVEMENT DISTRICT TO SUSPEND ACTION OF INTERIM WATER AGREEMENTS AND TO INSTITUTE PARTICIPATORY PROCESS..." was sent to the Millview County Water District prior to it being approved by the Ukiah City Council on September 5, 2001.

90) August 31, 2001, Letter to the Russian River Flood Control District from the RVCWD Board signed by Chairman Don Butow, without RVCWD Board approval in any public meeting. "...It has come to our attention that the Flood Control District has failed to identify or contact all users within your District that you supply directly with "Diverted Water" (not subject to our Surplus Agreement) through our system. As a courtesy, we are enclosing a list of their names and points of diversion...Some of these may be lessees or renters and the names may not appear on a Deed of Trust. We have supplied these users with their average water use to the nearest 10 years, along with our recommendation to contact you. As it was not our responsibility to locate or contact them and was only done as a courtesy to longtime users..."

This August 31, 2001, letter and said actions to benefit these customers at RVCWD expense was never approved in any public RVCWD Board meeting. In addition, the letters to the recipients below on August 31, 2001, were never approved by the RVCWD Board in any public meeting.

On August 31, 2001, Letters were mailed to the names, including the Calpella County Water District, on the list of those who receive water from the RVCWD but are within the RRFCD, from the RVCWD. This letter also states, "...The Mendocino County Russian River Flood Control & Water Conservation Improvement District has indicated that when they can prove all of their 8,000 acre-feet allocation in Lake Mendocino is fully appropriated, they will ask Redwood Valley County Water District to cease taking water from the Lake Mendocino, which would curtail agriculture water and restrict domestic water..."

91)On August 31, 2001, RVCWD Mail Log identifies two communications from Attorney Minasian. One is a letter outlining options available to RVCWD in pursuit of permanent May-October water supply, which was discussed in an open public meeting. The other is listed as an attorney-client privilege document on discussion of RVCWD and RRFCDD relationship.

This second document was never discussed in a public meeting of the RVCWD.

92)The Russian River Flood Control District wrote a letter (brief history) dated September 4, 2001, to the City of Ukiah regarding these issues. (See letter for clarification and some history of the License process and the interim contract agreements process, etc.)

93)September 4, 2001, RVCWD Mail Log Note: Attorney Minasian sends RVCWD copy of attorney-client privilege document regarding the relationship between RRFCDD and RVCWD. In addition, Attorney Minasian sent Manager Tiemann an explanation of a plan to pump West Fork water into Lake Mendocino for use by RVCWD.

The explanation does not appear to have ever been requested by the Board of Directors of the RVCWD in a public meeting.

Note: On September 5, 2001, one day prior to the September 6, 2001, RVCWD Board Meeting Chairman Butow sends a letter to the State Water Resources Control Board protesting illegal diverters taking water out of the Russian River and other issues. Chairman Butow does not realize that he is complaining about his own District that has been an illegal diverter in the past fiscal year according to the records of the RRFCDD, in violation of Redwood Valley's permit with the State Department of Water Resources. This letter does not appear to have been discussed by the RVCWD Board in any public meeting prior to it being mailed.

**City of Ukiah
300 Seminary Avenue
Ukiah, California 95482**

2001-2002

**Manager Candace Horsley
Darryl Barnes, Public Utilities Director**

**Mayor Phillip Ashiku
City Counsel Members:**

Phil Baldwin

Kathy Libby

Ray Smith

Eric Larson

Attorney David Rapport

Attorney Gary Weatherford

94)September 5, 2001, City of Ukiah Council Meeting Agenda & Meeting Minutes –
Adoption of resolution regarding the RRFCD.

See Resolution Summary Report. Also see Rosalind Peterson’s letter to the City of Ukiah with regard to Attorney David Rapport’s conflict of interest with regard to the Redwood Valley County Water District and the other county water districts he has represented in the past or is currently representing.

The September 5, 2001 Agenda lists a closed session meeting under, “...12b. Conference with Legal Counsel-Anticipated Litigation, Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9 (1 case)...” Later in the meeting Attorney Rapport then states: “...there will most likely be another Closed Session on the September 19th Council Agenda to discuss this matter further. Staff will attempt to have Mr. Weatherford on a conference call with Council during Closed Session at that meeting so he can directly discuss the matter with them...” On September 19th, 2001, this item was not agendized properly in violation of the Brown Act.

Closed Session Brown Act Violation? Rosalind Peterson quote during September 5, 2001, meeting: “The attorney’s advice as to a proposed action not yet taken is not appropriate for a Closed Session because the public is entitled to know what this advice is in order to evaluate the performance of the body. The mere possibility that a body’s action might be challenged in court does not suffice as a defined threat that would justify discussion of the proposed action in Closed Session, since that rationale would justify a litigation session on any matter...”

95)September 5, 2001, City of Ukiah, City Council Meeting, Agenda Item 9.g. (under New Business), “Adoption of Resolution Requesting Mendocino County Russian River Flood Control & Water Conservation Improvement District (“District”) to Suspend Action on Interim Water Supply Agreements and to Institute participatory Process and Motion Authorizing City’s Water Rights Attorney to Communicate Concerns to District.”

The end result of the Closed Session Meeting was the Adoption of Resolution 2002-09. Please note that this resolution was why the Council went into Closed Session. The only lawsuit in effect at this time was the one the HPUD had brought against the RRFCD. It appears that this meeting may have had absolutely nothing to do with a lawsuit but a discussion of Resolution 2002-09, in violation of the Brown Act.

96)September 5, 2001, Ukiah City Council Agenda Summary Report: The recommended action on Resolution 2002-09 was to “...adopt resolution and authorize City’s water right attorney to communicate concerns to the District RRFCD and Mayor Ashiku to communicate concerns to other water agencies and interests...” Page 2 of the Summary goes on to say: “...The City’s water rights Attorney, Gary Weatherford, has a number of concerns about the content of the RRFCD’s application and Interim Agreement and their potential affect on the City’s water rights...He has recommended that the City

request the District **RRFCD** to suspend the current process...The attached resolution makes that request. City Staff recommends that the City Council adopt the attached resolution and also authorize the following: (1) the City water rights attorney to communicate the City's concern to the **RRFCD** District's attorney **and attorneys representing other water interests affected by the District's current course of action;** and (2) the Mayor to write a letter to other water interests requesting that they make a similar request to the **RRFCD** District.

This action by the City of Ukiah, on September 5, 2001, appears to have triggered the formal formation of the "Coordinating Committee" and its subsequent actions. The chronology of events from this point forward also denotes some of the actions this committee engages in...some of which may violate various laws including the Brown Act.

In addition, item 12b, does not give any other information on the subject matter in violation of the Brown Act. Please note that Attorney Rapport, as attorney for most of the other water districts, was already in the discussion process with those entities at this time. It should also be noted that it is believed this discussion, which went into closed session, was not a discussion regarding a lawsuit or any potential litigation.

97)September 6, 2001, Letter to RVCWD from Rosalind Peterson, regarding Attorney Rapport's conflict of interest problems.

98)September 6, 2001, RVCWD Minutes: "...Chairman Butow said Paul Minasian had prepared a waiver that stated that David Rapport does not have a conflict of interest as Attorney for the City of Ukiah in also representing Redwood Valley County Water District in its efforts to acquire a way to supply contract with the Flood Control District...Director Ross said Attorney Rapport definitely has a conflict...Attorney Rapport...his potential conflict is only with regard to his being asked to respond by the City of Ukiah water rights attorney to a July 23, 2001, letter form the Flood Control District for a propped interim agreement for water supply. Attorney Rapport's response to the Flood Control District was to get them to slow down the process beyond the September 30 deadline which in no way jeopardizes the position of Redwood Valley CWD to attempt to get a water supply agreement from the Flood Control District...Before Attorney Rapport responded, he apparently talked to all water agencies in the Ukiah Valley to see if anyone had any problem with him responding and he also talked to Attorney Minasian...If the Board does find a conflict of interest, he will stop his work for the City of Ukiah...Attorney Rapport said he only called and confirmed with the managers that there was no perceived conflict. He will be going to their Boards to get similar waivers..."

Note: This waiver was requested due to my letter written to the City of Ukiah on September 5, 2001, regarding Attorney Rapport's conflicts of interest.

“...Director Parker [RVCWD meeting minutes - Page #13], said he wants to draft a serious letter to the Flood Control District saying the Flood Control District has scuttled the surplus water contract with the Sonoma County Water Agency as well as the RVCWD annexation and asking what they intend to do next month to solve the District’s water supply problem...Director Ross said that the Flood Control District wants to offer a 3-5 year contract which requires the District to give up the judgment which obligates the Flood Control District to find the District Water. The District cannot give up that judgment...”

99) September 7, 2001, Letter to Marc Del Piero (RRFCD) from Attorney Weatherford: “...This law firm represents the City of Ukiah (“City”) in water rights matters...The City recognizes the District’s responsibility for protecting and managing the 8,000 acre-foot per annum water right...For the reason summarized in this letter, the City is respectfully urging the District to (1) suspend the September 30, 2001, deadline for the application submission and review process...(2) withdraw and not execute any of the form Interim Water Supply Agreement...The City council adopted a resolution to that effect at its meeting on September 5, 2001...and is encouraging other users of Russian River water within Mendocino County to take a similar stance...”

(Note: This document was supplied to the public, under the California Public Records Act, by the Redwood Valley County Water District.) This document gives the following distribution list by fax: Ukiah City Council, City of Ukiah Manager Candace Horsley, D. Barnes, David Rapport, Michael Heaton, David McMurchie, (RRFCD Attorney), Janet Goldsmith, Daniel P. Gallery, Paul Minasian, Nicolas F. Bonsignore, and Paula J. Whealen. (The firm of Bonsignore & Wagner, and Attorney Paula J. Whealen, contract with or are otherwise employed by the City of Ukiah.)

100) See September 7, 2001, letter to Gary D. Weatherford, City of Ukiah Water Rights Attorney from the Mendocino County Russian River Flood Control District, Marc J. Del Piero, Esq: “...In the future, such correspondence should be sent to the district directly so that the elected Board of Directors may decide which of their attorneys they wish to engage...Inasmuch as no members of the Board of Directors or the Executive Director were included on your extensive distribution list, I must assume that they have no knowledge of your letter and have not had the opportunity to read or consider it. I am sure the Board will respond to the City of Ukiah after they have had time to consider your correspondence and act upon your request...”

“...It is probably prudent for me to point out that two weeks ago the Board of Directors decided not to consider postponing the September 30th deadline...All of the Board members present refused to change the date which will conclude the two year process that they have pursued to protect and preserve the water right and supply of the District, its landowners, businesses, and citizens. The Board has publicly stated the genesis of this position for many months. **The Board’s express intent has always been to reject any request for favoritism or preference and to treat every water user and landowner in the district fairly and impartially...Water is a commodity required and necessary for**

the most impoverished senior citizen and the largest, most politically influential enterprise. The Board believes that every water user regardless of their station in the District is a “stakeholder” whose rights to water must be represented, preserved, and protect from political manipulation. This is why the process has been and remains purely voluntary and totally public. No party has to sign an agreement unless they want the benefit of the District’s water rights and water resources...Prudent farmers and their legal representatives, landowners, businesses, and current or potential water users that rely (now or in the future) on District water supplies may wish to submit executed applications to the District by the deadline to insure that their access to District water supplies is not lost...”

101) September 7, 2001, RVCWD Mail Log Notes: Attorney Minasian sends RVCWD a copy of a letter to RRFCD from Gary Weatherford (City of Ukiah) regarding water supply contract deadline.

This letter and/or its content have never been brought up at any public meeting of the RVCWD.

102) September 10, 2001, RVCWD Mail Log Note: Attorney Minasian sends copy of letter to RVCWD. Letter is to attorneys for various agencies regarding the RRFCD surplus water contact program.

This letter and/or it content have never been brought up before the RVCWD Board at any public meeting.

103) September 10, 2001, Willow County Water District Agenda & Minutes: “...Attorney **Rapport is requesting the District provide written consent for him to provide assistance to the City of Ukiah’s water rights attorney...**The Board authorized President Larramendy to sign the consent letter from Mr. Rapport authorizing him to work with the City of Ukiah’s water rights attorney on the Interim Water Agreement...”

“...Evert Jacobson of the Hopland Utility District stated the Ukiah City Counsel passed a resolution requesting the Russian River Flood Control district to suspend action on the interim water supply agreement...He distributed copies of the Resolution to the Board members and asked that the District write to the City of Ukiah supporting this Resolution. Director Kummert stated the Board would review the resolution with the District’s attorney before taking any action...**Manager Redding reported that the District’s attorney, along with the Attorney from the City of Ukiah, Millview and Hopland will hold a teleconference meeting on September 13, 2001, regarding the Flood Control’s Interim Agreement and Ordinance..The Board will have a Special Meeting on September 19, 2001...at the District Office and will have a Closed Session with Attorney Gallery to discuss possible litigation and possible support for the City of Ukiah’s Resolution as outlined by Mr. Jacobson...**”

104) September 11, 2001, Hopland Public Utility District Minutes: "...Resolution 2002-09, from the City of Ukiah: See Attached Resolution 2002-09. After some discussion, a motion was made by Director Biaggi to adopt Resolution 2002-09 under Hopland Public Utility District Resolution 2001-4..." Passed unanimously.

105) On September 12, 2001, RVCWD Chairman Don Butow signed a Waiver of Potential conflict for David Rapport. "The Board of Directors of the Redwood Valley County Water District has considered the potential of conflict of interest or the appearance of conflict of interest in David Rapport providing attorney services to the City of Ukiah in regard to responding to the Russian River Improvement District letter dated July 23, 2001, requiring applications for interim water supply agreements by September 30, 2001. The Board does hereby waive any potential conflict of interest or the appearance of conflict of interest with right to revoke such waiver and agrees that David Rapport can serve as attorney for the City of Ukiah and work with Special Water Counsel for the City of Ukiah in regard to the above-referenced July 23, 2001, letter."

Special Water Counsel – City of Ukiah = Gary Weatherford?

106) September 12, 2001, Millview County Water District Minutes: "...7. Correspondence. Letter from Russian River Flood Control District. Notice of Interim Water Supply Agreement...**Attorney Neary informed the Board that a conference was scheduled for the following day with other representatives of districts to determine what measures may be taken if time extensions are not granted...**" In this same meeting the Millview County Water District Adopted the City of Ukiah Resolution 2002-15, "...Requesting Russian River Flood Control and Water Conservation District to suspend Action on interim Water supply Agreements and grant time extension..." by just changing the name at the top of the resolution from the City of Ukiah to the Millview County Water District.

107) September 12, 2001, Calpella County Water District Agenda & Minutes: "...David Rapport works for the Calpella District as an attorney, and is also the attorney for the City of Ukiah. He has been asked by the City to work with the City of Ukiah's water rights attorney as a go between for the City Council and the water rights attorney. There has been a complaint that he has a conflict of interest in this matter because he would be working with more than one entity on the same matter. **He is asking the District to sign a consent letter allowing him to represent the City of Ukiah in responding to the July 23, 2001, letter from the Flood Control District...**" Calpella board approved unanimously. In addition the Board approved passing a resolution similar to the City of Ukiah Resolution dated September 5, 2001. "...Hopland passed an identical resolution and Willow's attorney is writing up a Resolution for the District to adopt..."

108) September 17, 2001, RVCWD Mail Log Note: Attorney Minasian sent the RVCWD a letter advising them in a change in hourly rate for legal services.

This notification was never brought before the Board of Directors of the RVCWD at any public meeting. When did this increase go into effect? Does Attorney Minasian have a contract as apparently required under Section 30578 of the California Water Code? Who approved of this increase and authorized this increase since it was not approved by the Board of Directors in any public meeting? What is Attorney Minasian's current rate? Brown Act Violation?

109) September 17, 2001, RVCWD Mail Log Note: Attorney Minasian sent the RVCWD a copy of the agenda for attorneys – engineer's conference call on September 13, 2001.

This agenda and the reason for the conference call has never been brought up at any public meeting of the RVCWD. Brown Act violation? What decisions were made by Attorney Minasian and what was discussed? Where did Attorney Minasian get approval for this conference call?

110) September 18, 2001, RVCWD Mail Log Note: Attorney Minasian sent Manager Tiemann and the Board of Directors an update on the RRFCDC water supply contract program and he also sent a copy of Attorney Goldsmith's comments on attorney's conference calls regarding RRFCDC contract program.

This update and Goldsmith's letter on said conference call have never been brought before the RVCWD Board of Directors in any public meeting.

111) September 19, 2001, City of Ukiah, City Council Agenda: There are two Closed Session Meetings regarding Anticipated Litigation. Neither of the statements regarding these closed session identify the subject matter or type of litigation involved in violation of the Brown Act. The public is therefore unable to determine exactly what the subject matter of either closed session meeting. "1. **CLOSED SESSION** a. Conference with Legal Counsel-Anticipated Litigation. Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 (1 case)..." This item was a timed Agenda Item: 5:00-6:30 P.M. The second closed session meetings reads as follows: "...b. Conference with Legal Counsel – Anticipated Litigation...Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9 (1 Case)..."

No other information is given on the September 19, 2001, Agenda with regard to subject for these two different closed session items in violation of the Brown Act. However, Attorney Rapport, in the September 5, 2001, City Council Meeting, explained that "...the water rights attorney could not attend this meeting and there will most likely be another Closed Session on the September 19th Council Agenda to discuss this matter further. Staff will attempt to have Mr. Weatherford on a conference call with Council during Closed Session at that meeting so he can directly discuss the matter with them..." No other reference is given in the September 19, 2001, meeting minutes – Violation of the Brown Act for notice, etc.

September 19, 2001, In the Minutes of the Ukiah City Council Meeting is an item listed under New Business: "...10e. **Approval of Conflict Waiver Under rules of Professional Responsibility.** **City Attorney David Rapport** advised that he sent a letter to all five of his clients and has received signed consent from everyone except the City of Ukiah. He explained that he has been requested to assist Gary Weatherford, the City's water rights attorney, in responding to the RRFCD ("District") letter of July 23, 2001, which was discussed at the City Council's September 5, 2001, meeting...City Attorney Rapport explained that this is asking all the clients whether he can represent the City, specifically in assisting Mr. Weatherford in responding to the Flood Control District's letter...Council member Baldwin noted that it seems as though Redwood Valley does pose a potential threat considering their needs and their demands for project water, and that it is in conflict with the City's potential needs. He felt that would create the greatest conflict...Mayor Ashiku stated that Gary Weatherford is defining our whole strategy in this water crisis. Mr. Rapport will coordinate at a local level but thus far has not provided any advice..."

"...City Attorney Rapport stated that he is not the author of the City's response to the letter, but merely trying to work with Mr. Weatherford to help him implement his recommendations and participate in discussions. Mr. Weatherford will be providing the analysis..." The Ukiah City Council then voted to approve the Conflict Waiver.

112) September 21, 2001, Letter from Paul Minasian to Daniel Gallery, Janet Goldsmith, Michael Heaton, Christopher J. Neary, David Rapport, Gary Weatherford, Paula Whealen RE: Mendocino County RRFCD Water Supply Contract Program + Index of Exhibits.

113) September 21-September 24, 2001, RVCWD Mail Log Notes: Attorney Minasian sends copy of letter from Chris Neary to other water rights attorneys about holders of water rights, a copy of letter to water rights attorney about RRFCD Water Supply contract program, and a draft letter and application form suggested for water supply contract program to RRFCD.

These two letters and the draft were never referenced or brought up in any public meeting of the RVCWD. However, Attorney Minasian was working with the secret "Coordinating Committee" by this time.

114) September 25, 2001, E-Mail from Paula Whealen to David Rapport, Darryl Barnes Director Public Utilities District City of Ukiah, Michael Heaton, Janet Goldsmith, Gary Weatherford, Paul Minasian, Christopher Neary, Daniel F. Gallery, Nicholas Bonsignore, and Skip Spaulding - RE: Russian River Flood Control District's Water Agreement and who was nominated to sit on the RRFCD committee that will review applications.

115) September 25, 2001, Letter from Wagner & Bonsignore to Mike Heaton, Janet Goldsmith, Dan Gallery, Paul Minasian, Skip Spaulding and Chris Neary, from Paula Whealen – Subject: Mendocino County RRFCD. Memo from Marc Del Piero to RRFCD

Board of Trustees – Applications for Inter Water Supply Agreement, Criteria to be considered by the Committee.

116) September 25, 2001, E-Mail from Paula Whealen to David Rapport, Darryl Barnes, City of Ukiah, Michael Heaton, Janet Goldsmith, Gary Weatherford, Paul Minasian, Christopher Neary, Daniel F. Gallery, Nicholas Bonsignore, and Skip Spaulding - RE: Russian River Flood Control District's Water Agreement and who was nominated to sit on the RRFCD committee that will review applications.

117) September 26, 2001, Calpella County Water District's Continuation Meeting Minutes: The Calpella County Water District Board approved "...the interim contract with the Russian River Flood Control District and, after listening to staff recommendations, will request 200 acre feet..." **They have signed the application but not, to date, the Interim Water Agreement with the Russian River Flood Control District.**

118) September 27, 2001 – Letter from the Redwood Valley County Water District (Minasian?) to the Russian River Flood Control District RE: Application and Interim Water Supply Agreement.

This letter is not on the RVCWD "normal letterhead" and is apparently signed by Attorney Paul Minasian. This action was never approved in any RVCWD public Board Meeting. – Violation of the Brown Act and conflict of interest regarding Chairman Don Butow?

This letter reads in part, "...Enclosed you will find an Application for Delivery of Water Pursuant to Interim Water Supply Agreement, filed on behalf of the named landowners and water users described on Exhibit "A" to this letter who are landowners and water users within the boundaries of the Redwood Valley County Water District and persons or entities whose land is also located within the boundaries of the Russian River Improvement District...These landowners and water users receive water service through the Redwood valley County Water District system..."

Please note that the contents of the September 27, 2001, letter, the application, and the discussion included in this letter was never on any Agenda of the Redwood Valley County Water District, the action and the content of this letter were never discussed in any public meeting and the RVCWD Board never voted to take this actions in any public meeting.

In addition, it is alleged, and can be shown through the meeting minutes and the recorded tape of minutes from the October 2001, RVCWD Board meeting, that Chairman Don Butow, did authorize Manager Keith Tiemann to research these records, write letters to the landowners in Redwood Valley, and did use the services of RVCWD Attorney Paul Minasian to provide legal advice and prepare this letter.

Since Chairman Don Butow's family owns land in Redwood Valley and said property is inside the boundaries of the Russian River Flood Control District, it appears that Chairman

Butow was apparently using the RVCWD Attorney Paul Minasian, Manager Keith Tiemann's time, to not only benefit a few of the landowners of Redwood Valley but his own personal interests as well.

Since it appears that Chairman Butow did not privately retain Attorney Minasian to provide said services, Attorney Minasian's time was then apparently billed to the Redwood Valley County Water District to be paid for by the RVCWD customers.

This appears to be an enormous conflict of interest on the part of Chairman Butow and a violation of the people's trust where public funds are used to advance certain respective landowners in Redwood Valley. (Please note that all of the landowners were entitled to make applications on their own to the RRFCD.

It appears that the RVCWD sent in the application for said landowners prior to contacting said owners about this action and it appears that the RVCWD has no written authority or permission to represent any of these private landowners regarding said application.) It appears, that the RVCWD has violated the Brown Act and various conflict of interest laws in taking these actions.

119) **September 28, 2001**, Minutes of the Millview County Water District: "...4. Interim Water Supply Agreement Application: Attorney Neary reviewed the Russian River Flood Control Districts Water Supply Agreement with the Board of Directors, and the completed application. **Mr. Neary also informed the Board that the legal counsel for local water Districts had met "Coordinating Committee" to discuss the content of the water supply contracts and concerns of their clients...**All districts are submitting letters preserving their water rights..." The Board voted to submit the interim water agreement to the RRFCD.

120) **October 1, 2001**, RVCWD Log Note: Attorney Minasian sent RVCWD copy application and interim water supply agreement.

121) **RVCWD Meeting Minutes for October 4, 2001**, (Page #3-4): "...Director Dwight asked if Attorney Minasian is filing an application for water with the Flood Control District on behalf of the District [RVCWD] with regard to the deadline recent past. **Attorney Rapport confirmed that it was filed in a timely manner on behalf of the Redwood Valley County Water customers [25] that are also within the boundary of the Flood Control District...**"

This answer was not what Directed Dwight asked – note that Director Dwight asked about filing an application for water on behalf of all the District water users. It also confirms that Attorney Rapport had knowledge of this letter.

122) **October 5, 2001**, Gary Weatherford writes in E-Mail to Gallery, Goldsmith, Heaton, Rapport, Spaulding, Whealen, Minasian, Darryl Barnes, Candace Horsley the

following: “...I’ve been authorized by my client to sign the letter M. Heaton’s rewrite with one change I’ve made...and also to take the lead in coordinating signatures and mailing. Let me suggest that each of you send me a counterpart signature on a separate unfolded page using the format below by noon on Wednesday, Oct 10, and then I’ll send it FedEx overnight to Ukiah for hand or P.O. Box delivery to Barbara Spazek. I’ll attach a separate mailing list to the letter with our respective addresses, telephone and fax numbers. If you have suggested changes in the text of the letter please circulate them by email pronto so everyone can signoff on the final version that will be sent. I think we and our clients all should plan to be present at the Oct. 22 (7p.m.) meeting and that we should coordinate presentations...”

123) October 8, 2001, letter to the RVCWD from Russian River Flood Control District requesting payment for water received in the last fiscal year please note that RVCWD has refused to pay this bill. The letter also states, “...You will note there are additional charges for water pumped during the time when your permit is in force. **This is due to the fact there were conditions during your diversion season when your District was not supposed to be pumping water under their permit...**”

124) October 8, 2001, Letter from Paul Minasian to Gary Weatherford regarding a Joint Letter to the RRFCD per E-Mail request on **October 5, 2001**, Subject: “Joint attorneys letter to Improvement District”. (Copy provided in Exhibits of E-Mail and Letter dated October 10, 2001.)

125) October 8, 2001, Willow County Water District Agenda & Minutes: “...**Manager Redding asked that the Board add an item to the agenda that was received after the agenda was posted. Attorney Gallery is asking the board to authorize him to sign the letter to the Flood Control District that is being signed by several attorneys from other water supplier in the valley...**” **This motion was passed unanimously...** and **Attorney Gallery was authorized to sign the letter to the RRFCD on behalf of the District.** (See October 10, 2001 Letter to RRFCD.)

126) RVCWD Meeting Minutes for October 9, 2001: “...Chairman Butow related how he had a conversation with Randy Poole recently and Mr. Poole had suggested a meeting with all water agencies to try to resolve the water supply issues in Mendocino County. Chairman Butow had been urged to write a letter to Mr. Poole formally requesting such a meeting...” Chairman Butow drafted a letter that was sent to the Sonoma County Water Agency.

“...Director Parker said he was curious about the correspondence from Redwood Valley County Water District to the Sonoma County Water Agency and whether all correspondence, of which he has copies has been sent, as he has unsigned letter from Paul Minasian to Sonoma County Water Agency...”

Were these letter(s) were mailed to SCWA without RVCWD Board approval? Yes - No record in the minutes of these letters being approved by the RVCWD Board in any public Board Meeting. Violation of the Brown Act?

“...Chairman Butow said he talked to Mr. Minasian and that the letter had been sent...Director Parker said he doesn’t think the Board has a tight enough relationship with Paul Minasian if draft letters like that are going out without his concurrence...Director Parker said he wants to build a file of correspondence on Paul Minasian...”

Notice that he doesn’t say approval of the entire Board of Directors. Was the Brown Act violated when these letters were sent out without public Board discussion or approval in any public meeting?

“...Chairman Butow said he had the following sub-topics on the subject of getting water from Sonoma County Water Agency:

- a. Purchase a permanent storage contract from Sonoma County Water Agency for 2000 A-F.
- b. Rent or lease storage if it cannot be purchased.
- c. Negotiate with Corps of Engineers to let the summer level of the lake go up...”

“...He **Butow** said spending \$1.5 million to purchase storage is a better bargain than building a storage reservoir of whatever size can be built for that money...Chairman Butow said the effort to get additional storage in Lake Mendocino is only a stop-gap measure and the District still needs to develop its own storage facility...”

“...Chairman Butow said that the make-up of the Flood Control District Board may change after the upcoming elections and the Flood Control District may suddenly be more amenable to other ideas...Chairman Butow ...explained again the efforts to purchase water storage from Sonoma County Water Agency which will be a short-term solution for the near future...”

“...Manager Tiemann commented that with regard to short term solution, there is the perception that if there is not enough water next year, the Flood Control district will announce there isn’t any surplus water to sell to the District and the District must shut off its pumps. This is not going to happen. The Flood Control District may send a letter saying there is no more surplus water available. Then, after arbitration, they will have to prove to the State Water Resources Control Board that there is not surplus water available. Paul Minasian is convinced that they are unable to do that...Only the irrigation water delivery would be terminated...There is no short term crisis...”

“Chairman Butow...said further that irrigation revenue is a big part of total revenues and shutting down the irrigation system would be a big jolt to the District...”

127) **October 9, 2001**, RVCWD Mail Log Note: Attorney Minasian sent RVCWD copy of memo circulated to water rights attorney's about RRFC D meeting.

This memo was never discussed in any public meeting of the RVCWD. However, Attorney Minasian's legal fees for his efforts are being charged to the RVCWD and paid.

129) **October 17, 2001**, City of Ukiah, City Council Agenda, "12. CLOSED SESSION b. Conference with Legal Counsel – Anticipated Litigation Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 (1 Case)..."

There was no action taken but there also was no description of the item in the minutes so that the public could determine the nature of the closed session. Meeting adjourned to Closed Session at 12:05 P.M. and Reconvened at 1:30 A.M. Brown Act Violation?

130) **October 22, 2001**, Letter from Attorney Gary Weatherford regarding: "...STATEMENT ON BEHALF OF THE CITY OF UKIAH..." (See E-Mail Notes in Binder B.)

131) **October 22, 2001**, Letter from Attorney Heaton to Minasian and other clients on Items for Discussion at October 22, Meeting. Introductions/Representations of Attorneys/Clients. General Statement.

132) **October 28, 2001**, Gary Weatherford Statement on BEHALF OF CITY OF UKIAH faxed by Attorney Minasian to the RVCWD.

133) **October 29, 2001**, Letter from Attorney Heaton to Dave Redding, Willow County Water District, (Michael Heaton, sat in for Dan Gallery at 10/22/2001, Flood Control Meeting) + Written and edited version of statement made by Mike Heaton, to RRFC D Board of Trustees, on October 22, 2001.

134) Alan B. Lilly, Law Firm of Bartkiewicz, Kronick & Shanahan, to Paul R. Minasian dated **October 30, 2001**. "...Randy Poole [SWCA] asked me to respond to your August 16, 2001, letter to us. **In your letter, you ask whether or not the Sonoma County Water Agency (the "Agency") is interested in entering into a water-supply contract with the Redwood Valley County Water District. As you know, there presently is a proceeding before the Federal Energy Regulatory Commission regarding the minimum instream-flow requirements of Pacific Gas and Electric Company's Potter Valley Project. The Agency also is engaged in a consultation with the National Endangered Species Act. Until these proceedings are completed, there will be uncertainties regarding the amounts of water that will be available to the agency in the future from Lake Mendocino and it would be premature to enter into extensive negotiations regarding new water-supply contracts that would depend on Lake Mendocino...**"

- 135) **November 2001 – HPUD General Manager’s (Evert Jacobson) Report:** “The Judge ruled in our favor overturning the demurrer to our complaints, but we should wait until the new board gets sworn in on Dec. 10 to go forward with our case. **We can most likely have a stipulated agreement with the new board without incurring any new legal fees...**”

Interesting to note that Jacobson feels that the new RRFCD Board might agree to a stipulated settlement. (Result of influence of “Coordinating Committee” lawyers on three new RRFCD Board Members?)

- 136) **November 1, 2001 – RVCWD Mail Log Note:** Attorney Minasian sent to RVCWD Board and Manager Tiemann an outline of decision alternatives regarding RRFCD and a copy of Letter from Sonoma County Water Agency to Minasian regarding a meeting of water agencies.

- 137) **November 1, 2001, Minutes of the Redwood Valley County Water District Board Meeting.** Rosalind Peterson read a letter into the record, a copy of which is attached to the Minutes. “...Chairman Butow accepted her letter with questions and suggestions for the Board to consider...Chairman Butow said he would respond to her letter, but not at tonight’s meeting...”

Letter references conflict of interest regarding Chairman Butow?

“...When Chairman Butow expressed interest in her (Rosalind’s) proposal to buy water from the City of Ukiah, he was advised by Attorneys Minasian and Rapport that this had already been tried within the past 2 or 3 years...”

Apparently both attorneys failed to mention that in the past apparently Millview County Water District had been turned down and so had the Willow County Water District. Why, when it was thought at this time that the City of Ukiah had a lot of surplus water that it was not using? See Rapport Conflict of Interest Letter.

November 1, 2001: The #2 Item on the Agenda: “Closed Session – Anticipated Litigation or Administrative Proceeding Government Code Section 54956.9 (b). In the opinion of counsel, sufficient information exists as to a significant exposure and potential of litigation or administrative proceedings in regard to use of water pursuant to the 1980 Stipulated Judgment and the Russian River Flood Control and Water Conservation District that an executive session should be held to provide direction to the District attorneys and District staff.”

Paul Minasian and David Rapport were both present at this Meeting.

When the Board Returned to open session: "...Director Ross/Director Parker: Instructed Manager Tiemann to open an escrow account, as directed by Water Right Attorney Minasian, of the funds billed to the District by the Mendocino County Russian River Flood Control & Water Conservation District until such time as it can be determined to whom the money is owed...Director Ross/Director Parker: Instructed Water Rights Attorney Minasian to write a public relations letter to the users of the District with regard to the actions taken at the meeting..." (Both motions passed by a vote of 4-0.)

"...Attorney Minasian said he would send over drafts of the letters, but they would not go out until after the election. **Director Parker cautioned Chairman Butow to say nothing to the press about the letters until they are prepared by Attorney Minasian and approved by the directors and sent out...**"

"...Director Howe suggested the Board should meet with any concerned lenders and let them know what is going on. Chairman Butow said that in this case, the lenders have already run the Flood Control District contract by their attorneys and are aware of the situation. Director Parker asked Chairman Butow if he was going to field such questions from the lenders and he said he would refer them to Attorney Minasian. Attorney Minasian suggested a **conference call** for any lenders who have concerns so the Directors can hear any questions and the answers they will be given..."

***** Was this meeting in violation of the Brown Act? The discussion of the outcome of the closed session meeting does not appear to involve any type of litigation. It appears the meeting was a discussion of whether to pay or not pay the RRFCD for the water pumped from Lake Mendocino in the 2000/2001 fiscal year? Why were the above-mentioned letters not discussed in open public session but behind closed doors? Why were the questions about lenders held in closed session in apparent violation of the Brown Act? Who are the lenders? (Do they have any idea that RVCWD has not asked the California State Department of Water Resources for a change of their permit in order to purchase build a reservoir? Are they aware that a CEQA document must be prepared and also National Marine Fisheries Service might have to approve of this diversion?) Since this discussion was not held in the public session portion of the meeting but behind closed doors how could these issues be raised by the public? Another violation of the Brown Act?**

Meeting then goes to item #3 on the agenda.

"...Agenda Item #5 – Director's reports and discussion of non-action topics. "...Manager Tiemann reported that he has completed the memorandum on the process to be followed if it is determined there is no more surplus water available. It has been reviewed by Attorney Minasian and one small addition was suggested. Chairman Butow suggested that the memorandum should be rewritten to go to the water users as an informational item. Manager Tiemann will agendize it for the next meeting..."

138) November 2, 2001 – RVCWD Mail Log Note: Attorney Minasian sent to RVCWD Board and Manager Tiemann outline of decision alternatives related to RRFCD.

139) November 4, 2001 – Ukiah Daily Journal Articles and Letters to the Editor (See Mayor Ashiku Letter and Attorney Rapport Letter that are both referenced in the “Coordinating Committee” E-Mails on November 7, 2001.)

140) November 5, 2001 – RVCWD Mail Log Note: Attorney Minasian sent to RVCWD Board and Manager Tiemann draft letter RRFCD regarding payment for water usage by RVCWD to RRFCD.

Note: On November 6, 2001, an election was held and three new members were elected to the RRFCD Board, replacing Lee Howard, Dan Rogina and Stephen N. Thomas. The new members were seated on December 7, 2001. (Hatch + Wood + Mon Pere)

141) November 6, 2001, RVCWD Meeting Minutes. Under public comment Chairman Butow, “...said a letter would be going out to the customers to explain the District position...Chairman Butow said that resolving the issue of the water supply applications of residents in the two districts is one more thorny issue for the Flood Control District to resolve which will make it difficult for the Flood Control District to try and terminate the water supply of Redwood Valley. He went on to say that in a water supply shortage, the irrigation customers will be the first to be cut off...”

Ava Peterson, “...asked how the Redwood Valley County Water District came to ask for water supply contracts from the Flood Control district for the people in the overlapping area between the two districts. Chairman Butow explained again that the people in the overlapping areas were asked to file water supply applications by the Flood Control District and that he answered on their behalf because the District had the water use data they needed to complete the applications.

Russian River Flood Control District

President Judy Hatch

Vice President Tom Mon Pere

Trustees:

Robert Wood

Bill Townsend

Tom Ashurst

Executive Director Barbara Spazek

Attorney David McMurchie

Attorney Mark Atlas was hired by the RRFCD to represent them on January 28, 2002.

Agenda Item #18 – Consider letter to customers regarding water supply situation.

Director Dwight/director Howe: “The letter from Attorney Minasian should be revised, edited and checked with Attorney Minasian for a final draft to be sent to all domestic and irrigation customers of the district...” Minutes: Page #9.

- 142) **November 6, 2001**, Mike Heaton, Attorney for the Willow County Water District, on Tuesday **November 6, 2001**, E-Mailed the following attorneys: Gary Weatherford and David Rapport, both City of Ukiah Attorneys, Paul Minasian, Attorney for the Redwood Valley County Water District (RVCWD), and Chris Neary, Attorney for the Hopland Public Utility District (HPUD), and the Millview County Water District (MCWD). The E-Mail contained a “...draft position paper/discussion outline...” they had discussed the previous week that they were not going to provide to the Mendocino County Russian River Flood Control District Board. However, they were going to “...use the paper to spin out shorter white papers on specific issues...” or use parts as handouts at public meetings. The Draft Paper dated November 6, 2001, and titled “Russian River Improvement District Interim Water Supply Agreement”, outlines interim water supply agreements, criteria for review, specific changes to the interim water agreement, and other issues.

When did the Willow County Water District Board authorize, in a public meeting, drafting (and attorney fees for drafting), a nine-page position paper on issues before the Russian River Flood Control District and an analysis of the elements of a proper interim water contract? There is no record of this being approved by the Willow County Water District Board. Legal fees paid by? (November 6, 2001 Draft is located in Binder B.)

- 143) **November 7, 2001** – RVCWD Mail Log Note: Attorney Minasian sent Manager Tiemann a copy of E-Mail to David Rapport confirming the November 6, 2001, election results at the RRFCD. (Manager Tiemann did not provide a copy, claimed Attorney Client Privilege, under the California Public Records Act.)

Why is the Redwood Valley County Water District, withholding, in violation of a Court Order between the Russian River Flood Control District and the Redwood Valley County Water District, funds for water that was legally pumped by RVCWD from the RRFCD’s 8,000 acre feet allotment?

In an E-Mail from Paul Minasian to David Rapport dated November 7, 2001, RVCWD Attorney Minasian states: “...Redwood Valley voted to hold the monies billed by the Improvement District and the letter should go out in a couple of days...” Minasian then stated, “...that will take pressure off all of you to enter into contracts to replace our payments...”

- 144) **November 7, 2001** - Part of an E-Mail from Paul Minasian, Attorney for the Redwood Valley County Water District, to City of Ukiah Attorney, David Rapport states, “Hopefully, we can bring all of the Board [RRFCD] along on the problems in a fashion that does not cause them to take arbitrary positions...I will suggest to the Redwood Valley

Board that they make an overture to address the new Board at their first seated meeting in regard to finding a way to continue financial support for the Improvement District...”

This E-Mail also shows E-Mails from Attorney Rapport to member of the “Coordinating Committee”, and E-Mails from Attorney Weatherford to members of the “Coordinating Committee”, all dated November 7, 2001.

When did the RVCWD Board, in a public meeting, vote to approve of this action by their Attorney, Paul Minasian? Voted this action in a closed session only. Since RVCWD has illegally withheld payment to RRFCD is the legal advice not simply extortion by another name? Letter also thanks Rapport and Mayor Ashiku for their letters to the editor printed on November 4, 2001.

145) November 9, 2001 – RVCWD Mail Log Notes: Attorney Minasian sent RVCWD Manager Tiemann the following: 1) Copy of draft position paper for attorneys attending RRFCD Meeting, 2) Copy of Letter to Sonoma County Water Agency accepting an offer for a meeting of water users, and 3) copy of final formal letter to RRFCD regarding payment for water used by RVCWD from Lake Mendocino.

146) November 11, 2001 – Actual Legal Expenses incurred by the RVCWD in approximately the last year: \$42, 295.73. (See RVCWD Financial Statement.)

147) Subsequently, on **November 13, 2001**, Attorney Minasian wrote to his RVCWD clients, RVCWD Board Chairman, Don Butow, and RVCWD Manager Keith Tiemann, regarding the following: “...Do you think that you could get this draft letter to Mr. Wood...” **Newly Elected RRFCD Board Member** “...to see whether he would be willing to revise it and sign a final copy so that it could be sent by the City of Ukiah and the other downstream purveyors to the Applicants for Interim Contracts, if the Committee moves forward to adopt a form of contract...Hopefully, Mr. Wood can express his displeasure orally at the Ad Hoc meeting tomorrow and the newspaper can pick it up. If we then mail this letter to all of the applicants, **we can stop the majority from acting**. Please tell Wood to be careful about trying to get the other newly elected persons to sign this letter. The Brown Act applies to newly elected but not seated Directors and we would not want to lose him. Mike Heaton **Attorney for the Willow County Water District** is going to contact Judy **Hatch**. If she will write her own letter it will go in the same envelope as Mr. Wood’s.”

When did the RVCWD Board meet and vote to approve this action by Attorney Minasian (+ legal expenses)? Is Attorney Minasian guilty of a violation of legal ethics by direct contact with RRFCD Board Members instead of speaking RRFCD District’s Attorney? The legal ethics of the entire “Coordinating Committee” is in question at this time. They may also be violating the Brown Act.

Part of the above proposed letter, dated **November 13, 2001**, to applicants for the Russian River Flood Control District Interim Agreement is written as follows: "I am writing to you as a newly elected member of the Board of the Russian River Improvement District. I will not take office for a new 4-year term until December 7. You are listed as an applicant for an interim water supply contract. Unfortunately I feel compelled to write to you and ask that you not execute or agree to a form of Interim Contract...I personally and I suspect my fellow Board members would be disappointed in you if you were to execute such a contract...You can elect to join us by refusing to be rushed into execution...**We hope that you will join us now rather than being forced to join at the end of the period by refusing to execute an interim contract until after the new Board has taken office.**"

This statement is self-serving for both Attorney Minasian and the RVCWD because it was apparently intended to install fear of reprisals among property owners even though they were exercising their legal rights to contract for water with the RRFCD. In a January 16, 2002, article in the Ukiah Daily Journal Attorney Chris Neary is quoted as saying: "Neary said the Hopland district also plans to amend its lawsuit against the Russian River Flood Control District to include a demand that the signed water contracts be revoked and to name contract signers as defendants..." In trying to influence newly elected Trustees of the RRFCD this "Coordinating Committee" appears to be directly coordinating efforts with regard to the positions of these new members, Hatch, Mon Pere and Wood. (Law violations?)

148) November 13, 2001, General Manager Evert Jacobson's Report: "Water Department: The Judge ruled in our favor overturning the demurrer to our complaint, but we should wait until the new board gets sworn in on Dec. 10 to go forward with our case. We can most likely have a stipulated agreement with the new board without incurring any new legal fees..."

Why would Jacobson believe that the new RRFCD Board would agree to a stipulated agreement in this lawsuit unless the "Coordinating Committee" had been trying to influence Hatch, Mon Pere and Wood in this direction and also to give direction on which attorney should be hired by them to carry out the settlement agreement for RRFCD?

149) November 14, 2001, Letter to the RRFCD from RVCWD regarding the amount of billing from the RRFCD. "...The amount of the billing will be deposited upon the thirtieth (30th) day following its renditions in an LAIF account in Redwood Valley's name denominated by Redwood Valley as the "Water Purchase Account" and held..." until such time as a resolution to these issues is reached.

150) November 14, 2001 – RVCWD Mail Log Note: Attorney Minasian sends Manager Tiemann and Don Butow draft of letter to new board member for RRFCD – Trustee Bob Wood.

This draft letter was not Agendized nor discussed in any public meeting of the RVCWD.

151) November 14, 2001, Minutes for the Millview County Water District: "...12. CLOSED SESSION: discussion of potential litigation under Gov. Code 54956.9 (c) one case. Convene 6:24 P.M. Reconvene: 6:40 P.M. The Board conferred with the agency attorney..."

This was the only write-up on this closed session meeting in violation of the Brown Act.

152) November 14, 2001, E-Mail from Attorney Minasian to "Coordinating Committee" regarding RRFC Ad Hoc Committee Meeting. This E-Mail Log shows the various members of the Coordinating Committee E-Mailing back and forth to each other.

153) November 14, 2001 – Letter from Attorney Heaton to his Mendocino County Clients, Edward & Joan Prati, Brutocao Vineyards, Rob Weinstock, East Sanel Irrigation Company, Bob Keiffer, Wendel Nicolaus, and Dave Redding, Willow County Water District, regarding the AD Hoc Committee Meeting – RRFC.

154) November 14, 2001 - An E-Mail from Attorney Mike Heaton, Attorney for the Willow County Water District, to Paula Whealen, Attorney Gary Weatherford (representing the City of Ukiah), Dave Rapport, an Attorney who represents the City of Ukiah and the Redwood Valley County Water District (Rapport has also represented or currently does represent at times three other water districts, Willow, Millview and Calpella), Attorney Janet Goldsmith, Paul Minasian, Attorney Chris Neary (HPUD), and Skip Spaulding, dated Wednesday, **November 14, 2001**, is the following quote: "...Attached is a short memo I sent to our clients giving them a list of points to make to the committee tomorrow...I will see that this is provided to Judy Hatch also..." On November 15, 2001, Paul Minasian then E-Mails Christopher Neary the following: "...I will be talking to Wood after the meeting today and will send you a draft of the letter...My guess is that he is trying to gauge where he should be on these issues...Mike Heaton authorized providing a draft copy of Mike's...briefing paper to Mr. Wood..."

Attorney Minasian apparently violated the code of judicial ethics by direct contact with a member of the RRFC, Board Trustee Wood, instead of their attorney. It looks here like Heaton is in direct contact with Judy Hatch at this time.

155) November 15, 2001 - In an E-Mail from Christopher J. Neary, Attorney for the Hopland Public Utilities District & the Millview County Water District, to RVCWD Attorney Paul Minasian on **November 15, 2001**, reads in part as follows: "...Paul: I understand that you are working on a letter to Interim Contract Applicants to be executed by Robert Wood...I think this is an excellent idea..."

156)

The above-mentioned letter raises several grave legal questions. Why is RVCWD Attorney Minasian writing letters for the newly elected members of the Russian River Flood Control District to sign and be distributed at City of Ukiah expense? When was this letter approved, in a public meeting, by either the Redwood Valley County Water District Board or the Ukiah City Council? Who authorized the funds to be paid for mailing this letter at City of Ukiah expense? On what date did the Ukiah City Council or the RVCWD Board vote to approve this letter and subsequent actions by this “Coordinating Committee”? And why are these two public entities trying to influence and compose letters for the newly elected Russian River Flood Control District Board Members?

This appears to be a clear case of extortion resulting from the conspiracy of Attorney Rapport and Attorney Minasian, and other members of the “Coordinating Committee”, to undermine the legal actions of the RRFCD Board of Directors. Why should the members of the Russian River Flood Control District have to pay for RRFCD water used by the RVCWD? Why would City of Ukiah Attorney David Rapport be in support of such an action since RVCWD is not a member of the RRFCD? Is his “conflict of interest” due to the fact that he represents both the City of Ukiah and the RVCWD + other Mendocino County Water Districts? Why and when did the Ukiah City Council, (the City of Ukiah is within the boundaries of the Russian River Flood Control District), approve of this action in a public meeting? (Are the above actions by the secret “Coordinating Committee” a possible conspiracy by interested and affected public agencies to undermine the water entitlements of farmers and landowners within the Russian River Flood Control District Boundaries?

How many Brown Act and other government code violations have taken place due to the secret actions of the “Coordinating Committee acting to circumvent the Brown Act? Have the actions of this “Coordinating Committee” of attorneys for these various public agencies, deprived or will in the future deprive landowners of their most valuable resource, water?) (Both a crime and a tort?)

157) November 15, 2001 – RVCWD Mail Log Note: Attorney Minasian sent RVCWD strategy suggestions for RRFCD AD HOC committee meeting.

158) November 15, 2001 – E-Mail from Attorney Minasian regarding RRFCD Ad Hoc Committee Meeting. There are several E-Mails back and forth on this item between various members of the “Coordinating Committee”. **In one of the E-Mails from Attorney Heaton to the “Coordinating Committee” he states: “...Attached is a short memo I sent to our clients giving them a list of points to make to the committee tomorrow...I will see that this is provided to Judy Hatch also...”**

Does Attorney Heaton have a conflict of interest in this subject matter due to his being the Willow County Water District Attorney? Was RRFCD newly elected member Hatch ever privately represented by Attorney Heaton within the last two years, outside of his position with the Willow County Water District, where Judy Hatch was Chairman?

159) November 15, 2001 – In an E-Mails from Attorney Minasian to Christopher Neary, Minasian writes: “...Chris That is an excellent idea. I will be talking to Wood after the meeting today and will send you a draft of the letter with the reference to the lawsuit if he seems receptive to the whole idea. My guess is that he is trying to gauge where he should be on these issues by the events in the meeting today although Don Butow got the impression that he was quite disturbed. Mike Heaton authorized providing a draft copy of Mike’s...briefing paper to Mr. Wood who specifically requested a briefing on the issues...I would think that Wood will want you and Janet Goldsmith to explain the Hopland issues in addition to the general water right issues. The most efficient way to do this is to get all of the Board together (both old and new) so that the old members can change direction diplomatically by having presentations at formal board meetings. If you like that idea, we can either have Don Butow suggest it or you can suggest it...”

The E-Mails shows the involvement of RVCWD Chairman Don Butow and RVCWD Attorney Minasian involved with newly elected RVCWD Trustee Wood and Attorney Neary who has a lawsuit against the RRFCD. The actions were never approved by the RVCWD in any public meeting of the RVCWD. Chairman Butow has mentioned speaking to Bob Wood but the content of those discussions was never brought up. The RVCWD must be paying Minasian’s legal fees for this work. (Brown Act Violations – Conflict of Interest Violations – Legal Code of Ethics Violations – Use of Public Funds to influence?)

160) November 15, 2001 - In an E-Mail from Attorney Neary to Attorney Minasian, Neary writes: “I understand that you are working on a letter to Interim Contract Applicants to be executed by Robert Wood to blunt the potential impact of innocent third parties holding contracts executed by the departing majority board. I think this is an excellent idea. I suggest that you include a reference to the lawsuit filed by Hopland (Hopland PUD vs. RRFCD, Mendocino County Superior Court case #SUCK-CVG-01-85059) which is pending...The lawsuit...attacks the validity of the Ordinance authorizing the Interim Contract...I think I already sent you a copy of the lawsuit...” (This E-Mail was three pages long and is missing pages two and three.)

Attorney Minasian appears to be involved in writing and having approved a letter to be executed by newly elected RRFCD Trustee Robert Wood.

Attorney Neary, who is suing the RRFCD for HPUD, has a definite conflict of interest and may be violating the Legal Code of Ethics. These actions were apparently not approved by the HPUD Board in any public meeting. Note: On January 16, 2002, Ukiah Daily Journal Newspaper article Neary once again threatens to have the RRFCD Interim Contracted Signers sued by adding their names to his lawsuit. He has also requested directly the RVCWD Board under California Public Records Act request for their names. This was not done through proper channels, through the RRFCD Attorney, but in person, directly to the RRFCD Board.

- 161) **November 20, 2001** – RVCWD Mail (2) Log Notes: 1) Attorney Minasian sends Manager Tiemann and Don Butow copy of letter to newly elected members of the RRFCD regarding interim water supply contracts, and 2) Attorney Minasian sends RVCWD copy of message to Chris Neary regarding the RRFCD AD HOC Committee Meeting.

This letter was never made public or discussed at any public meeting of the RVCWD Board. Violation of the Brown Act – doing the people’s business in secret.

- 162) On **November 20, 2001**, RVCWD Attorney Paul Minasian wrote a letter dated November 20, 2001, to the newly elected members of the RRFCD Board regarding the RRFCD Interim Water Agreements: “...As newly-elected Members of the Board, you are subject to the requirements of the Brown Act. The Coordinating Committee which has been established by the interested water purveyors, landowners and water users has a mailing list of all applicants and we would be happy to send a letter from you encouraging those applicants not to participate...It is important, however, that we not place you in a position of violating the Brown Act. Therefore, we suggest one of two options. If you like the idea of a letter to the landowners, enclosed is a draft proposed letter. You could either make your individual changes in the letter and fax it back to our office and we will re-type it and fax it to you for signature, or perhaps you can arrange for it’s typing. We will then assemble the letters from those Board Members who wish to send that letter and send it out to all applicants using a mailing list of applicants. Hopefully that would be sufficient encouragement to the applicants not to participate...”

“...On the other hand, if you would like to send a common letter, in order to comply with the Brown Act, you should post an Agenda and Notice at least 24 hours prior to your proposed special meeting of the three of you, give written notice to all three of you and to the current Board members and execute a Consent by all three to what is effectively a Committee Meeting, and deliver a copy of the notice at least 24 hours ahead of time to the newspaper, radio station, and current Board Members...We think in light of the complexity of this matter that it maybe better to have each of you prepare your version of the letter and we will then send it out for you...If you have questions, do not hesitate to contact myself or any other member of the Coordinating Committee. Enclosed is a copy of their phone numbers, fax numbers and e-mail address. **You will no doubt have questions of them either now or in the future. I am sure you will be pleased with the cooperation and candid information you obtain from them...**”

It appears that the Redwood County Water District Board of Directors did not vote to approve of the forming a Coordinating Committee or the drafting or mailing of this letter at any public RVCWD Board Meeting. Did RVCWD Chairman, Don Butow, authorize RVCWD Attorney Paul Minasian to join in the formation or membership of this “Coordinating Committee” and draft a letter, at public expense (paid for by RVCWD?), to influence and direct the actions of the newly elected RRFCD Board Members in violation of the Brown Act? It appears that City of Ukiah & Redwood Valley County Water District Attorney, David Rapport, is a member of the “Coordinating Committee”. When was his membership and participation in said “Coordinating Committee” authorized in a public meeting of the Ukiah City Council or by the Redwood Valley County Water District Board at a public meeting? Is the above advice to the new RRFCD Board members simply a way to circumvent the Brown Act prohibition on serial meetings? There are many law violations taking place at this time.

163) November 20, 2001 – Draft Letter to: Applicants for a Water Supply contract from the Russian River Flood Control District. This letter reads in part, “We are writing to you as newly elected members of the Board of the Russian River Improvement District. We will not take office for a new four-year term until December 7, 2001...Unfortunately, we feel compelled to write you and ask that you not execute or agree to any form of Interim Contract or Permanent Contract...We personally, and we suspect our fellow Board Members would be disappointed in you if you were to execute such a contract believing it would provide some advantage...You can elect to join us by refusing to be rushed into execution of an ill-considered agreement...or you can attempt to gain some imagined benefit and then be required to join us in our cooperative effort...We hope that you will join us now by refusing to execute a Contract until after the new Board has taken office rather than being forced to join us at a later time...Very truly yours...” Draft unsigned but the name of Robert Wood, Thomas Mon Pere and Judy Hatch appear on the letter.

164) November 23, 2001 – RVCWD Mail Log (2) Notes: 1) Attorney Minasian sends Manager Tiemann copy of comments by water rights attorneys about RRFCD, not made public under Attorney-Client Privilege, California Public Records Act Request to Manager Tiemann, Interesting to note that this communication was to Manager Tiemann only., and 2) Attorney Minasian sent RVCWD and Don Butow copy of letter to new RRFCD members about interim water contract.

This information was never approved by the RVCWD Board or brought forward for discussion in any public meeting held by the RVCWD.

165) November 23, 2001 – Resolution No. 01-03 was passed by the Russian River Flood Control District – Resolution prohibiting use of District Water outside of District’s “Designated Place of Use”.

166) November 23, 2001 – Resolution No. 01-83 passed by the Russian River Flood Control District Board – Resolution of non-availability of surplus water.

Both resolutions directly affect the Redwood Valley County Water District.

- 167) **November 23, 2001**, FAX Message/Cover Letter from Attorney Michael G. Heaton to: Edward & Joan Prati, Rob Weinstock (Brutocao Vineyards), Wendel Nicolaus (Middle Ridge), Bob Keiffer (East Sanel) and Dave Redding (Willow County Water District), on the Subject of Russian River Improvement District Meeting on November 23, 2001. Attorney Heaton writes, "...After discussing this matter late Wednesday afternoon with Wendel Nicolaus, we concluded that it would be a good idea for me to make an appearance in front of the RRFCD Board of Trustees at their meeting this afternoon...**I realize I do not have clear authority from all of you to make this appearance, so if any of you have concerns about your share of the costs, let me know and I can make some adjustment on this month's bills. I will be in touch on Monday to let you know if I was able to accomplish anything...**"

This November 23, 2001, Fax Message from Heaton to his "clients", including the Willow County Water District, shows that they are being asked to pay for his services to influence the RRFCD Board.

- 168) **November 23, 2001, Statement of Michael Heaton to Board of Trustees of RRFCD at their Special Meeting on November 23, 2001.**
- 169) **November 24, 2001**, Letter to the Russian River Flood Control District with regard to the Redwood Valley County Water District from Ava Peterson.
- 170) **November 24, 2001**, Letter to the RVCWD regarding their surplus water problems, Butow's conflict of Interest and other issues facing RVCWD from Rosalind Peterson.
- 171) In an E-Mail from Mike Heaton, Willow County Water District Attorney, to Gary Weatherford Attorney for the City of Ukiah, Paul Minasian, and David Rapport, dated **November 24, 2001**, regarding, among other issues, that he felt that the RRFCD was broke and would need to pay for technical and legal work to get the RRFCD back on the "...right track. Would the local agencies be willing to enter into some kind of MOU to "pay" for some quantity of water without really knowing for sure whether it was being used? Could local agencies pay "voluntary assessments"?..."

Why not have the RVCWD pay for the water they pumped during the 2000-2001 fiscal year? They are illegally withholding \$39,185.32 from the Russian River Flood Control Improvement District and also additionally owe for water pumped for the first half of the 2001-2002 fiscal year. This might eliminate any financial problem that the Russian River Flood Control District may have at this time and it would preclude those RRFCD members from having to make "voluntary" assessments. (Why is Attorney Rapport advising the RVCWD not to pay for their water?) This action appears to be a case of conspiracy and extortion.

- 172) **November 26, 2001** – RVCWD Mail Log (2) Notes: Attorney Minasian sends Manager Tiemann a copy of letter from Gary Weatherford to the RRFCD listing objections to Interim Contracts. This document was not produced by Manager Tiemann under a

California Public Records Act request asserting Attorney-Client Privilege – it is interesting to note that this information is just to Manager Tiemann, and 2) Attorney Minasian sends Manager Tiemann copy Heaton's recap of RRFCD spreadsheet from RRFCD meeting of November 23, 2001.

- 173)** On Monday, **November 26, 2001**, Mike Heaton sent the following note to the members of the "Coordinating Committee": "...the Hopland lawsuit, (Hopland PUD vs. Russian River FC&ID, Mendocino County Superior Court Case 3SUCK-CVG-01-85059), challenges not only the procedure for the ordinance but also the authority of the Improvement District to act by Ordinance and to exercise undelegated general governmental powers. If the New Board were to enter into a stipulated judgment, the Ordinance and the Interim Contracts authorized by the ordinance could be determined to be void ab initio which would undermine the claims of contract holders claiming vested contractual rights. **I am thinking that Hopland might apply for leave to amend the complaint to include those contract holders who executed contracts as defendants...perhaps your clients would want to join as parties plaintiff...**"

The action of becoming a member of the "Coordinating Committee" acting to influence three members of the RRFCD Board would appear to violate the law. Attorney Heaton's advice appears to constitute conspiracy to internally interfere with the prospective economic advantage and business interests of landowners with water contracts (a tort), and to have, in violation of the law direct contact with three members of the RRFCD Board through the "Coordinating Committee". There were several E-Mail sent back and forth on November 26, 2001, all being sent to the members of the "Coordinating Committee".

- 174)** **November 27, 2001** – Letter from David McMurchie, RRFCD Attorney to RRFCD Board regarding Interim Water Supply Agreements.
- 175)** **December 2001**, Ukiah Daily Journal Newspaper Articles on RVCWD.
- 176)** On **December 3, 2001**, Paul Minasian, RVCWD Attorney, E-Mailed the following update to Paula Whealen, Skip Spaulding, Michael Heaton, Janet goldsmith, Gary Weatherford, David Rapport, and Daniel Gallery: " Paula...Don Butow of the Redwood Valley Board had the same inquiry regarding who Russian River District should hire as their general counsel. Curiously, I had talked with Mike Heaton about the possibility of his obtaining consent of his clients to the representation when I received your message...Don Butow and I agreed that the costs and delay of getting someone up to speed and Mike's ability...were a ready made solution. Don will carefully mention this to Bob Wood, explaining that Redwood Valley does not view Mike as favorable to Redwood Valley's issues but instead as experienced...so that we do not deliver a kiss of death to this worthy candidate..."

Why would Attorney Paul Minasian and Don Butow want to choose a lawyer for the RRFCD Board, especially one that does not support RVCWD's position? When did the RVCWD Board vote in a public meeting to authorize Chairman Don Butow to discuss with Bob Wood who the RRFCD lawyer should be and did the RVCWD Board authorize Paul Minasian to hold such discussions with the members of their "Coordinating Committee"? Never on an Agenda for action or discussed in any RVCWD public meeting. (Why are special interest lawyers advising the three new members of the RRFCD Board on who should legally represent them?) The December E-Mail shows there were two pages, however only one page was provided under the California Public Records Act. This one page shows that there were discussions going back and forth between the members of the "Coordinating Committee".)

- 177) **December 4, 2001** – RVCWD Mail Log (2) Notes: Attorney Minasian sends RVCWD and Butow a copy of update to water rights attorneys on RRFCD legal representation, and 2) Attorney Minasian sends RVCWD copy of memo from Chris Neary to Mike Heaton reporting on RRFCD Meeting.

Note: These items were never addressed in any RVCWD Board Meeting in public session. Once again it appears that the RVCWD Board is acting through serial meetings or independently of the public in violation of the Brown Act.

- 178) **December 5, 2001**, Letter to the State Department of Water Resources from Rosalind Peterson, filing a formal complaint against RVCWD.
- 179) On **December 7, 2001**, the newly elected Board Members of the Russian River Flood Control District were seated.

**Russian River Flood Control District
December 2001-2002**

**President Judy Hatch
Vice President Tom Mon Pere**

Trustees:

**Robert Wood
Bill Townsend
Tom Ashurst**

Executive Director Barbara Spazek

Attorney David McMurchie

Attorney Mark Atlas (Contract approved by Board on January 28, 2002)

The legal fees for all of the time, the various lawyers and engineers, making up the secret conspiratorial “Coordinating Committee”, are spending trying to influence the newly elected Russian River Flood Control District Board Members are enormous. When did the Ukiah City Council, the Redwood Valley County Water District Board, the Willow County Water District Board, the Millview County Water District Board, Calpella County Water District, and the Hopland Public Utilities Board authorize, in public meetings, the above actions and expenses for those actions? Do these various County Water Districts expect to raise our water rates in order to pay for this “influence peddling” on their behalf by their respective attorneys who apparently organized and are apparently part of this secret “Coordinating Committee”?

It also appears that these various public agencies do not trust the newly elected members of the RRFCD to carry out the wishes of the voters within the RRFCD on their own. Therefore, the Ukiah City Council, Mayor Ashiku, possibly City Manager, Candace Horsely, and the other involved County Water Districts apparently feel that they should make decisions for the three newly elected board members and have, to achieve their ultimate goals, apparently enlisted their respective lawyers and engineers, each having their own special interests, to make decisions for these new board members. The conflict of interest, possible Brown Act violations, and the ethics of these actions are reprehensible.

What is the reason for this “influence peddling”? It is believed that it was to stop the metering of the Russian River Flood Control District’s 8,000 acre-feet of water. It was believed that usage had surpassed the 8,000 acre-foot allotments and, therefore, metering would impact on the current unlimited water usage from the Russian River by all of these entities. Rationing, especially in dry, critical and drought years might occur on a regular basis and agricultural usage might be curtailed along with future development in the Ukiah Valley due to lack of water if it was officially determined that demand had exceeded the 8,000 acre-feet through metering. The City of Ukiah also wanted a larger share of the 8,000 acre-feet of water from the RRFCD.

180) December 6, 2001 – RVCWD Meeting Agenda (See Consent Calendar b. Bills paid since those approved at last meeting. In the Minutes of this meeting, “...Chairman Butow volunteered an explanation of why he filed an application for water supply with the Flood Control District on behalf of himself and other District customers in the areas where the two boundaries overlap...Chairman Butow said that resolving the issue of the water supply applications of resident in the two districts is one more thorny issue for the Flood Control district to resolve which will make it difficult for the Flood Control District to try to terminate the water supply of Redwood Valley. He went on to say that in a water supply shortage, the irrigation customers will be the first to be cut off.

In the Minutes of December 6, 2001, Rosalind Peterson, "...went on to say that with regard to her conflict of interest charge against Chairman Butow, the customers of the District who were also in the Flood Control District, could have made application on their own, but Chairman Butow enlisted the labor of Manager Tiemann and Attorney Minasian to respond on their behalf at the expense of the whole District. She stated that if the District is going to wheel water to the Flood Control District Customers, the charges for that service should be addressed. She also want to know who is going to pay the bill for increased cost of water form new, expensive projects since the District is not longer going to be able to use Flood Control District Water..." The questions addressed in this letter have not been addressed in this meeting or in a subsequent board meeting of the RRFCD. (No Board Approval.)

- 181) December 10, 2001, Minutes of the Willow County Water District: "...Director Kummert directed staff to contact the other Districts in the valley and the City of Ukiah to see if they will provide dollar amounts spent on attorney fees while attempting to work with the Flood Control District on their allocation of water..."

The public will be asked to continue to fund actions that may be in violation of the law by the "Coordinating Committee"? This lets everyone know that there is an alleged plan to provide money for Attorney Fees to keep the "Coordinating Committee" in legal funds to keep influencing the RRFCD's three new Board Trustees.

Please note that Director Judy Hatch resigned from the Willow Water District Board today. It should be noted, due to the fact that she receives irrigation water from the Willow Water District, that she still has a conflict of interest when making decisions as Chairman of the Russian River Flood Control District Board.

- 182) December 11, 2001, Hopland Public Utility District Meeting Agenda: "...New Business...Board approval for participation in an inter agency discussion on water rights in area..."
- 183) December 12, 2001, Agenda from the Millview County Water District: "...6. Russian River flood Control Districts Water Allocations. District Counsel Chris Neary will discuss the water allocations approved by the Russian River flood Control District Board..."
- 184) December 17, 2001 – RVCWD Mail Log Note: Attorney Minasian sends RVCWD copy of response to Chairman Butow from SWRCB to letter about surplus water agreement with RRFCD.
- 185) December 17, 2001 – Agenda Item #8 dated January 3, 2002, report to the RVCWD Board from Manager Tiemann on water supply issues and the Redwood Valley County Water District. Lists the problems now facing the RVCWD.

186) **December 19, 2001**, City of Ukiah Meeting Minutes – Pages 7-10: “...City Attorney Rapport explained that the City has a year around permit to pump water out of the Russian river as groundwater, and it is only Lake Mendocino water that’s being released, then it is project water and water that is subject to the Flood Control District’s permit...”

187) **January 3, 2002**, RVCWD Agenda, Item #11-12 – Discuss implementation of water service rate increase effective December 15, 2001. “...Chairman Butow asked the question again whether an additional rate increase is justified. All the directors at that point recognized that they were all irrigation system customers and each had a conflict of interest in the matter. Chairman Butow went on to say that revenue needs to be generated for the irrigation water system improvements in Agenda item #12...Manager Tiemann clarified that the money for improvements was to be generated from irrigation system connection fees and revenue from the water service charges was to cover only the operating expenses of the irrigation system...”

“...Chairman Butow answered that the irrigation system as it is presently configured does not provide adequate volume of water to irrigation customers to meet their needs and he feels that improvements should be made to the irrigation distribution system to remedy that problem. If the water is not there for the irrigation customers to buy, there is no sale of water and therefore no income. He contends that if there is a more equitable distribution of the water available from the transmission pipeline that more water will be available to the irrigation customers who need it and revenues will increase...Chairman Butow said again that the distributions pipelines need to be enlarged to deliver all the water the transmission line is able to produce and deliver it more equitably throughout the system rather than have it used by the customers closest to the reservoir because it can’t get through restricted pipelines...The Board also wanted to know if the distribution system improvements will allow any new connections to be made because of the improved system capacity...”

- On January 3, 2002, with Board Member Derek Ross absent, 4 members of the RVCWD Board voted to increase the water rates charged to Domestic Customers of the RVCWD, in violation of the Brown Act, to meet current district operating costs and increasing legal fees.
- On January 3, 2002, with each RVCWD voting member of the Board of Directors claiming a conflict of agricultural interests, each member of the Board voted not to increase the previously scheduled agricultural customer rates to meet current district operating costs due to the fact that they each individually did not want to pay those rates personally. Thus, there is no funding for new improvements to the agricultural lines and the domestic increase is not enough to cover the RVCWD agricultural operating costs and improvements to the irrigation distribution system. This leaves the domestic customers in the position of paying for the operating costs for the irrigation portion of the district’s operating expenses, another violation of the Brown Act – conflict of personal interest on the part of each RVCWD Board Member?

It appears that the Board in taking these actions violated the Fair Political Practices Conflict of Interest Laws and the Brown Act. This action will also impact on the ability of the RVCWD to repay their \$7,000,000+ Bureau of Reclamation Loan and to stay even with their irrigation operating expenses, while not addressing the cost of the proposed new irrigation pipeline improvements.

Note: On December 7, 2000, the RVCWD held "...public hearings on the proposed increases in the District water rates and connection fees...The Board is proposing these fee increases because the current rates do not produce sufficient revenue to cover the District's costs of operations...The new fees will produce sufficient revenue to provide for the District's ongoing costs of operation and a prudent reserve for, potential debt obligations, unanticipated emergencies and necessary capital improvements. The fees were calculated based on the District's actual cost of operation and a reasonable and fair apportionment of those costs between domestic and irrigation system customers...The second-stage rate schedule will be implemented in one year..."

January 4, 2001 – RVCWD Meeting Minutes: "...When they went back and did the study...In retrospect, the domestic customers had been subsidizing the ag users over the years and now when they had to bring it back to the way it should be...where ag customers have to pay the cost of ag water and domestic customers have to pay the cost of domestic water..." With the RVCWD Boards action on January 3, 2002, it looks like the domestic customers will once again be subsidizing the agricultural water users.

188) January 8, 2002 – RVCWD Mail Log Note: Attorney Minasian sends RVCWD copy of E-Mails among attorneys regarding the RRFCD Legal Counsel.

189) January 11, 2002 – RVCWD Mail Log Note: Attorney Minasian sends RVCWD copy of E-Mail to Heaton regarding new legal counsel for the RRFCD.

Note: #186 and #187 E-Mails and the information they contained (see above) were never on the Agenda or discussed in any RVCWD Board Meeting in public session.

190) January 15, 2002 – Letter from Manager Tiemann to Rosalind Peterson regarding documents that will not be produced as requested under the California Public Records Act due to Attorney-Client Privilege. Please note that these requested were logged in RVCWD's mail log and the log was provided to the public. Also note that some of these documents may be pertinent to the issues in my complaints-they are highlighted in green. (See Binder A – Exhibit #13)

191) January 16, 2002, City of Ukiah, City Council Agenda. "...3. Presentation by Paula Whealen Regarding Water Hydrology Studies and Water Issues..."

- 192) January 16, 2002**, Ukiah Daily Journal Article: "...Neary said the Hopland district also plans to amend its lawsuit against RRVCD to include a demand that the water contracts be revoked and to name RRFCD contract signers as defendants..."
- 193) January 22, 2002** – RVCWD Mail Log Note: California State Water Resources Control Board sends notice of Water Rights Complaint against RVCWD for unauthorized diversion of water.
- 194) January 24, 2002** – RVCWD Mail Log Note: Evert Jacobson sends RVCWD notice to arrange meeting of water agency managers to discuss water issues.
- 195) February 7, 2002**, RVCWD Meeting Agenda. (Note Bills Paid since those approved at the last meeting.)
- 196) February 7, 2002** – Agenda Item No. 13, RVCWD Minutes – Letter to RVCWD from Evert Jacobson, Hopland Public Utilities District: "A group of managers for the various water agencies in the area would like to meet and discuss water issues and problems, and what type of responses or plans our collective water agencies could make to address them. We would like to meet mid-February after board meetings to notify our district boards..."
- 197) February 11, 2002**, Willow County Water District Meeting Agenda: "...9. Notification of Attendance of General Manager at Meeting Regarding Local Water Issues...10. CLOSED SESSION: Initiation of Litigation per Government Code Section 54956.9c (one case)..."

Note: The Willow County Water District is Attorney of Record. However, it was Chris Neary, who went into the Closed Session Meeting, where they apparently took no action on what issue? Brown Act Violation? If their Attorney is Rapport why is Neary in Closed Session?

- 198) February 19, 2002** – Copy of Draft Letter to the Interim Water Agreement signers from the Russian River Flood Control District that was approved by the Board of Directors and mailed in February 2002.
- 199) February 19, 2002** – Mendocino County Grand Jury Letter stating they will only recommend that my complaints be given to the next Grand Jury, July 2002.
- 200) February 20, 2002** – **Millview County Water District Agenda – Special Board Meeting:** "...3. Closed Session- Discussion of potential litigation under Gov. Code 54956.9(c)."

Please Note: There is no other information listed for this closed session meeting of the Millview County Water District Board. Apparently Attorney David Rapport, was present during this closed session meeting. Report out was no action. This Board took no action on what issue? Since the Board of Directors provides no information about the subject matter or nature of this closed session meeting, how can the public monitor what this Board is doing behind closed doors? (Brown Act Violation?)

In addition, I provided the Millview County Water District with funds and stamped self-addressed enveloped in order to receive their meeting agendas in a timely manner. The policy, as shown on the postmark of the envelope in the exhibit documents, is to consistently mail the Agendas to me on the day of the meeting, which means I will receive their Agenda the day after the meeting. This is not the first time I have received their meeting Agenda the day after their meeting.

201) Letter to California State Attorney General Lockyer dated March 5, 2002.

202) February 5, 2002 – Letter from RVCWD Manager Tiemann to Rosalind Peterson stating that he is unable to provide documents requested under the California Public Records Act. Please note that these documents were logged in the RVCWD Mail Log and that the log was provided to the public. It is felt that these documents should be made public – those in question are highlighted in green and may relate to the my complaints. See Exhibit # # 13 (Binder A).

203) February 25, 2002 – Russian River Flood Control District Agenda.

204) March 7, 2002 – RVCWD Meeting Agenda – Note: No mention of the County Water District’s Manager’s Meetings in Agenda. Note: Ukiah City Manager, Candace Horsely, at the Inland Water and Power Meeting, mentioned that the Mendocino County Water Districts and the City of Ukiah had formed an “Alliance”. Please note that that there is no mention of the “Alliance” or the purpose of the “Alliance” in the RVCWD Agenda. (Also note the list of bills paid since those approved at the last meeting.)

End