

**Minutes of the Regular meeting of the Alleghany County Water District Board of Directors  
Tuesday, April 12<sup>th</sup>, 2016 Alleghany Firehouse, 105 Plaza Court Alleghany**

**SCANNED**

**Call to Order:** 6:05 pm

**Quorum Established:** Present were directors Rae Bell, O.B, Tobyn, and Robbin. Madeleine was absent and excused. Secretary Leslie Baker was present and took the minutes. ACWD Staff: Water Treatment Operator Bruce Coons, Water Distribution Assistant Eddy Snyder, and Bookkeeper Edda Snyder. Also present: David Arbogast, Ernest & Nancy Finney, Becky Wilkerson, Oregon Burns Tenney IV, Kari Tenney and Garry Maurath, hydrogeologist representing Affinity Engineering.

**Consent Calendar:**

- A. Approval of the Agenda
- B. Reading and approval of the minutes for the meeting dated March 8<sup>th</sup>, 2016
- C. Reading and approval of the minutes for the meeting dated March 22<sup>nd</sup>, 2016
- D. Approval of Treasury Report and Claims for March 2016

**Motion made to approve the Consent Calendar by Robbin, Tobyn second: Ayes: Arbogast, DeWeese, Tenney, Mehrmann. Nays: 0. Absent: Hamb Abstain: 0 Vacant: 0. Motion Passed**

**Meeting Etiquette Comment & Public Response Time:**

President Rae Bell discussed proper meeting etiquette and how the conduct of the Board should set an example to everyone. She personally apologized to those who may have felt that they had been ridiculed. She also requested that the community reciprocate with proper meeting etiquette.

**Information/Discussion Items:**

**Planning Project update:**

Garry Maurath, a hydrogeologist from Affinity Engineering, made a presentation about the local hydrogeology, and answered questions from the Board and the public. He stated that the two locations for the test wells would be at the water tank and at the Cumberland Spring.

He explained the specific geology of Alleghany and why those sites were chosen. One of his slides showed a geological map of Alleghany. He showed a slide that was a basic layout of what the well might look like. He answered a question about the extent of the potential sources of ground water. He said that it would be better to keep the well away from the town, although the well will be pretty deep so there will probably not be a big issue with potential contamination. A question was asked about how big the well pump would need to be and he stated that it would be slightly bigger than a domestic well pump. A question was fielded to Mr. Maurath about our system's water pipes and their condition. He said that in his discussions with engineers he found that the asbestos pipes have a decent chance of lasting 100 years from when they were installed in the 1970's.

**Rae's Project Update:**

3/15/16: FINALLY got our first disbursement for the planning grant. ACWD mailed the request for disbursement on January 12<sup>th</sup> and it took multiple follow-ups to verify where it was.

3/21/16: Rae got an email from Don Burke, one of the environment consultants saying he had to withdraw due to being too busy.

Rae also explained that Pete Stamas said that it would be better to wait until we had the test wells done so that we have a better idea of what we are doing before we request proposals from environmental firms.

3/21/16: Got contract for Services for Hydrogeology and Geotech from Affinity Engineering to sign. Hard copy is in the mail.

3/31/16: The last week of March a request was sent to Pete Stamas to extend all of the April 1<sup>st</sup> deadlines in the funding agreement. He extended them to June 1<sup>st</sup>.

### **Correspondence:**

#### **Incoming:**

- 4/7/16 Letter from Sierra County Clerk-recorder requesting updated Board member roster.
- 4/7/16 Notice from USDA that they are coming to do an inspection and audit on May 12<sup>th</sup>.
- 3/15/16 Bookkeeper mailed out three 5-day notices (all got paid)

#### **Outgoing:**

- 3/10/16 Mailed completed form 700s to Clerk Recorder
- 3/10/16 Mailed copy of original version of Policy #1 to Vickie Tenney

#### **Back & Forth emails:**

CSDA list serve re: new board member requirements.

Pete Stamas re: Median Household Income Survey & planning grant deadlines/requirements

Stephen Rooklidge re: water tests

Garry Maurath and Kip Laybarger re Planning grant

Nick Clair re: Prop 218 and proposed rate proposal

Emailed meeting packets on 4/7 and sent agenda revision on 4/8.

CSDA list serve about draft letter from entire board: how to distribute for input without violating the Brown act.

**Water Test Results:** Treated water was absent, while the raw sample had 3.1 ppm coliform and there was no e-coli.

#### **President's Report:**

3/17/16 James Briggs with the Dept. of water resources came to Allegheny and picked up the leak detection equipment that had been on loan since October. We talked a little and he said that 20% unaccounted for water is pretty typical, so at 25%, ACWD isn't that bad.

3/21/16 Talked to ACWD attorney Marsha Burke about Public Hearing procedures. She said that she would not bill us for it.

3/22/16 Attended a free one-hour webinar put on by the Environmental Finance Network (a national group) titled: Ask the expert: Advice for setting water rates. This was geared towards small water systems. It was very informative. They have many recorded webinars available on their website and it is a good resource.

### Water Treatment Operator Report:

Bruce wants to replace our compressors with a new brand because the old brand has diminished in quality. He said that the new compressors would cost about \$300 ea, compared to \$845 plus shipping for the old brand. These new compressors are 30% quieter and we can buy 2 for the price of 1. One of these new compressors has been online for about 2 weeks.

**Library Report:** Robbin DeWeese has changed the date and hours of operation of the Library. The new days are the 1<sup>st</sup> Saturday and the 3<sup>rd</sup> Wednesday. The hours are 1 p.m. until 3:30

**Park Report:** Rae planted some iris under the plaque on Easter Sunday. Bruce raised the new U.S flag at the park. Leslie fixed the Joe Hauck Memorial Park sign that had been damaged by the weather.

### Unfinished Business:

- A. Customer accounts/billings/disconnects: there are 2 accounts over 30 days.
- B. First reading of the revised Ordinance #33, there was some discussion however no changes were suggested.
- C. The status of the conflict of interest opinion request made to FPPC: an official request was made to FPPC on 3/25. Got notice on 3/29 that it was being forwarded to their legal dept. Rae received a follow up question re: her relationship to the mine, which she clarified. The info is now being forwarded to the Attorney General's office and the Sierra County District Attorney. Rae is also sending a copy of the Original Sixteen to One Mine Inc. 2014 Annual Report to the FPPC per a request from Kari Tenney.

### New Business:

- A. Discussion was held to decide whether or not the Board would request a new Median Household Income Survey from the Rural Communities Assistance Corporation. A motion was made to request a survey by Robbin, Tobyn second, ayes unanimous.
- B. New Directors terms: It was noted that a mistake was made on the vacancy posting. One term ends in 2016 while the other ends in 2018. After some discussion about which board vacancy would go to whom a motion was made to verify with the county clerk which vacancy was first and then to match the first application to that vacancy. Motion made by Tobyn, O.B. second. **Ayes: Arbogast, DeWeese, Tenney, Mehrmann. Nays: 0. Absent: Hamb Abstain: 0 Vacant: 0. Motion Passed.**

**Next Regular meeting:** Tuesday, May 10<sup>th</sup>, 2016 at 6:00 p.m; Board Roles and Responsibilities Training May 3<sup>rd</sup>

**Items for next regular agenda:** Finalize draft of the answer to Rebecca Wilkerson's letter to the Board.

**There being no further business before the Board, the meeting was adjourned at: 7:10 p.m.**

Minutes respectfully submitted by Leslie D. Baker III Leslie D. Baker III

# NOTICE

## OF REGULAR MEETING OF THE BOARD OF DIRECTORS OF ALLEGHANY COUNTY WATER DISTRICT

**Date: April 12, 2016 Time: 6:00 pm**

**Location: Alleghany Firehouse 105 Plaza Ct. Alleghany**

This agenda has been prepared and posted at least 72 hours prior to the regular meeting of the Board of Directors in accordance with the Ralph M. Brown Act. Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order. Details and supporting materials concerning agenda items are available for public reference by calling 530-287-3204 or email: alleghanywater@gmail.com

1. Call to Order & Establish a Quorum
2. Consent Calendar
  - a) Approval of the agenda
  - b) Reading and approval of the minutes for the meeting dated March 8, 2016
  - c) Reading and approval of the minutes for the public hearing and special meeting dated March 22, 2016
  - d) Approval of Treasury Report and Claims for March 2016
3. Meeting Etiquette Comment & Public Response Time The public may be heard on an item before or during the consideration of any agenda item to be considered by the board, subject to reasonable time limitations for each speaker. Members of the public may address matters under the jurisdiction of the Board of Directors, and not on the posted agenda, provided that no action shall be taken on any item not appearing on the agenda. The Board cannot take action on any unscheduled items unless it is declared by a vote of at least two-third (2/3) of the Board that there is an urgent need to take immediate action, and the need for action came to the attention of the District after the agenda was posted.
4. Information/Discussion Items
  - a) Planning Project Update **Garry Maurath hydrogeologist to give presentation & answer questions**
  - b) Correspondence
  - c) Water Test Results
  - d) President's Report
  - e) Water Treatment Operator Report
  - f) Library Report
  - g) Park Report
  - h) Board member or special committee reports
5. Unfinished Business (Discussion & Possible Action Items):
  - a) Customer Accounts/Billings/Disconnects
  - b) Ordinances, First reading of revised ordinance #33, with 3<sup>rd</sup> revised rate proposal and also including: changes to reconnect fees and disconnection for non-payment as presented and discussed on March 8th.
  - c) Status of conflict of interest opinion request made to the Fair Political Practices Commission (copy of letter attached)
6. New Business (Discussion & Possible Action Items):
  - a) Median Household Income Survey request: (see handout)
  - b) New Director's Terms, As it turns out one of the vacancies has a term that ends in Dec 2018 and one in Dec 2016, need to decide who gets which term.

### 7. Next meeting date, Items for next agenda & Adjournment

Upon request, Agendas will be made available in alternative formats to accommodate persons with disabilities. Please make your request to District Secretary, P.O. Box 860, Alleghany CA 95910 specifying your disability and the format in which you would like to receive this Agenda and future Agendas as well.

March 2016

**Alleghany County Water District**

MAIN ACCOUNT			Beginning Balance	\$	6,421.00
<b>Deposits</b>					
Date	From:	For:			Amount
3/17/16	Customers	Water Sales		\$	496.60
3/22/16	Transfer from Library Acc.	Donna Hauck appreciation		\$	100.00
3/30/16	Customers	Water Sales + Grant		\$	17,406.10
		Water Sales	\$ 496.60		
		Grant Income	\$ 16,909.50		
3/30	Customers	Water Sales		\$	992.81
3/30	Transfer from Library Acc.	Bookshelves		\$	74.18
3/31/16	Customers	Water Sales		\$	472.00
3/31/16	Bruce Coons - Ck# 1025	Lost - Replacement #1028 - VOIDED		\$	46.00
		<b>Deposits Total</b>		\$	<b>19,587.69</b>
<b>Expenditures</b>					
Ck #	Date	To:	For:		Amount
5019	3/1/16	Bruce Coons	February Bill		\$ 333.95
			WTO Contract	\$ 250.00	
			Mileage	\$ 83.95	
5020	3/1/16	Ed Snyder	February Bill - WDA		\$ 198.00
5021	3/5/16	AT&T	Phone		\$ 16.90
5022	3/5/16	Edda Snyder	February Bill - Bookkeeper		\$ 100.00
5023	3/5/16	House of Print and Copy	Return envelopes		\$ 83.80
5024	3/5/16	Jensen Fasteners	Rebuild kit for compressor		\$ 677.79
5025	3/5/16	Leslie Baker	February Bill - Secretary		\$ 60.00
5026	3/18/16	Altec Engineering	Planning Project Engineering (back to March 2015)		\$ 15,679.50
5027	3/18/16	B & C	Heater for library (to be reimbursed by Non-Enterprise Acc.)		\$ 59.46
5028	3/18/16	Grainger	Pumphouse maintainence		\$ 25.36
5029	3/18/19	HACH	Chemicles		\$ 182.75
5030	3/18/16	Marsha	Legal Fees - Grant + Prop 218 Notice		\$ 1,430.00
5031	3/18/16	Mountain Messenger	Notice Publication RE: Violations		\$ 71.25
EFT	3/22/16	Credit Card	Bookshelf reimbursed		\$ 74.18
EFT	3/24/16	PG&E	Cumberland		\$ 20.37
EFT	3/25/16	PG&E	Pumphouse		\$ 283.07
5032	3/31/16	Bruce Coons	March Bill		\$ 379.95
			WTO Contract	\$ 250.00	
			Mileage	\$ 129.95	
1028	3/31/16	Bruce Coons	Replacement for #1025		\$ 46.00
		<b>Expenditures Total</b>		\$	<b>19,722.33</b>
<b>Ending Main Account Balance</b>				\$	<b>6,286.36</b>

Non-Enterprise			Beginning Balance	\$	11,611.82
<b>Deposits</b>					
Date	From:	For:			Amount
3/30/16	Donations	Park Income		\$	118.00
		Sierra County Growers Assoc.	\$ 111.00		
		Donation Jar (Casey's)	\$ 7.00		
		<b>Deposits Total</b>		\$	<b>118.00</b>
<b>Expenditures</b>					
Ck #	Date	To:	For:		Amount
EFT	3/22/16	Main Account	Transfer - Donna Hauck appreciation		\$ 100.00
EFT	3/24/16	PG&E			\$ 10.97
EFT	3/30/16	Main Account	Transfer - bookshelf for library		\$ 74.18
		<b>Expenditures Total</b>		\$	<b>185.15</b>
<b>Ending Non-Enterprise Account Balance</b>				\$	<b>11,544.67</b>

ACWD Non-Enterprise Checking Account

				<b>TOTAL</b>			
<b>LIBRARY START</b>	<b>\$ 9,092.48</b>			<b>PARK START</b>	<b>\$ 2,366.73</b>		<b>\$ 11,459.21</b>
<b>Date</b>	<b>Income</b>	<b>Expenses</b>	<b>Balance</b>	<b>Date</b>	<b>Income</b>	<b>Expenses</b>	<b>Balance</b>
July	\$ 68.50	\$ 909.66	\$ 8,251.32	July	\$ 73.00		\$ 2,439.73
August	\$ 1,500.00	\$ 133.64	\$ 9,617.68	August		\$ 153.60	\$ 2,286.13
September		\$ 158.18	\$ 9,459.50	September			\$ 2,286.13
October	\$ 630.00		\$ 10,089.50	October		\$ 17.26	\$ 2,268.87
November	\$ 852.00	\$ 1,568.09	\$ 9,373.41	November			\$ 2,268.87
December		\$ 11.07	\$ 9,362.34	December			\$ 2,268.87
January		\$ 9.86	\$ 9,352.48	January			\$ 2,268.87
February		\$ 9.53	\$ 9,342.95	February			\$ 2,268.87
March		\$ 185.15	\$ 9,157.80	March	\$ 118.00		\$ 2,386.87
April			\$ 9,157.80	April			\$ 2,386.87
May			\$ 9,157.80	May			\$ 2,386.87
June			\$ 9,157.80	June			\$ 2,386.87
<b>LIBRARY BALANCE</b>			<b>\$ 9,157.80</b>	<b>PARK BALANCE</b>			<b>\$ 2,386.87</b>
							<b>\$ 11,544.67</b>

March 2016

As a result of the outcome of the Public Hearing held on March 22<sup>nd</sup>, ACWD is now authorized to proceed with passage of the new rates (ordinance #33), but based on the high level of opposition we are taking another look at what can be done to improve the financial condition of the district. We have verified that as long as we do not pass a rate ordinance that is more expensive than the recent proposal, we do not have to start the proposition 218 process all over again.

The main argument that we had been hearing against the rate proposal was that our fixed income residents would not be able to afford it. However, when it was pointed out that based on ACTUAL usage history most of our fixed income residents would be looking at a \$5 to \$10 monthly increase in their water bill, nobody changed their mind about protesting the rate change.

The other argument against the rate proposal is the fact that no gallons are included in the flat rate. This seems to be the main argument against the proposed rate structure.

ACWD's maximum production capacity for potable water is approximately 500,000 gallons per month. 500,000 gallons divided by 60 customers = 8,333.33. The revised proposal includes 8,000 gallons in the \$40 flat rate, all usage over 8,000 gallons is billed at \$3.00 per thousand gallons, similar to what the usage over 12,000 gallons is now billed at.

It seems that we would be "beating a dead horse" at this point if we try to explain again, all of the reasons why the district needs to raise the rates and what the problems are with the existing rate structure. Hopefully this, the third version of ordinance #33 will be accepted by a majority of the residents of Allegheny. It is up to the board to adopt it or not. The first reading is scheduled for the April 12<sup>th</sup> regular meeting with the vote taking place at the regular May meeting. Draft copy attached. (The ordinance changes introduced at the regular March meeting have been incorporated into #33 as well).

Usage in Gallons	TOTAL BILL
zero	\$ 40.00
500	\$ 40.00
1,000	\$ 40.00
2,000	\$ 40.00
3,000	\$ 40.00
4,000	\$ 40.00
5,000	\$ 40.00
6,000	\$ 40.00
6,500	\$ 40.00
7,000	\$ 40.00
8,000	\$ 40.00
9,000	\$ 43.00
10,000	\$ 46.00
11,000	\$ 49.00
12,000	\$ 52.00
12,500	\$ 53.50
13,000	\$ 55.00
14,000	\$ 58.00
15,000	\$ 61.00
20,000	\$ 76.00
30,000	\$ 106.00

## ORDINANCE NO. 33

### AN ORDINANCE AMENDING ORDINANCE NO. 3 ENTITLED "AN ORDINANCE ESTABLISHING RATES, RULES AND REGULATIONS FOR WATER SERVICE BY THE ALLEGHANY COUNTY WATER DISTRICT"

BE IT ORDAINED by the Board of Directors of the Alleghany County Water District, Sierra County, California as follows:

**Section 1. Section 1601 of Article 16 of Ordinance No. 3, cited in the title, passed and adopted by said Board on August 4, 1977, be, and it is hereby amended to read as follows:**

1601. Rates for water service are hereby established as follows:

All metered water services shall be charged a monthly base rate of \$40.00 per month. 8,000 gallons of water shall be included in the base rate. All usage over 8,000 gallons shall be billed at a rate of \$3.00 per 1,000 gallons.

These rates shall take effect on June 1, 2016 and will be reflected on the July 1<sup>st</sup> billing.

**Section 2. Article 9 Section 904 of Ordinance No. 3, cited in the title, passed and adopted by said Board on August 4, 1977, be, and it is hereby amended to read as follows:**

Delinquency Date: Rates and charges which are not paid on or before the first day of the calendar month following the due date shall be delinquent. If charges are not paid on or before the first day of the calendar month after the due date, a penalty of ten percent (10%) will be added to said charges including any previous penalties. If charges and penalties are not paid within twenty-days after the delinquency date, the District may discontinue service. The district board shall establish policies & procedures pertaining to standard billing notes regarding late fees and subsequent shut-off notices in accordance with this and other applicable ordinances.

**Section 3. Article 10 Section 1002 of Ordinance No. 3, cited in the title, passed and adopted by said Board on August 4, 1977, be, and it is hereby amended to read as follows:**

Reconnection Charge: A reconnection charge together with the account balance and an amount equal to ten percent (10%) of the account balance at the time of shut-off shall be made and collected prior to renewing service following a discontinuance of service. The reconnection charge shall be calculated as follows: \$50 for a period of 1 to 40 days and \$150 for a period of 41 to 180 days. For discontinuance exceeding 180 days the reconnect fee shall be \$300.

**Section 4. Ordinance No. 15 passed and adopted on May 18, 1998 is hereby repealed thereby fully reinstating Article 10 section 1001 of Ordinance #3 as adopted on August 4, 1977 adding the following text: the district shall establish policies & procedures pertaining to the set-up of payment plans for the purpose of avoiding shut-off of water service.**



**Section 5.** All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

**Section 6.** This ordinance shall take effect upon adoption unless otherwise stated and shall be posted within 15 days of adoption in three public places in the District.

I hereby certify that the foregoing is a full, true, and correct copy of Ordinance number 33 duly passed and adopted by the Board of Directors of the Alleghany County Water District, Sierra County, California, at the Public Hearing held on the \_\_\_\_ day of \_\_\_\_\_, 2016 by the following vote:

AYES, and in favor thereof, Directors:

NOES, Directors:

ABSENT, Directors:

ATTEST:

\_\_\_\_\_  
Leslie Baker III, Secretary

APPROVED:

\_\_\_\_\_  
Rae Bell Arbogast President

3/25/16

## FPPC Formal Advice Request

From: Rae Bell Arbogast

President: Alleghany County Water District (ACWD)

Self-employed Corporate Secretary and Administrative Assistant for: Original Sixteen to One Mine, Inc.

Email: alleghanywater@gmail.com Weekday phone number 530-287-3223

Mailing Address:

P.O. Box 919, Alleghany, CA 95910 Street Address: 100 Main Street Alleghany

Recently a member of the Public has accused me of having a conflict of interest and of committing a violation of the Conflict of Interest code as President of the Alleghany County Water District Board because of my relationship to Original Sixteen to One Mine. This is in the context of a Planning Project being funded by the State Revolving Fund (SRF). The water district has a 99-year lease on water from the Ram Spring which the Mine owns the water rights to. (Copy of lease attached)

My position with the Water District is strictly as a volunteer. The original scope of our planning project was to rehabilitate the Ram spring so that it could be re-classified as ground water eliminating the need for a treatment plant and greatly lowering our water production costs. This project included a component to more efficiently capture ALL of the runoff in the area of the Ram spring due to a history of landslides in the area. It also included bringing another Spring called the Cumberland spring online as an alternative water source and replacing the town's water tank which is in very bad shape. However, after a few consultations and a site visit with Pete Stamas of the funding division for the SRF, we were encouraged to focus on drilling a vertical well or wells instead of pursuing the Springs. Please see attached minutes from February 9<sup>th</sup> 2016 where Stephen Rooklidge our DDW inspector addressed this issue. This is the meeting where I became aware of the accusation for the first time.

No final decision has been made to switch from the Ram Spring to a well or wells. This will be decided based on the results of the test well drilling. IF for some reason the test wells do not meet water quality and production needs for the town, the project can be revised to go back to working on the Ram Spring. If that happens the project will take MUCH longer to complete.

If we get a good well and switch to that the district's goal will be to do a second project to get the Ram Spring re-classified as ground water so that it could be used as an additional water source. **For any domestic water system the ideal situation is to have more than one water source. This is so that if one water source has a problem there is a back-up source of water.** It would be much easier to conduct work at the Ram Spring site with a different water source online. (We would not be disturbing the town's only water supply)

It does seem relevant to note that either course of action: rehabbing the Ram Spring OR drilling a well will have the side-effect of more water run-off going to mine. In the case of the Ram Spring project it would increase the water flow to the mine by more efficiently capturing all of the run-off in that area. In the case of a well, the town's use of the Ram Spring would diminish, thereby increasing the flow of water to the mine.

The water district has no intention to alter or abandon the 99-year lease.

Based on all of the information provided I need answers to these questions:

1. Did I violate the conflict of interest code by participating in the decision to narrow the scope of the SRF planning project at the July 10<sup>th</sup> meeting?
2. Is it a violation for me to be the main person who is coordinating with the engineers for the SRF project as I am now?
3. When the Planning Project is completed and a recommendation has been made for the construction phase of the project, do I need to excuse myself from participation in the decision making?

There is a great sense of urgency regarding this entire project. ACWD has been seeking grant funding for many years and had submitted multiple pre-applications to the Dept. of Health when they were in charge of the SRF. The treatment plant has an obsolete control panel that cannot be fixed if it fails and it is well beyond its expected life expectancy. The water tank also is in bad condition. The district cannot afford a loan.

Your time and attention to this matter is greatly appreciated.

Sincerely,



Rae Bell Arbogast

Attachments: Original Planning grant General Application (before Pete Stamas of SRF narrowed the scope), Planning Grant Funding Agreement, Minutes from ACWD board meetings held on July 10, 2015 and February 9, 2016 including documents distributed at those meetings, Lease agreement between Sixteen to One Mine and Alleghany County Water District.

Contacts:

Pete Stamas Office of Sustainable Water Solutions. Drinking Water SWRCB (916) 552-9983  
pete.stamas@waterboards.ca.gov

Dr. Stephen Rooklidge WRCE Division of Drinking Water (530) 224-2413  
stephen.rooklidge@waterboards.ca.gov



Rae Bell Arbogast <alleganywater@gmail.com>

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**Automatic reply: Formal advice letter attached along with supporting documents**

1 message

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**Advice** <Advice@fppc.ca.gov>  
To: ACWD <alleganywater@gmail.com>

Fri, Mar 25, 2016 at 5:15 PM

*We received your email. Due to the high volume of emails, a response may take up to two (2) business days. Emails should comply with the FPPC guidelines here <http://www.fppc.ca.gov/advice/get-advice.html>. Please resubmit your email if you have not received a response within two (2) days. This is an automated response.*

*Thank you,  
Fair Political Practices Commission Staff*



Rae Bell Arbogast <alleganywater@gmail.com>

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**RE: Formal advice letter attached along with supporting documents**

1 message

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**Advice** <Advice@fppc.ca.gov>  
To: ACWD <alleganywater@gmail.com>

Mon, Mar 28, 2016 at 2:46 PM

Hello,

Your request has been forwarded to our Legal Division.

**Emelyn Rodriguez, Senior Commission Counsel**

**Fair Political Practices Commission**

428 J Street, Suite 800

Sacramento, CA 95814

(916) 322-5660

erodriguez@fppc.ca.gov

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**From:** ACWD [mailto:alleganywater@gmail.com]

**Sent:** Friday, March 25, 2016 5:15 PM

**To:** Advice

**Subject:** Formal advice letter attached along with supporting documents

Please see the attached documents. I am going to send one more attachment separately. Please confirm receipt.

*Rae Bell Arbogast*

*President, ACWD  
530-287-3223*

*Alleghany County Water District*

*P.O. Box 860*

## **Median Household Income (MHI) Problem**

**Background:** The money for the current planning project is coming from the State Revolving Fund (SRF). It is not a “grant” but is a loan with 100% debt forgiveness. (The State does not use the word “grant” anymore).

The level of debt forgiveness granted by the state is based on a formula that is tied to whether the community is classified as a “Disadvantaged Community” (DAC) or a “Severely Disadvantaged Community (SDAC).

When ACWD applied for the planning project loan the State looked at the 2013 Median Household Income listed for Allegheny by the US Census Bureau. The figure was \$22,000. Because this amount is less than 60% of the 2013 Statewide Median Household Income (\$61,094) Allegheny was considered a “Severely Disadvantaged Community” and automatically qualified for 100% loan forgiveness from the State Revolving Fund.

Recently, thanks to questions asked by the Public at several meetings and follow-up research by ACWD, we found out that the US Census Bureau now shows a Median Household Income of \$37,663 for Allegheny for 2014. This number puts us just over the threshold and changes our status from “Severely Disadvantaged” to “Disadvantaged”. This poses a problem for the funding of the upcoming construction phase of our project.

The big question is how did this number change? The answer is that for the years in-between Census years, the US Census Bureau uses an “estimates program” to come up with Median Household Income figures. Unless we have our own survey done, we are stuck with the US Census Bureau figure as calculated by their “estimates program”.

As explained at the regular meeting in March: Disadvantaged Communities can also qualify for up to 100% debt forgiveness on SRF loans but only if their average monthly water bill is more than or equal to 2% of the Median Household Income for that community. Based on a MHI of \$37,633 our average residential water bill would have to be \$62.72 to qualify for 100% debt forgiveness.

**Recommendation:** ACWD should request an income survey. The results of the income survey are good for 5 years and it has to be done by an outside firm. Stephen Rooklidge can request the survey through the State and there is no charge to the district.

The only drawback would be if the results came in higher than what the US Census Bureau already shows, but this seems unlikely. As long as our Median Household Income is not more than \$37,160\* we qualify as “Severely Disadvantaged” and can get 100% loan forgiveness for the construction phase of our project. In doing a “best guess” survey it seems that we should be fine. “Median” is not the same as “Average” it is the middle number in a row of data sorted from lowest to highest.

\*The Statewide MHI for 2014 was \$61,933. 60% of \$61,933 = \$37,160

# Alleghany County Water District

P.O. Box 860, Alleghany, CA 95910 ~ alleghanywater@gmail.com ~ Phone 530-287-3204

~ Established March, 8 1939 ~

DRAFT FOR BOARD INPUT DISTRIBUTED APRIL 12<sup>th</sup> FOR APPROVAL IN MAY. Board members: Please mark on this as you wish and return it by May 3<sup>rd</sup> so that it can be included in the meeting packets. Thank you Rae

(Questions attached at end)

Re: Letter Dated 3/20/16

Dear Becky:

Thank you for taking the time to put your questions in writing. Below are the answers.

1. Our understanding is that an income survey is done every 10 years as a part of the US Census. In certain situations it does make sense to have an income survey done by an entity other than that the US Census Bureau. One was done for Alleghany in 2004 for the purpose of determining funding eligibility for the new firehouse located at the County Yard. The size of the population does not really impact the result of the survey, just the actual income of all of those who are surveyed. It is/was on the April 12th agenda to consider requesting a survey for the purpose of determining "loan forgiveness" eligibility for the construction phase of the current project.
2. The last time ACWD did a count on 5/22/15 Alleghany had a full-time population of 57 and 21 part-time residents for a grand total of 78. For the purposes of the income survey only residents that live here six-months out of the year would be counted.
3. This was answered on March 22<sup>nd</sup> but to reiterate: Yes, the three services not included in the CRWA recommendation would be raised to \$40 per month. They were not included for the purpose of calculating income in the rate analysis because it was assumed that they might discontinue service with such a drastic rate increase. In California, due to the results of recent lawsuits that have come out of prop. 218, a utility must charge the same rates to all of its customers.
4. No, the water rates are "per service" as explained on March 22<sup>nd</sup>.
5. Proposition 218 has opened up a huge "gray area" which is resulting in a lot of lawsuits. Please refer to attorney David McMurchie's comments about this (attached). As far as ACWD is concerned: the "particular water related purpose" of the rate increase is to be able to provide safe drinking water in compliance with the laws of California in a sustainable manner. If the district is broke it cannot fulfill its primary purpose of providing safe drinking water to the community. Also please refer to the prop. 218 notices that were mailed to all customers in December and February and that explain the need for a rate change.
6. Same answer as above.

7, 8 & 9. There are many different ways to calculate water rates per customer and probably just as many different ideas about what is the right amount of total income to shoot for.

Since nobody has a “crystal ball” it is a standard practice to base future cost projections on historical operating results combined with expected future needs. This number is then used to arrive at the desired level of income. An example of an “expected future need” might be “We know our treatment plant will need a new control panel in 5 years”.

According to the State of California Water code section 31007 (this pertains specifically to COUNTY water districts) “The rates and charges to be collected by the district shall be so fixed as to yield an amount sufficient to do each of the following:

- (a) Pay the operating expenses of the district.
- (b) Provide for repairs and depreciation of works owned or operated by the district.
- (c) Pay the interest on any bonded debt.
- (d) So far as possible, provide a fund for the payment of the principle of the bonded debt as it becomes due.”

As you know, ACWD hired a professional firm to do a rate analysis last year. Their basic approach was to come up with a desired income figure as explained above, then they have a formula that determines the percentage of income to come from the flat rate vs the usage rate. This is then divided by the number of customers to come up with the “cost per customer” (historical <sup>usage</sup> ~~usage rates~~ <sup>is</sup> are also used in the calculation to come up with the recommended usage rates). The first version of the rate analysis complied with code section 31007 as quoted above in that it included item (b) “Provide for repairs and depreciation of works owned or operated by the district.” (Since ACWD has not issued any bonds (c) and (d) are not applicable). The first recommendation was a base rate per customer of: \$60.00 per month with usage billed separately. When the first recommendation was rejected as too expensive the depreciation expense was taken out of the calculation and a base rate of \$40 per month was arrived at, with no usage included in the base rate. Both recommendations had usage billed separately on top of the base rate to arrive at the desired level of income and in order to spread the customer costs evenly based on actual usage.

A simpler way to come up with a “cost per customer” is to divide total operating costs by the number of customers. For Fiscal year 14-15 ACWD’s total expenses came to \$46,548 (audited figure) this includes depreciation but does not include the principle portion of the loan payments.  $\$46,547 \div 60 \text{ customers} = \$775.80 \div 12 \text{ months} = \underline{\$64.65 \text{ per month}} per customer. This figure complies with section 31007 of the water code as quoted above.$

If you take the Fiscal year 14-15 results and remove the depreciation and add the loan payment (this is how the budget is done) the total expenses come to:  $\$35,698 \div 60 \text{ customers} = \$594.97 \div 12 \text{ months} = \underline{\$49.58 \text{ per month}} per customer.$



Another way to approach “costs per customer” is to start by coming up with a “per gallon” water cost. If we take our audited expense figure of \$46,548 for fiscal year 14-15 and divide that by the number of gallons produced (2,734,840) you end up with .017 cents per gallon or \$17.00 per thousand gallons. If we remove the depreciation expense and add the loan payment back in, it works out to .013 cents per gallon or \$13.00 per thousand gallons. You can then take this figure and multiply it by a customer’s monthly usage for a “per customer” cost. Based on these results WITHOUT including depreciation it costs \$65 to produce 5,000 gallons. (13 x 5).

10. The rate analyses done by CRWA used average historical usage as part of their formula. The most recent proposal that ACWD is floating (3<sup>rd</sup> version of ordinance#33) has thrown just about everything from the rate recommendation out the window (with the exception of charging everybody the same amount) in an attempt to appease the community.

11. It is incorrect to say that “Alleghany does not have water production costs”. If we had a 100% gravity fed system that required no water treatment this would be a true statement. The operation of our treatment plant is a water production cost, these costs include: labor, repairs, chemicals, power (to run the plant) and the raw water tests. For the purposes of the rate recommendation there was no need to separate production and distribution costs.

12. We do not know, nor do we have a way to calculate this without spending hours doing research. This is because the PG&E bill for both the treatment plant (production) and pumps (distribution) is combined. Since the hope is to move away from the treatment plant this is not a worthwhile pursuit at this time.

13., 14 & 15 The Ram Spring has not officially been delineated as a wetland. Stephen Rooklidge said on Feb. 9<sup>th</sup> that it “could be” and I just checked in with him again and he said, “would be”. All of the engineers who are familiar with CEQA and have looked at it over the last four years have said the same thing: that it is a “wetland”. Pete Stamas with the office of sustainable water solutions said the same thing when he saw it.

Definitions requested: **Wetlands** typically occur in topographic settings where surface water collects and (or) ground water discharges, making the area wet for extended periods of time.

A **spring** is any natural situation where water flows from an aquifer to the Earth's surface.

**Seep** a place where petroleum or water oozes slowly out of the ground.

16 & 17. Please see attached sheet which was sent out with the March water bills titled: Why is ACWD looking at drilling a well or wells instead of rehabilitating the Ram Spring? In addition and in relation to your questions above: The treatment plant is well beyond its useful life and if kept in service will most likely become more and more expensive to operate. Because the plant uses a proprietary technology not just any firm can service it. The only service tech who is willing to come to Alleghany lives out of state and just to get him to come here costs over \$1,000. (He also will not provide itemized bills, so we cannot even tell you exactly how much the “trip” portion of his bill is) ACWD has not been able to afford the cost of the manufacturer’s routine maintenance schedule for many years. As a result, the treatment plant has not been maintained per the recommendations. The control panel on the treatment plant

is obsolete and you cannot get parts for it. By switching to ground water the existing treatment plant will not be needed. It is possible that some treatment may still be required with well water, but that will not be known until the test wells are drilled and the water quality is tested. ACWD has been advised by various experts in the field of domestic water production that the costs associated with a ground water source are substantially less than the costs associated with a surface water source. Currently ACWD is required to do over 40 different water tests, according to Stephen Rooklidge this will drop to around 6 tests if we switch to ground water. One of the tests that we had to do last year cost over \$700!

Regarding your statement in #17 “there’s an unclear reason for your pursuit of the water well(s) for which you are seeking a rate increase”. The rate increase is not related directly to the wells, and in fact the wells are expected to lower our operating costs. The reasons for the rate increase have nothing to do with the planning project, other than the fact that any funding source wants to be sure that the recipient is financially solvent. ACWD needs to be financially solvent with or without outside input and had started to explore how to improve our rate structure before the planning project application was started. See the answer to #5 above.

Regarding your statement about possible firefighting use of the Ram Spring: As explained on March 8<sup>th</sup>, the planning project is a process; all of the cards are on the table right now. As new information becomes available or potential issues come up they are discussed at the meetings. Issues that require a decision are put on the agenda and listed as possible action items. Just because something is mentioned at a meeting does not mean that is the direction things are going.

18,19,20,21 and 22 Until the location and depth of a production well is known it is not possible to calculate the actual pumping costs. According to Stephen Rooklidge we should expect the pumping costs to be similar to what they are now. As explained above, because both the treatment plant and the pumps that pump the water into the system and up to the tank are on the same power bill, we do not have an actual breakdown of strictly the cost of pumping the water to the water tank from the Ram Spring. Please see the explanations above about how switching to ground water is expected to lower water production/distribution costs. (In ACWDs communications we lump it all together as “production costs” because this is “splitting hairs” so to speak.)

It is difficult to swallow your closing statement that implies a “duty of care” has not been done when the board has actively been pursuing solutions for the best way to structure the water rates since early 2013. The explanations to your rate analysis questions above verify this fact.

Regarding “duty of care” on finding the best way to upgrade our water system without having to take out a loan: When the State Revolving Fund was administered by the Dept. of health (prior to 2015) they would only grant funds if something was “already broken”. Joe and Donna submitted at least one application during that time. After two board members (Rae Bell and Robin Bolle) attended a funding fair put on by the “California Financing Coordinating Committee” in April of 2013 ACWD submitted three applications to the State Revolving fund. We had been advised to submit a separate pre-application for each component: one for the water tank, one for the spring and one for the treatment plant. This is when it was still under the Dept. of Health and we did not get approved for funding. Prior to submitting those applications ACWD had site visits and consulted with Sauers Engineering, Sierra Aqua Controls and several other firms to get cost estimates and recommendations about the best way to

proceed. ACWD also attended several CABY meetings in Auburn from April of 2012 through March of 2013 in an attempt to get on board with a Dept. of Water Resource Grant program. We mailed out a "Common Inquiry Funding Form" in 2013, this form goes out on a clearing-house type press-release where potential funding agencies can see it. We also contacted the USDA. Regine Miller who was the executive director of the Sierra County Firesafe and Watershed Council in 2013 also spent a considerable amount of time and effort looking for funding sources for ACWD. We found very few funding sources that do not require some kind of matching funds or a loan. The State Revolving Fund and the Community Block Grant program are two that we found. Sierra County is not on board with the Community Block Grant Program so that was out. Many other engineers, geologists and firms have been consulted with since then, and part of the purpose of the planning grant itself is to find the best option that we can afford. If this is not "duty of care" then we don't know what is.

One last comment: the board has been criticized for relying on the research of individuals such as Rae Bell in gathering facts for the purpose of making decisions. It is unrealistic to expect the entire board to individually conduct research on every aspect of each issue that comes before us. It is acceptable in terms of "best practices" for the board to rely on the recommendations of professionals (such as an engineering firm or a hydrogeologist) and it is OK to have one board member do the bulk of the fact-finding. As volunteers with different capabilities each person contributes what they can. We appreciate the input of the community which often brings things to our attention that we would not have known about otherwise.

Sincerely,

ACWD Board of Directors

Members of the Board,

I am requesting the Board to delay any further actions regarding the proposed rate increase for reasons stated below, the unanswered questions.

1. It's been twenty (20) years plus since a income survey was done. The question is, What is the median household income today for Alleghany. Since the income survey done twenty (20) plus years ago there has been a population decrease.
2. What is the actual population of Alleghany today? I counted forty nine (49) full time residents .
3. The three (3) properties which are not part of the CRWA recommendation, two(2) with monthly rate of \$23.00 a month and the cemetery at \$10.00 a month, will these be raised to \$40.00 a month each, you have stated "everyone will be paying the same amount each month".
4. Multi-family residences with one water meter, will they be charged \$80.00 a month the base rate of \$40.00 per residence and how will the usage rate be calculated between the two residences?

Proposition 218 unanswered questions:

5. What is the particular water related purpose for the rate increase?
6. What will the funds from the increase rate be used for?
7. Did you calculate the amount of the rate increase precisely to cover the cost of funds needed to provide water service?
8. How did you calculate the amount of the rate increase per property/customer?
9. Was the cost imposed on each property proportional to that property's water use?
10. Is the rate increase based on the actual use and not an estimated use or potential future use?
11. Since ACWD doesn't have a water production cost, only a distribution cost, how is this cost calculated among it's customers?
12. What is the distribution cost? Per customer?

ACWD water Source-Ram Springs-questions

13. You refer to Ram Springs as a wet land-when was it delineated as such?
14. Who designated it as a wet land?
15. What is a wet land, a spring, or a seep, any one of these could be used in describing Ram Springs, what is the actual delineation of Ram Springs?
16. Ram Springs has been a reliable water source for this town for over seventy (70) years, even through several droughts, never drying up, Why are you seeking another water source to be used for the town instead of this reliable source?
17. At one meeting you mentioned a back-up water source, a well, then it's use a well(s) for the towns water source and Ram Springs for fire fighting use, there's a unclear reason for your pursuit of water well(s) for which you are seeking a rate increase.

Water Wells: questions

18. What is the estimated operational cost for a well?
19. What is the estimated cost for energy for a well?
20. What is the estimated cost for repairs of a well?
21. What is the estimated maintenance cost for a well?
22. If a well pump has to be replaced what is the estimated cost for such?

There are too many questions that remain unanswered, and your differing reasons in which you are seeking to increase the water rates for. This Board has a responsibility to make a decision only after it has expended sufficient skill, time and effort to effectively assess any risks <sup>should</sup> be made a prudent decision. Means, using common sense and good judgment after all facts have been researched and presented, a Duty of Care. Since the above questions remain unanswered it is only prudent for you to delay this rate increase to a later date until after all these questions are justifiably answered.

Sincerely

  
Rebecca Wilkerson



Rae Bell Arbogast <raebell44@gmail.com>

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## Capistrano decision and water rates issues

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David McMurchie <dmcurchie@mcmurchie.com>  
To: raebell44@gmail.com

Thu, Jan 21, 2016 at 4:54 PM

Rae,

Sorry for the late response. I know you need this information for a meeting tonite. Since I don't have your rate structure available for review nor do I know how you have allocated your district costs of providing water amongst your various tiers, I will only be able to give you a broad brushstroke of what the Capistrano decision requires in order to comply with Prop 218.

The holding of the court in Capistrano is that a public agency charging water rates on a tiered basis has the burden of showing that the rates assigned to users in each tier do not exceed the cost of providing the water to the users in each tier. This is because Prop 218 requires that the water rates not exceed the proportional costs of providing water to **each parcel**. While tiered rates go up progressively in relation to usage which is permissible under Prop 218, the district must still demonstrate that the rates for each tier correspond to the actual cost of providing water at each given level of usage for each tier. Capistrano says that you can't simply balance your total water costs with your total revenues from rates; rather you also have to correlate your tier prices with your actual costs of providing water to each of those tiered levels. You cannot do what Capistrano did, and allocate all of your costs based on usage budgets of a certain cost per gallon or cubic foot for each tier. There has to be some showing of what costs the district incurs due to those customers who use more than the average use, and then allocate those costs only to those tiers in which volume exceeds the average which the district's water supply can reasonably accommodate.

The costs that the district could focus on as justifying higher rates for those tiers with higher volume consumption are additional capital costs for additional increments of water to serve high users, such as new well costs, additional pumping costs, additional distribution costs to distribute increased supply to high users, additional treatment costs (both capital and labor) incurred for having to treat and distribute more water than would be required if the district had no high users in the upper tiers. Most of such charges will be related to volume of water supplied and treated and distributed, and not to administration costs which arguably are the same for all users regardless of how much a customer consumes. But some costs will be operational such as labor and utility costs incurred in pumping and treating additional increments of water necessary to serve high users in the upper tiers.

I am not aware of any districts that have yet figured out how to do this accurately. ~~If you sent me your new and proposed water rate schedules as well as your district financial reports I could assist you with compliance.~~

...the rate for each parcel needs

## **WHY IS THE ACWD PLANNING PROJECT LOOKING AT A WELL (OR WELLS) INSTEAD OF DOING IMPROVEMENTS AT THE RAM SPRING?**

**Dr. Stephen Rooklidge our State Division of Drinking Water (DDW) Inspector is the person who helped spearhead the planning project. Below are the reasons that he gave regarding this question on Feb 9th. He has kindly offered to come again, to the next regular meeting: Tuesday March 8<sup>th</sup> 6pm at the Firehouse in Alleghany. If you have questions about the project please come and ask them!**

### **Notes from the meeting on 2/9/16**

Dr. Stephen Rooklidge explained that he came to Alleghany in January of 2015 to do his first inspection and noted that the membrane filtration plant is close to needing to be replaced and that the water tank also is beyond its useful life and has a non-compliant liner. ACWD was encouraged to apply for funding from the State Revolving Fund to address these two issues.

In the process of preparing the application packet there were several consultations with Pete Stamas of the Funding Division. After Pete made a trip to Alleghany and met with Rae Bell, Kip Lybarger, and a Representative from the Calif. Rural Water Assoc. the District was encouraged to move towards developing a ground water source rather than pursuing developing either spring. This is because both of the spring areas could be delineated as wetlands which creates a ball of red tape with NEPA and CEQA and all of the environmental work that goes with them (additional time\*see footnote).

Stephen explained that the curtailment order is another part of the reason the State wants the district to use the planning project money to first look at developing a new ground water source. He explained that the State department that issues the curtailment orders says ACWD cannot use the water, but his dept. (DDW) says it is a Health and Safety Requirement. A well would not be subject to curtailment orders as are both the Ram Spring and the Cumberland Spring.

He also explained that by switching to ground water most of the testing requirements that ACWD is under will go away. Exactly to what extent the testing requirements will change is determined by the quality of the ground water and that won't be known until we get some holes in the ground. It is possible that some filtration or treatment will be required depending on what the water quality is, but most likely it will not be nearly as expensive as dealing with the surface water. – end of meeting notes.

**No final decision has been made to switch from the Ram Spring to a well or wells. This will be decided based on the results of the test well drilling. IF for some reason the test wells do not meet water quality and production needs for the town, the project can be revised to go back to working on the Ram Spring. If that happens the project will take MUCH longer to complete.**

**If we get a good well and switch to that, the water from the Ram Spring could not go into the system until work is done to get it re-classified as ground water. This is because it tests positive for bacteria and requires treatment under State law. In this case, a long-term goal would be to get the Ram Spring re-classified as ground water so that it could be used as an additional water source. For any domestic water system the ideal situation is to have more than one water source. This is so that if one water source has a problem there is a back-up source of water.**

\* This was in May of 2015. At that time Pete Stamas said that just the drafting of the funding agreement alone would take 8 months to a year if the Springs were kept in the project as opposed to 1 to 2 months. He explained that the added time was due to the fact that it would be a 'stop and go' process wherein as the hydrogeological and environmental studies ensued we would have to stop and re-evaluate the project's direction based on the study findings. As it turned out, even without the Springs included it took 3 months after all of the components of the application packet were submitted for us to get the funding agreement. Pete said that money isn't an issue but time is. Pete also explained that the springs could be added back into the project if the wells did not work out.

Revised 3-3-16



# ENGINEERING

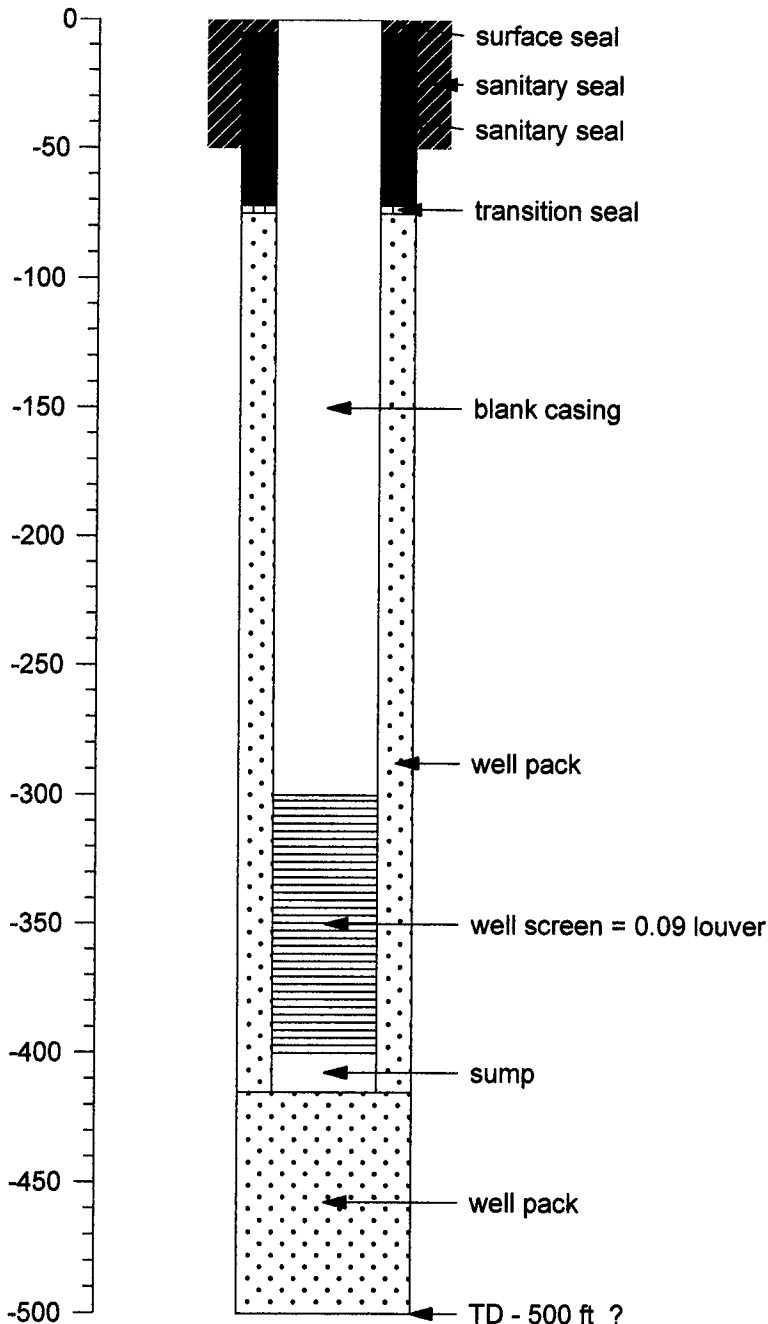
Drilling Contractor: driller  
 Drilling Method: air/mud rotary  
 Date Constructed: start date  
 Date Destroyed: end date  
 State Well #: unk  
 GPS (Lat/Lon) 39 28 25.78 N / 120 50 34.91 W  
 Address: water storage tank  
 APN #: 004-190-0310

# Well Construction Diagram

Project: Alleghany County WD  
 Client: ACWD

Boring/Well ID: P-1  
 Field Supervisor: geol  
 Ground surface elevation (ft-amsl):gse  
 Well collar reference point (ft-amsl): well collar  
 Total depth of boring (ft-bgs): TD  
 Top of well screen (ft-bgs): TOS  
 Bottom of well screen (ft-bgs): BOS  
 vol (cu ft) - BH:Edit-Textwell: Edit-Textannulus: Edit-Text  
 vol (gal) - BH:Edit-Text well Edit-Textannulus: Edit-Text  
 vol sat casing above screen (cu ft/gal):vol sat casing cu ft and gal

## Depth (ft-bgs) CONSTRUCTION Detail



DRAFT

DRAFT

Note: depths & dimensions are for illustration only. Final depths and dimensions will depend upon field conditions.

GSE = Ground Surface Elevation ft-bgs = feet below GSE ft-amsl = feet above Mean Sea Level

Prepared by:G.M. Reviewed by:Edit-Text file path:Edit-Text