

DEPARTMENT: Public Works/Solid Waste

BY: Dana Hertfelder

PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION:

Public Hearing to establish a fee schedule for organic waste streams (manure, biosolids, wood chips, and commercial food waste), e-waste, dead animals, metals, and concrete/asphalt. The hearing will also establish a fee schedule for transfer stations.

Over the past few years, Public Works Solid Waste & Recycling Division has not charged a tipping fee for organic waste streams including manure, biosolids, wood chips and commercial food waste. By County Code and state and federal definition, these materials are considered to be solid waste. As a waste stream they are required to be hauled by the Franchise Hauler who is required to bring this material to the county designated facility which is the Mariposa County Landfill, Compost and Recycle Facility. Although these materials may have a beneficial use at the Facility they still require staff time to properly handle the material. As such, Public Works recommends that these waste streams be subject to the tipping fee. Public Works has been working on a revised fee schedule for the landfill that would have a reduced tipping fee for these materials. Other changes to the fee schedule include the following:

1. Cubic yard rate to be used only when scales are inoperative.
2. Dead animal fee as this requires special handling.
3. Organics material fee.
4. Segregated concrete, asphalt and bricks at no charge if of a certain dimension and free of rebar.
5. Segregated metal at no charge.
6. Universal and electronic waste at no charge unless of a certain dimension.
7. Business account set-up and maintenance fee.

Prior to July 2009, out-of-county waste could not be accepted in the Mariposa County solid waste system. In July 2009 the Board approved an amendment to County code which allowed the acceptance of Lake Don Pedro Subdivision resident's garbage. New fee receipts were made that listed fees approved by the Board in March 2008 for to out-of-county residents. The fees did not include a per bag fee or fees for waste other than household garbage and tires. As such, Public Works recommends updating the fee schedule to include charges for these items. It is also recommended that minimum load fees be eliminated and customers be charged either a per bag fee or cubic yard, whichever is most appropriate.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

In March 2008 the Board of Supervisors approved a fee schedule for the Mariposa County Landfill, Compost and Recycling Facility and Transfer Stations. Recently it came to the Public Works Directors attention that these fees were not being applied consistently for all types of waste streams. Public Works does not have the authority to waive fees and as an enterprise fund the fees are needed to sustain the solid waste system in the county.

On June 23, 2009, the Board approved Public Works to move forward and schedule a public hearing.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Loss of revenue would negatively impact the ability of Public Works Solid Waste & Recycling Division to provide solid waste and recycling services throughout the County.

Financial Impact? (x) Yes () No Current FY Cost:
Budgeted In Current FY? () Yes () No () Partially Funded

Annual Recurring Cost: \$

Amount in Budget: \$ _____
Additional Funding Needed: \$ _____

List Attachments, number pages consecutively
Proposed fee schedule, 2 pages

Source:

Internal Transfer _____
Unanticipated Revenue _____ 4/5's vote
Transfer Between Funds _____ 4/5's vote
Contingency _____ 4/5's vote
() General () Other

CLERK'S USE ONLY:

Res. No.: 09-424 Ord. No. _____
Vote - Ayes: 4 Noes: Bobby
Absent: _____
 Approved
 Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

CAO: MWB

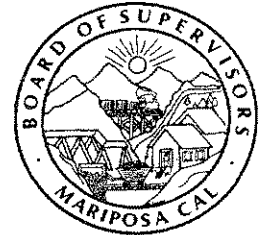


COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
KEVIN CANN
JIM ALLEN

DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

AMENDED MINUTE ORDER

TO: DANA HERTFELDER, Public Works Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: PUBLIC HEARING to Establish a Fee Schedule for Organic Waste Streams (Manure, Biosolids, Wood Chips, and Commercial Food Waste), E-waste, Dead Animals, Metals, and Concrete/Asphalt. The Hearing will also Establish a Fee Schedule for Transfer Stations

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on August 18, 2009

ACTION AND VOTE:

10:34 a.m. Dana Hertfelder, Public Works Director;
PUBLIC HEARING to Establish a Fee Schedule for Organic Waste Streams (Manure, Biosolids, Wood Chips, and Commercial Food Waste), E-waste, Dead Animals, Metals, and Concrete/Asphalt. The Hearing will also Establish a Fee Schedule for Transfer Stations

BOARD ACTION: Dana Hertfelder and Michelle Miller/Solid Waste and Recycling Manager, presented the staff report; and responded to a question from the Board relative to the proposed fees for out-of-county waste.

The public portion of the hearing was opened and input was provided by the following:

George "Wes" Snyder provided input on the history of the land donated by Boise Cascade and its intended use when the Lake Don Pedro subdivision was developed. The 1M Committee felt that the transfer station was to be used by the whole subdivision; and he feels the rates should be the same for everyone in the subdivision. He responded to a question from the Board relative to the status of the 4-acre parcel on Merced Falls Road and the 162-acres that Boise donated.

Millie Beranek stated she has been here since 1994 and now lives in Tuolumne County and serves as a Planning Commissioner. She was a part of the 1M Committee and provided input on the history of the donated land and deed restrictions for use. She commented on the coordination of fire services between the two counties for the subdivision; and she feels the solid waste fees should be the same for all of the residents in the subdivision.

Sally Miller, resident of the Lake Don Pedro subdivision on the Tuolumne County side, expressed concern with the higher rates for the out-of-county residents. She advised that she was using the Don Pedro transfer station when the fee was \$3.50 a bag, then it was raised to a minimum of \$31.00 without notice. She feels the increase will encourage citizens to stack their trash up and that will cause odor problems violating their subdivision restrictions. She suggested that the fee be \$6.00 or \$6.50 versus \$8.80 for the 55-gallon container; and she questioned the increased rate for out-of-county residents for brush – she feels we need to encourage citizens to clear their property of brush.

Victor Afanasiev, member of the Lake Don Pedro Property Owners Association, concurred with the input provided by Millie Beranek. He noted that if addresses are used to determine residency that many use the Post Office in LaGrange which is in Stanislaus County. He noted that the library services are separate for the two counties; however, the book mobile service that he is involved with serves residents in both counties. He provided input on the Boise agreement and urged the Board to given equitable rates to residents of both counties.

Frank Beranek stated he feels the out-of-county rate for e-waste will encourage people to include those items in bags with their regular waste. He advised that his Pastor recently took a bag of trash from their Church in Tuolumne County to the transfer station, but he lives in Mariposa County – he asked how it will be determined what rate to charge in cases like this.

Gretchen Olson, Solid Waste Manager for Tuolumne County, advised that there is a cooperative relationship between the two counties with staff; and she hopes that a rate can be reached that works for everyone. She responded to questions from the Board and advised that there are no plans for Tuolumne County to create a transfer station in that area; and she did not bring information on how many Tuolumne residents use the transfer station in Don Pedro.

Victor Afanasiev noted they are also paying for ambulance service at the rate of \$60.00 per year and service is provided regardless of which County you live in.

Ken Kennedy, member of the Board of Directors of the Lake Don Pedro Property Owners Association, advised that a package was sent to the County Clerk and to the Board Clerk containing maps and deeds relative to the Don Pedro subdivision and solid waste issues – he feels this information shows that the transfer station is for the use by Don Pedro residents of both counties. He noted that he lives in Mariposa County; however, they receive various services from Stanislaus, Merced, Tuolumne and Mariposa. He suggested that a rate of \$4.00 be used for both counties and that they be treated equally.

A lady from the audience advised she has been in Tuolumne County since 2000, and she feels they are one community and the fees should be the same.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to the number of Tuolumne County residents using the transfer station; the amount of brush being hauled to the transfer station; costs to operate the facility and revenue shortfall; history of the actions prohibiting the out-of-county disposal and subsequent changes; and relative to being able to check for residency. (M)Allen, (S)Turpin, Res. 09-424 was adopted approving the fee schedule as recommended. The motion was amended, agreeable with the maker and second, to include changing the brush fee to \$12.50 per cubic yard for out-of-county – so it is the same as for in-county. Supervisor Bibby expressed concern with the additional handling costs and liability if brush is accepted. Rick Benson clarified that the motion includes \$12.50 per cubic yard for in-county and out-of-county brush. Ayes: Aborn, Turpin, Cann, Allen; Noes: Bibby. The hearing was closed.

Mr. Beranek asked for clarification of the minimum load fee being eliminated for the transfer station and as to the effective date for the fee changes – staff responded that it goes to a per cubic yard fee after the gallon container fees and that the fee changes are effective this date. Supervisor Bibby asked how soon the fees would be revisited.

Cc: Steve Dahlem, County Counsel
Chris Ebie, Auditor
File

PUBLIC HEARING NOTICE

On Tuesday, August 18, 2009 at 10:30 a.m. the Mariposa County Board of Supervisors will conduct a public hearing in the Board Chambers of the Government Center at 5100 Bullion Street, Mariposa, California, to consider a revised fee schedule at the Mariposa County Landfill, Recycle and Compost Facility.

Any member of the general public may appear at the hearing and be heard or provide written input. You may also mail a letter to the Clerk of the Board (PO Box 784, Mariposa, CA 95338) stating your opinion and request that it be included as part of the public hearing.

Information on the proposed fees is available at the Public Works Department at 4639 Ben Hur Road, Mariposa, CA, 95338, phone number (209) 966-5356.

Dana S. Hertfelder
Public Works Director

Please publish in the next issue

Please call me with any questions:

Darleen Peterson
(209) 966-5356
Mariposa County Dept of Public Works

MARIPOSA COUNTY TRANSFER STATIONS

DISPOSAL FEE SCHEDULE

ITEM FOR DISPOSAL	IN COUNTY FEES		OUT OF COUNTY	
	Current	Proposed	Current	Proposed
HOUSEHOLD GARBAGE				
1 - 33 GALLON CONTAINER (per can)	\$ 3.50	\$ 3.50	-	\$ 4.50
1 - 55 GALLON CONTAINER (per can)	\$ 6.00	\$ 6.00	-	\$ 8.80
Minimum Load (less than 1 cubic yard)	\$15.50	-	\$ 31.00	-
PER CUBIC YARD	\$ 19.75	\$ 21.00	\$ 39.50	\$ 27.00
Passenger Car/Pick up Truck Tires				
Auto and Small Truck Tire Rims	\$ 2.50	\$ 3.00	\$ 5.00	\$ 5.00
All other tires, see attendant for current prices				
BULKY ITEMS PER ITEM FEE (Such as appliances, mattresses, microwaves, etc.)				
	\$11.50	\$ 11.50	-	\$ 15.00
E-WASTE PER ITEM FEE				
CRTs and LCDs less than 36" on the diagonal, video devices and laptops	\$ 8.25	\$ 8.25	-	\$ 11.75
CRTs and LCDs 36" on the diagonal or greater		\$15.00	-	\$ 20.00
E-WASTE (with circuit boards such as home-sized printers, cell phones, VCRs answering machines, radio, stereo, etc.)	\$ 8.25	\$ 8.25	-	\$ 11.75
E-waste excluding those with circuit boards such as home-sized printers, cell phones, VCRs answering machines, radio, stereo, etc. handled as garbage		See garbage rates above	-	See garbage rates above
REFRIGERATED APPLIANCES PER ITEM FEE				
	\$25.00	\$25.00	-	\$ 32.50
BRUSH				
	\$12.50 per cubic yard	\$12.50 per cubic yard	-	\$ 16.25
METAL if separated by customer from rest of garbage				
		No charge		No charge

Waste not accepted				
Dead Animals				
Concrete, Bricks, Asphalt				
Manure				
Soil				
Hazardous Waste				
Hard to handle items such as trailers, stumps, some construction and demolition debris and other items as deemed by gate attendant to require special handling				

GENERAL AGENCY DESCRIPTION

NAME: County Service Area 1-M

PURPOSE: The service area was formed to provide the following services:

- A. To collect, treat and dispose of sewage in some limited zones, and waste and storm water of the district and its inhabitants;
- B. To collect, treat and dispose of garbage or refuse matter;
- C. To protect against structural fire;
- D. To provide street lighting as necessary;
- E. To equip and maintain a police department or other police system to protect and safeguard life and property;
- F. To provide library facilities;
- G. To maintain any street, bridge, culvert, curb, gutter or drain in such district.
- H. Acquire recreational areas, develop and maintain recreational areas, facilities and programs.

AUTHORITY: The District was formed pursuant to "County Service Area Law" described in Government Code Sections 25210.1 through 25211.33. With the additions of Coulterville and Mariposa Pines, it appears that it was the intent of the Board to treat CSA 1-M as a County Wide Service Area with Benefit Zones. The record does not reflect this intention was formalized by the Board.

DATE ESTABLISHED: The original district was formed on July 1, 1969 to include the area of the Don Pedro Subdivision Map 1-M. The district was subsequently expanded to include the total area of the Don Pedro Subdivision. (See County Service Area 1-M/Coulterville Sewer and Water and County Service Area 1-M/Mariposa Pines and 1-M/Don Pedro Sewer Zone).

RESOLUTION NUMBER: The original district was established by Resolution No. 69-68 of the Mariposa County Board of Supervisors.

LAND AREA: 4,962+ Acres.

BOARD OF DIRECTORS: The Mariposa County Board of Supervisors serves as the Board of Directors of County Service Area 1-M.

CONTACT: Roger McElligott, Special Dist's. Mgr.
4639 Ben Hur Rd.
Mariposa, CA 95338 (209) 966-5358

BACKGROUND: The service area was originally established for the purpose of providing services to the residents of the Don Pedro Subdivision. Under the original budgets of the district, funds were used for road maintenance in the subdivision. From F.Y.s 1971-72 until F.Y. 1980-81 (10 years) a total of \$104,755.53 of the total \$112,528.06 of the district's expenditures for the past 15 years was spent on road maintenance and repair. In the 1981-82 fiscal year budget, and subsequent budgets, expenditures do not contain an expenditure object category.

Mariposa County Clerk
Mariposa County Courthouse
Mariposa, California

RECORDED AT THE OFFICE OF THE COUNTY CLERK
July 5, 1973
VOLUME 1177
MARIPOSA COUNTY RECORDS
RECORDED
PAGE 480
FEE \$ 76
No. 2561

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ATTIX LES 1 - 0 IN THIS SPACE
D.P.S.M.

Corporation Grant Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged. BOISE CASCADE RECREATION COMMUNITIES CORPORATION OF DELAWARE, a Delaware Corporation who acquired title as PACIFIC CASCADE LAND COMPANY, INC., a Delaware Corporation organized under the laws of the state of hereby GRANTS to

MARIPOSA COUNTY SERVICE AREA 1-M, a Political Subdivision of the County of Mariposa

the following described real property in the County of Mariposa and Tuolumne, State of California:

All that certain real property situate in the Counties of Mariposa and Tuolumne, State of California, being more particularly described as follows:

- PARCEL 1: The South 1/4 of the Southwest 1/4 of Section 22 and the West 1/4 of the Northwest 1/4 of Section 27, T. 28., R. 15E., M.D.M. containing approximately 160 acres.
- PARCEL 2: The West 66 feet of the Northwest 1/4 of the Southwest 1/4 of Section 27, T. 28., R. 15E., M.D.M. containing approximately 2 acres.

This Grant is made subject to the express condition that the property shall be maintained and used exclusively as a Sanitary Land Fill site for the benefit of Lake Don Pedro Subdivision, a subdivision located in Mariposa and Tuolumne Counties, California.

In Witness Whereof, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its _____ President and _____ Secretary thereunto duly authorized.

Dated: June 15, 1973

STATE OF CALIFORNIA
COUNTY OF Santa Clara } ss
On June 15, 1973 before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Ramsey, known to me to be the Div. Gen'l. Manager, known to me to be

By _____
Division General Manager

By _____
Secretary

Secretary of the Corporation that executed the within instrument, known to me, or some other person who executed the within instrument on behalf of the Corporation herein named, and acknowledged to me that each Corporation officer who within instrument made promises to the best of a recollection of his or her duty.

WITNESS my hand and official seal this _____ day of _____ 1973.
Notary Public in and for said State

Title Order No. _____
Escrow or Lien No. _____

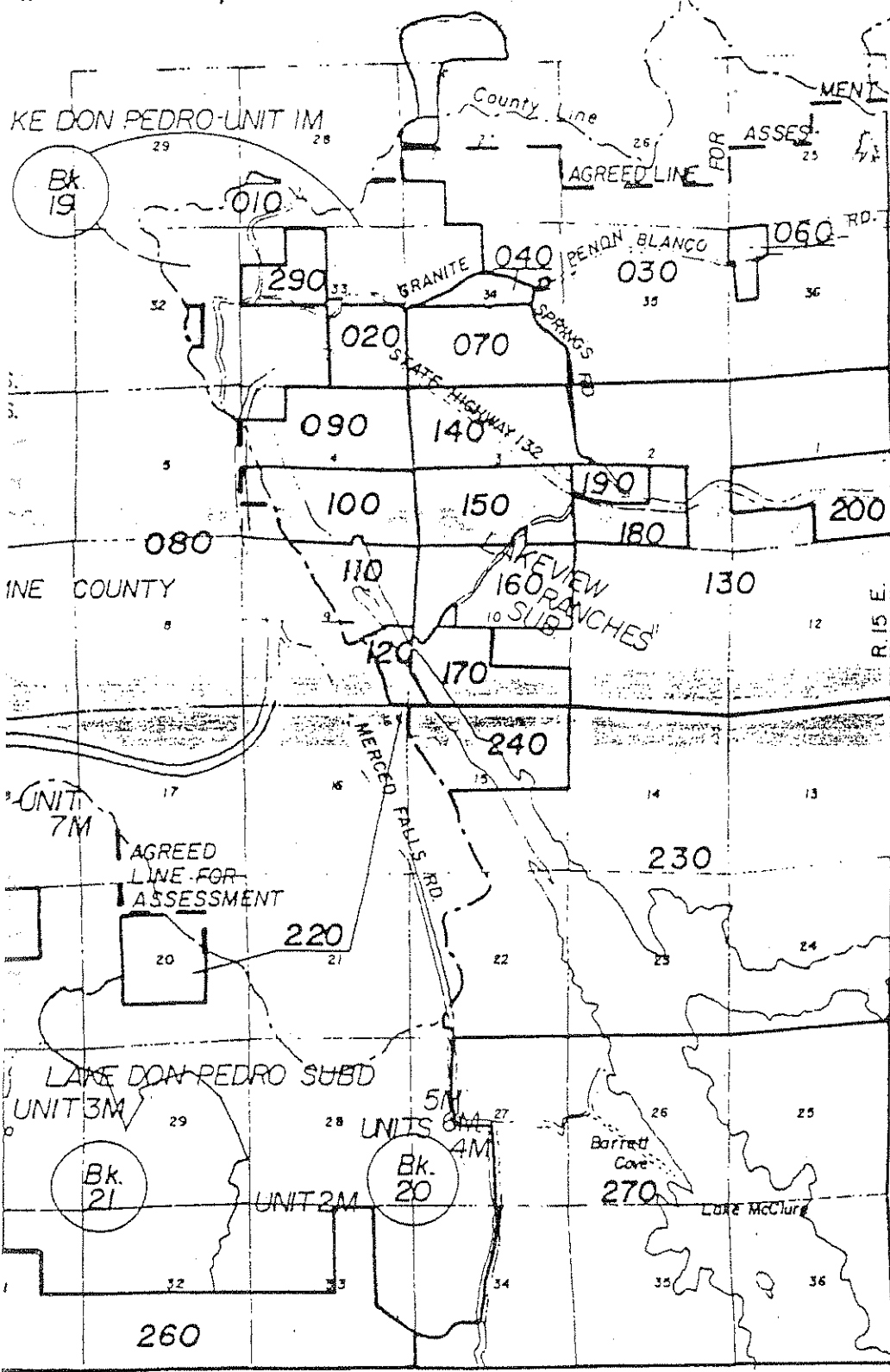
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CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by deed dated June 15, 1973, from Boise Cascade Recreation Communities Corporation of Delaware, a Delaware Corporation, who acquired title as Pacific Cascade Land Company, Inc., a Delaware Corporation, to the Mariposa County Service Area I-M, a political subdivision of the County of Mariposa, is hereby accepted by order of the Mariposa County Board of Supervisors pursuant to authority conferred by motion made and adopted on July 10, 1973 and the grantee consents to recordation thereof by its duly authorized officer.

DATED: July 10, 1973

COUNTY OF MARIPOSA
BY: *Tom R. Richardson*
Tom R. Richardson,
Chairman of the Board of
Supervisors



Bk. 3

L.C.A. = Land Conservation
"Williamson" Ac

Lakeview Ranches Subdivis.	Page
Lots 1-4	150
Lots 3-7	160
Lot 8	170
Lots 9-10	160
Lot 11	110

INDEX

Bk. 7

BOOK 01

Assessor's Maps
County of Mariposa, Cal

NAME: **MARIPOSA COUNTY CLERK**
 STREET ADDRESS: **Mariposa County Courthouse**
 CITY & STATE: **Mariposa, California**

RECORDED AT THE REQUEST OF C. Clark
Apr 26 1972 AT 4:40 P.M. 14 O'CLOCK P.M. IN
 VOL. 134 OF OFFICIAL RECORDS PAGE 96
 MARIPOSA COUNTY RECORDS
Walter J. Hays RECORDER FEE \$ 70
710, 1005

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DOCUMENTARY TRANSFER TAX \$ _____ INTER-COUNTY TITLE CO. OF TUOLUMNE CO.
 Computed on full value of property conveyed
 or
 Computed on full value less liens and encumbrances
 Paying in full at time of sale.

Signature of Declarant or Agent Determining Tax—Firm Name 700, 1121

Corporation Grant Deed


FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, INTER-COUNTY TITLE CO., TUOLUMNE-MARIPOSA DIVISION, A CALIFORNIA CORPORATION, and BOISE CASCADE RECREATION COMMUNITIES CORPORATION OF DELAWARE, a Delaware corporation hereby grants to

MARIPOSA COUNTY SERVICE AREA I-M, a Political Subdivision of the County of Mariposa

RECORDED AT THE REQUEST OF C. Clark
May 8 1972 AT 4:45 MIN. PAST 9 O'CLOCK A. M. IN
 VOL. 134 OF OFFICIAL RECORDS PAGE 257
 MARIPOSA COUNTY RECORDS
Walter J. Hays RECORDER FEE \$ 70

the following described real property in the unincorporated area of the County of Mariposa State of California:

All that portion of Sections 22 and 27, Township 3 South Range 15 East, Mount Diablo Meridian, Mariposa County, California, also being all that portion of that certain 135.570 acre parcel shown on that Reversion to Acresage Plat entitled "Lake Don Pedro Subdivision Unit No. 6-M", said plat being filed in the office of the Recorder of said Mariposa County as Map Number 1780, described as follows:
 Beginning at a boundary corner of said 135.570 acre parcel, said point being the intersection of the West line of Merced Falls Road and the Northerly line of said parcel; thence, from the said point of beginning along said Northerly line North 88°31'50" West 300.00 feet to another boundary corner of said parcel; thence leaving said Northerly line South 01°28'10" West 300.00 feet; thence, South 88°31'50" East 300.00 feet to a point on the East line of said parcel and to a point on said West line of said Merced Falls Road; thence, along said East line of said parcel North 01°28'10" East 300.00 feet to the point of beginning and containing 2.066 acres of land more or less.

 **GERSTINE K. CAMESAD**
 NOTARY PUBLIC - CALIFORNIA
 TUOLUMNE COUNTY
 My Commission Expires Feb. 2, 1972

STATE OF CALIFORNIA }
 COUNTY OF TUOLUMNE } 93

Dated: December 21, 1971

On December 21, 1971 before me, the undersigned, a Notary Public in and for said State, personally appeared Jack L. Lobaugh, known to me to be the Vice President.

INTER-COUNTY TITLE CO.,
 TUOLUMNE-MARIPOSA DIVISION,
 a California Corporation

of the Corporation that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

By Jack L. Lobaugh
Jack L. Lobaugh Vice President

WITNESSES my hand and official seal.
 (Seal)
Gerstine K. Camesad
 Notary Public in and for said State

Boise Cascade Recreation Communities Corporation of Delaware

NOT-02 TUOLUMNE

MAIL TAX STATEMENTS TO RETURN ADDRESS ABOVE

OFFICE OF



Info

The County Counsel

Court House

Mariposa, California 95338

County Counsel

January 22, 1980

(209) 966-3625
(209) 966-5101

TO: The Board of Supervisors
FROM: County Counsel
SUBJECT: *J.P.C.* Don Pedro Dump

This is in response to your direction that County Counsel determine the status of ownership of and restrictions upon the 162 acre parcel intended as a sanitary land fill in the Don Pedro Subdivision. A copy of the deed is attached. A deed is the final and exclusive memorial of the intention and rights of the parties. ^{1/}

~~1.~~ 1. The parcel was granted to Mariposa County Service Area 1M (not to the County).

~~2.~~ 2. The four line clause following the description of the parcels creates a cloud on the title.

- a. The cloud is neither a covenant running with the land, ^{2/} nor is it a condition subsequent. ^{3/}
- b. It appears to be an equitable servitude (sometimes called an equitable charge, a negative easement, or equitable restriction) for the benefit of land owners in the subdivision.

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3. An equitable servitude may be enforced by any beneficiary (land owner in the subdivision) by injunction.

- a. The law provides some defenses of such an injunction action:
1. Change of conditions.
 2. Acquiescence by party seeking enforcement.
 3. Laches and waiver.
 4. Unfairness.
 5. Public Policy.

None of these defenses seem to apply to the facts of this case.

4. Such a cloud may be removed from the title by:
- a. A mutual agreement signed by all property owners within the subdivision.
 - b. Defeating its enforceability in a declaratory relief action, or
 - c. Quiet title action.

A declaratory relief action to test its enforceability does not seem practical because: (1) the defenses provided by law do not apply, nor are they available to the facts. Should the matter be contested, the relief sought would probably not be granted. (2) even if it were, a quiet title action would still be required to clear the title, on the ground of unenforceability.

A quiet title action would (1) test enforceability and

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(2) litigate the cloud in one (consolidated) suit. Each land owner would have a right to contest the quiet title action and assert his right to the benefit provided by the clause.

If the service area were to announce an intent to convey the parcels to the County, waiving the restriction, in return for the County's promise to provide a dump (land fill) facility at a more suitable location, a property owner may sue to enjoin the conveyance. If not - ok, by default.

If so, then the Court has the power to issue the injunction or provide damages in dollars. It would seem that a settlement could probably then be reached to provide dump facilities to satiate the plaintiffs.

In the alternative, a test of attitudes of owners in the subdivision may be conducted to determine if a mutual agreement to remove the cloud is possible.

FOOTNOTES:

1/ An exception to this rule is, if there is a recorded agreement and the deed refers to that recorded agreement on its face.

2/ A covenant running with the land is a promise, enforceable against a land owner, to do or forbear doing an act. It requires, among other things, an express provision that all successive owners of the land of the covenantors are to be bound for the benefit of the land owned by, granted by, or granted to the covenantee.

3/ A condition subsequent, upon its failure or breach, works as a ground for re-entry and forfeiture of title back to the grantor. Since the law does not favor forfeiture, such condition is construed narrowly, and requires, among other things, an expressed right of re-entry on the deed.



Office of the
County Counsel

MEMORANDUM

Date: May 6, 2002

To: Doug Balmain, District II Supervisor

From: Jeffrey G. Green, County Counsel 

Re: Appraisal of the 162-Acre Parcel of Lake Don Pedro 1-M Service District Land

Thank you for providing me with a copy of a document dated Monday, April 15, 2002 to the Board of Supervisors from the Don Pedro Area Citizens Committee. In paragraph 8 of that document the authors claim that Boise Cascade Land Company merged with the parent company and therefore there is in fact a surviving company to Pacific Cascade Land Company. As you know, I forwarded a letter to Boise Cascade on April 24, 2002 regarding this matter. I received a telephone call from Jeff Neumeyer, attorney at law representing Boise Cascade. Mr. Neumeyer informed me that there is in fact no surviving corporation or company of Pacific Cascade Land Company. Mr. Neumeyer further informed me that should the Lake Don Pedro District Board of Directors (Directors) file a quiet title action on the 162-acre parcel, Boise Cascade would have no interest in responding to that litigation. I informed Mr. Neumeyer that should the District decide to sell the property and institute a quiet title action that I would send him a courtesy copy for his company's review.

rs

cc: Board of Supervisors w/encl
Don Pedro Area Citizens Committee w/encl

OFFICE OF



JEFFREY G. GREEN
County Counsel
(209) 966-3222

P. O. Box 189
Mariposa, CA 95338
FAX (209) 966-5147

The County Counsel

MARIPOSA COUNTY

April 24, 2002

Boise Cascade
1 Jefferson Place
Boise, Idaho

Re: Pacific Cascade Land Company, a Delaware Corporation

To Whom It May Concern:

A Delaware corporation by the name of "Pacific Cascade Land Company" subdivided real property in Mariposa County in the 1960's and 1970's. My office has contacted the Secretary of State in the State of Delaware and has been informed that the Pacific Cascade Land Company is no longer in existence. However, the Secretary of State had no additional information relative to the corporation, other than that it had been dissolved. In that regard, my office has been informed that Pacific Cascade Land Company was merged into a company by the name of "Boise Cascade".

I would appreciate it if you could provide the undersigned any information relative to the dissolution of Pacific Cascade Land Company and whether or not that company continues to be affiliated in some manner with Boise Cascade or another corporation.

Thank you for your courtesy and cooperation regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey G. Green", is written over a horizontal line.

Jeffrey G. Green
County Counsel

rs

cc: Doug Balmain, District II Supervisor

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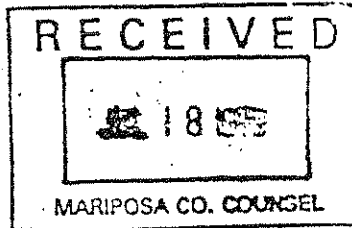
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DATED: July 10, 1973

COUNTY OF MARIPOSA

BY: *Tom R. Richardson*
Tom R. Richardson,
Chairman of the Board of
Supervisors



RECORDING REQUESTED BY

LAND UNDER DISBURSED MAP, TO

Mariposa County Clerk
Mariposa County Courthouse
Mariposa, California

RECORDED AT THE REQUEST OF C. Clark
July 5 1973 AT 45 MIN. PART 3 O'CLOCK P. M. IN
VOLUME 1147 OF OFFICIAL RECORDS, PAGE 480
MARIPOSA COUNTY RECORDS
Carroll J. Clark RECORDER
John J. Clark Deputy
No 2561

SPACE ABOVE THIS LINE FOR RECORDER'S USE

REAL TAX STATEMENTS TO

APPLY L.R.L. 1-5 IN THIS SPACE
R.T.S.H.

Corporation Grant Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged. BOISE CASCADE RECREATION COMMUNITIES CORPORATION OF DELAWARE, a Delaware Corporation who acquired title as PACIFIC CASCADE LAND COMPANY, INC., a Delaware Corporation organized under the laws of the state of

hereby GRANTS to MARIPOSA COUNTY SERVICE AREA 1-M, a Political Subdivision of the County of Mariposa

the following described real property in the County of Mariposa and Tuolumne State of California:

All that certain real property situate in the Counties of Mariposa and Tuolumne, State of California, being more particularly described as follows:

PARCEL 1: The South 1/4 of the Southwest 1/4 of Section 22 and the West 1/4 of the Northwest 1/4 of Section 27, T. 2S., R. 15E., M.D.M. containing approximately 160 acres.

PARCEL 2: The West 66 feet of the Northwest 1/4 of the Southwest 1/4 of Section 27, T. 2S., R. 15E., M.D.M. containing approximately 2 acres.

This Grant is made subject to the express condition that the property shall be maintained and used exclusively as a Sanitary Land Fill Site for the benefit of Lake Don Pedro Subdivision, a subdivision located in Mariposa and Tuolumne Counties, California.

In Witness Whereof, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its _____ President and _____ Secretary thereunto duly authorized.

Dated: June 15, 1973

STATE OF CALIFORNIA
COUNTY OF Santa Clara } ss.
On June 15, 1973

before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Ramsay, known to me to be the Div. Gen'l. Manager of _____, and

By Kenneth R. Ramsay
Division General Manager
Recorder

By _____
Secretary

_____ known to me to be Secretary of the Corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal this _____ day of _____, 1973.
(Seal)
Signature [Signature]
Calvin D. [Name]
Notary Public in and for said State

Title Order No. _____

Extract or Lien No. _____

REAL TAX STATEMENTS AS DIRECTED ABOVE