COUNTY OF SAN MATEO

Inter-Departmental Correspondence

Date: June 6, 2001 Board Meeting Date: June 19, 2001

TO: Honorable Board of Supervisors

FROM: Neil R. Cullen, Director of Public Works

SUBJECT: Proposed Increase in Sewer Service Charges for the Nine (9) County Governed Sewer/Sanitation Districts

RECOMMENDATION

Adopt:

- 1. an Ordinance increasing the sewer service charge rates; and
- 2. a Resolution:
 - (a) Setting a time and place for a public hearing to consider the sewer service charge rates to be used to calculate sewer service charges for FY 2001 through FY 2005 and the sewer service charges for Fiscal Year (FY) 2001-2002 in the nine sewer/sanitation districts governed by your Board; and
 - (b) Directing the Director of Public Works to send notice of the proposed rates and charges to each property owner in each district as required by the State Constitution.

Previous Board Action

Adopted an ordinance setting the current sewer service charge rates for each of the nine sewer/sanitation districts (Districts) governed by your Board.

Authorized an agreement with a consultant to evaluate the Districts' collection systems.

Key Facts

1. The United States Environmental Protection Agency (EPA) is developing new regulations pursuant to the Federal Clean Water Act, which will penalize agencies that allow sewer overflows to occur from the systems that they maintain.

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- 2. The majority of the sewer collection system infrastructure of the Districts, except for the new Emerald Lake Heights District, is 50 to 80 years old. The consultant concluded that at least \$11,500,000 in improvements is needed to correct existing deficiencies in the Districts' collection systems!
- 3. We anticipate that the Districts will also incur additional costs to treat the wastewater collected not only as the price of energy increases but also as the regulatory agencies require improvements in the quality of effluent that is discharged into San Francisco Bay.
- 4. The proposed recommended increase in sewer service charge rates envisions immediate improvements being financed with the Districts' current fund balances with ongoing rehabilitation of the remaining collection systems occurring over a 35-year period.
- 5. The State Constitution as amended by Proposition 218 requires that an individual notice of a hearing on any new or increased property related fee be sent to the affected property owners.

Discussion

Federal and State Regulations Regarding Sewage Spills from Sewer Collection Systems

The nine (9) Districts governed by your Board serves approximately 12,200 properties and finances the operation and maintenance of approximately 130 miles of sewer mains as well as the cost of treating the wastewater collected by the Districts. The operation of the Districts' sewer collection systems are regulated by the California Regional Water Quality Control Board (RWQCB) and the United States Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act. We currently report sewer spills that are greater than 1,000 gallons to the RWQCB and also report what remedial work is being done to prevent the same spill in the future.

The EPA recently developed new permit requirements under the Clean Water Act to regulate sewage spills (Spills) from collection systems. EPA's concern is that uncontrolled Spills present a public health hazard and can contaminate the waters of the United States, causing serious water quality problems and threatening drinking water supplies as well as fish and shellfish. Sewer main blockages that result in Spills can also create sewage back ups into houses causing property damage and creating health threats to those who come in contact with the untreated sewage. The

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permit requirements are currently under review by the Federal Administration, but will essentially prohibit Spills from occurring with penalties or sanctions for those agencies that allow Spills to occur. Attached is a recent article involving sanctions against the City of Huntington Beach.

What the Districts Must Do to Comply

In order to comply with the new EPA regulations it will be necessary to:

 Change maintenance procedures to eliminate blockages from occurring in the sewer collection systems. This will involve implementing computer based maintenance management systems that enable staff to identify problem areas.

We are currently negotiating a contract with a consultant to evaluate the maintenance procedures with recommendations on changing the procedures expected this fall.

• Implement a capital improvement program to increase the size of sewer mains where capacity is insufficient and to rehabilitate or replace structurally damaged sewer mains.

The first step in developing a capital improvement program was to conduct an assessment of the physical condition of the sewer system, and this assessment was completed in 2000. The assessment identified a total of \$11,500,000 in recommended collection system improvements, which comprise twenty percent (20%) of the systems. The remaining eighty percent (80%) of the systems will need remedial work in the future as the systems reach the end of their useful service life, the cost of which is estimated at \$72,000,000.

Financing the Rehabilitation Plan

The Districts are funded by sewer service charges that are set by ordinance and collected together with the property tax. The sewer service charge varies among districts depending upon the size of the district and condition of the sewer infrastructure. We have evaluated the sewer service charge of each district and developed the proposed rates to finance: (1) routine and emergency maintenance, and (2) contract costs for sewage treatment and disposal; and (3) the cost to implement a capital improvement program to rehabilitate or replace the existing facilities. The following chart shows the proposed increases in sewer service charge rates for the next five (5) years in each of the nine (9) districts and includes the costs as mentioned above, taking into

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consideration the system improvements recommended by the consultant as well as additional improvements that will have to occur over the next 35 years to maintain the integrity of the collection systems:

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District	2001-02	2002-03	2003-04	2004-05	2005-06
Burlingame Hills SMD	489	530	571	614	657
Emerald Lake – Zone 1	353	384	416	449	482
Emerald Lake – Zone 2	256	280	304	328	353
Fair Oaks SMD	188	207	227	247	267
Harbor Industrial SMD	194	212	231	249	268
Kensington Sq. SMD	272	291	311	331	352
Oak Knoll CSD	293	322	351	381	412
Crystal Springs CSD	386	413	440	468	496
Devonshire CSD	313	335	358	381	404
Scenic Heights CSD	272	297	323	349	376

The increases necessary to finance maintenance, operations and the capital replacement program shown above range between six percent (6%) and ten percent (10%) per year.

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Process to be Followed in Implementing an Increase in the Current Rate and Fee Structure

The County Ordinance Code provides that sewer service charges for the Districts be collected on the tax roll. Your Board must take the following four actions before August 10, 2001, to place sewer service charges on the tax roll for the 2001-2002 Fiscal Year:

- 1. Amend the Ordinance Code to increase the rates used to calculate the sewer service charge fees for each property within each district.
- 2. Adopt a Resolution setting the time and place for a public hearing to consider the individual sewer service charges proposed in the 2001/2002 Sewer Service Charges Report.
- 3. Hold a public hearing and receive testimony.
- 4. Adopt a Resolution adopting the 2001/2002 Sewer Service Charges Report.

In addition, the State Constitution as amended by Proposition 218 adopted by the voters in November 1996 requires an individual notice of the hearing to consider any new or increased property related fees including sewer fees, and a mechanism for rejecting the fees via a "majority protest" at the public hearing. We are recommending that your Board direct us to notify each owner of each property of the new annual charges by mail and to explain that protests to the charges must be in writing.

Fiscal Impact

Attachment "A" lists all of the sewer main rehabilitation or replacement projects identified in the Districts' Sewer Master Plans. The first projects that will be undertaken are the "Priority 1" projects which involve sewer mains that have insufficient capacity; Priority 2 projects are sewer mains with excessive maintenance requirements; and Priority 3 projects are mains with minor to major structural deficiencies.

The \$10,000 estimated cost of mailing individual notices and the \$0.30 per parcel charged that is levied by the Controller for placing the sewer service charge on the tax bill will be paid for from the revenues of the respective Districts.

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There is no impact to the General Fund.

A form of ordinance and resolution has been approved by County Counsel.

Neil R. Cullen Director of Public Works

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Attachment: Article Involving Sanctions Against the City of Huntington Beach Attachment "A"

cc: Milt Mares, County Counsel
 Brian C. Lee, Division Manager, Programs and Engineering Services
 Walt Callahan, Flood Control and Utilities Manager
 Dan Wang, Management Analyst

ENFORCEMENT

Huntington Beach Pleads Guilty to Criminal Charges in Sewer Case

The Orange County District Attorney's office has announced that the City of Huntington Beach has become the first California city to be criminally convicted for failing to report leaks from its sewer system. The city's Mayor, Pam Houchen, appeared in Orange County Superior Court to plead guilty to violating Water Code section 13387 for knowingly failing to report leaks from its downtown sewer system. Judge Martin Enguist sentenced the city to five year's probation, ordered it to spend at least \$250,000 to clean up and assess the effects of the leaks, and further imposed a \$75,000 penalty payable if the city does not comply with the terms of the probation. The city has already spent more than \$2.7 million to fix its aging sewer system, and to assess the impact of leaks from the system.

The city failed to formally report the leaks to the Santa Ana regional Water Quality Control Board, because city officials did not think the problem threatened local water quality supplies. In December, the regional board issued a cleanup and abatement order. One of the conditions of the city's probation is that it comply with the terms of that order. The probation and fine is the result of lengthy negotiations between the D.A. and the city. The D.A., Tony Rackauckas, cautioned other municipalities in the county that they face similar or even more severe sanctions for similar failures to deal with sewage leaks, which have become a major problem in the county.

EPA Environmental Justice Program Results in Large Fines for 10 Los Angeles Facilities

U.S. EPA Region IX has collected a total of \$293,924 in fines from 10 Los Angeles area facilities for hazardous waste violations. The fines resulted from inspections conducted by the

agency's hazardous waste division under the Los Angeles Environmental Justice Initiative, which looks at the impact of industrial operations on minority and low-income communities in Los Angeles. The state Department of Toxic Substances Control also participated in the inspection program.

The program began after EPA received a number of complaints from concerned citizens and environmental groups in East and Central Los Angeles about exposure to school children and other exposures caused by the large concentration of industrial activity in those areas. The Region IX inspectors visited 43 "high priority" facilities, selected based on their proximity to schools, their violation history, and reviews of hazardous waste manifest information. The inspections took place between April 1, 1999 and March 31, 2000. Hazardous waste violations were found at 36 of the 43 facilities. EPA settled with 20 of the facilities without assessing a fine, and an additional six of the cases remain open. Violations at the other ten facilities were severe enough that the agency felt compelled to levy fines. The facilities fined, their location, and the amount of the fine are as follows:

• Muran-Wurzell Glass and Mirror Huntington Park \$60,775

• American International City of Commerce \$18,150

• CAL-Doran Metallurgical Services Los Angeles \$11,110

• Ivy Hill Corporation Vernon \$18,360

• Fabri Cote Division of Glass and Fabrication Los Angeles \$122,829

- Millhorn Chemical Maywood \$10,450
- MG Paint Store Los Angeles \$10,450
- Atlas Galvanizing Los Angeles
 \$10,450
- MP Steel Los Angeles \$10,450

 West Coast Coatings Santa Ana \$20,900

Violations drawing fines include failure to report data to EPA under the federal Right-to-Know program, insufficient emergency planning and training, improper labeling and storage of hazardous waste, and storage of hazardous waste without permits.

In addition to the EPA inspections, DTSC inspected 38 additional hazardous waste treatment, storage, and disposal facilities and transporters. Violations were identified at 24 of the facilities consisting primarily of storage of unauthorized hazardous waste, illegal waste disposal, hazardous waste releases to the environment, and unauthorized waste treatment.

Operator of Electroplating Shop Convicted of Felony Violation of Clean Water Act

A Ventura man was convicted in federal court of seven felony violations of the federal Clean Water Act for unlawfully discharging pollutants into the City of San Luis Obispo's sewer system. Edward Fixen, 60, who operated an electroplating operation in San Luis Obispo was found guilty of the violations by Central District Court Judge William J. Rea following a trial in January.

Fixen illegally discharged industrial wastewater from his facility contaminated with cyanide, nickel, and corrosive chemicals. While Fixen had a permit to discharge some wastewaters into the sewer system, Judge Rea found that the discharges exceeded the levels permitted in his permit. The discharges were detected by inspectors from the city's Industrial Wastewater Division who placed sampling equipment in front of Fixen's shop.

Witnesses testified for the prosecution that Fixen attempted to conceal his conduct by attempting to determine when the city was monitoring the sewer line. For example, the witnesses testified that Fixen and his employees routinely used a metal rod to probe through a hole in a manhole cover to determine when the city's monitor was in place. When Fixen thought the city was not inspecting him he directed his employees to dump the wastewaters into the sewer. The unlawful discharges took place between July 1995 and May 1997.



Bush's 'Blueprint Budget' Would Reduce U.S. EPA Funding

As part of his "blueprint budget" issued on Feb. 28, U.S. President George W. Bush requested \$7.3 billion from Congress to fund the U.S. Environmental Protection Agency (EPA) in fiscal year (FY) 2002 --- \$500 million less than the agency's FY 2001 budget. The day before, EPA Administrator Christine Todd Whitman told attendees at a National Governors' Association meeting that she was confident Bush's proposal would provide sufficient funding for the agency to "carry out [Its] mission."

The proposal would maintain the clean water state revolving loan fund (SRF) at \$1.3 billion, a figure that does not come close to addressing wastewater infrastructure needs sufficiently, according to environmental organizations, municipal and state government groups, and other water quality professionals (see p. 6 of the March 2001 issue of WE&T).

Meanwhile, questions remain about whether the final FY 2002 budget will include appropriations authorized under the Wet Weather Water Quality Act of 2001. The law authorizes \$1.5 billion in federal grant funding over the next 2 fiscal years to reduce wet weather sewer overflows from municipal sewer systems. It also authorizes \$45 million in demonstration grants for watershed and wet weather demonstration projects and establishes a clearinghouse for technologies to prevent sewer overflows. However, Congress must formally appropriate the money this year for it to become available to communities.

Brownfields Bill Gains Momentum

On March 8, the Senate Environment and Public Works Committee passed a bill promoting the cleanup and reuse of brownfields — abandoned or underused industrial sites that are, or are perceived to be, contaminated. Supported by the U.S. Environmental Protection Agency (EPA), the Brownfields Revitalization and Environmental Restoration Act of 2001 (S. 350) would increase annual funding for assessment and cleanup activities at brownfields from about \$90 million to \$200 million. It also would protect brownfield owners or purchasers from liability if they "did not cause, contribute, or consent to the release or threatened release of pollutants."

In addition, S.350 would allow states to assume the lead role in cleaning up brownfields, while allowing EPA to intervene during or after a cleanup if

a state asks for federal help,

• the agency determines that contamination has migrated or could migrate. across state lines, or

• the agency finds that an "imminent and substantial endangerment" to human health or the environment exists.

Both Majority Leader Trent Lott and the House of Representatives Transportation and Infrastructure Committee have expressed interest in passing such an amendment to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; commonly known as Superland) this year. Lott is working use Topublicans and Democrats to brun Spin before the full Senate for approval. The House Transportation and Infrastructure Committee began hearings on brownfields issues in March.

Municipal Groups Ask Whitman to Review SSO Proposal

In a March 5 letter, a coalition of municipal and technical organizations asked U.S. Environmental Protection Agency (EPA) Administrator Christie Whitman to consider revising a proposed regulation on sanitary sewer overflows (SSOs) signed by her predecessor. The proposal was signed by former Administrator Carol Browner on Jan. 5, but its publication in the *Federal Register* was blocked by a Jan. 20 Bush administration order requiring such proposals to be reviewed by a Bush appointee before the proposal is in effect.

The organizations say the proposed rule, while containing many positive elements, is based on the false premise that overflows can be eliminated and could "place most American cities in immediate and permanent violation of the law." The organizations, which were represented on the municipal operator caucus during EPA's multiyear advisory committee process on SSOs, include the W. Environment Federation (WEF; Alexandr Va.), Association of Metropolitan Co., age Agencies (Washington, D.C American Public Works Association Counties (Washington, D.C.), Neil League of Cities (Washington, D.C.), Tri-TAC (a coalition representing C fornia publicly owned treatment wor and municipalities).

In a related development, Sen. Here Reid (D-Nev.), the ranking Democrat the Senate Environment and Put Works Committee, wrote to Whitman March 7 expressing concern about number of rules being delayed under Bush order. In response to Reid's lett an EPA spokesman said the SSO rule not subject to any court-ordered delines and the new administration has yet decided what action to take on it.





ATTACHMENT "A" SEWER MASTER PLAN PROJECTS

Burlingame Hills Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost 213,500	
Canyon Road #4	1	152,500		
Canyon Road #3	1	54,500	76,300	
Hillside Drive	2	191,700	268,380	
Canyon Road #2	2	179,100	250,740	
Adeline Drive	3	195,300	273,420	
Canyon Road #1	3	157,100	219,940	
Fey Drive	3	100,900	141,260	

Crystal Springs County Sanitation District

Project	Priority	Construction Cost	Total Project Cost	
Polhemus Road (north)	1	582,100	814,940	
Randall Road	2	73,200	102,480	
Timberlane Way	2	238,900	334,460	
Parrott Drive	.3	180,000	252,000	
Lexington Avenue	3	127,000	177,800	
Enchanted Way	3	35,900	50,260	
Rainbow Drive	3	325,600	455,840	
South Ascension Drive	3	279,700	391,580	
Polhemus Road (south)	3	4,000	5,600	

Devonshire County Sanitation District

Project	Priority	Construction Cost	Total Project Cost
Winding Way	2	148,700	208,180
Windsor Drive	2	68,100	95,340
Devonshire Boulevard	3	98,300	137,620
Dolton Avenue	3	95,700	133,980
Chesham Avenue	3	62,100	86,940

Emerald Lake Heights Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost
Cordilleras Road	1	181,800	254,520
Edgewood Road	1	45,100	63,140

Harbor Industrial Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost
Elmer Street	3	55,400	77,560

Fair Oaks Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost
Bay Road #4	1	1,005,700	1,407,980
Oakside/Barron Avenue	1	661,800	926,520
Selby Lane #3	1	864,400	1,210,160
Berkshire Avenue	.1	609,200	852,880
Selby Lane #2	1	209,500	293,300
Bay Road #2	1	337,900	473,060
Selby Lane #1	1	325,000	455,000
Nimitz Avenue	1	218,000	305,200
Bay Road #1	1	369,900	517,860
12th Avenue	1	133,800	187,320
Woodside Road	1	128,400	179,760
Santiago Avenue	1	150,400	210,560
El Camino Real #2	1	180,500	252,700
Milton Street/Hull Avenue	1	219,400	307,160
Eleanor Drive	3	240,500	336,700
Melanie Lane	3	161,300	225,820
Middlefield Road	3	137,500	192,500
Polhemus Avenue	(3	367,200	514,080
Page Street	3	114,120	159,768
Stockbridge Avenue	3	248,040	347,256
6th Avenue	3	146,470	205,058
Bay Road #3	3	223,020	312,228
El Camino Real #1	3	191,100	267,540
Hillside Drive	3	149,040	208,656
Glenwood Avenue	3	138,960	194,544

Kensington Square Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost
Upton Street	3	136,600	191,240

Oak Knoll Sewer Maintenance District

Project	Priority	Construction Cost	Total Project Cost
Don Court	3	43,000	60,200
Moloney Court	3	29,800	41,720

Scenic Heights County Sanitation District

Project	Priority	Construction Cost	Total Project Cost
Scenic Drive	3	33,700	47,180

Note: Priority 1 – Insufficient Capacity

Priority 2 – Excessive Maintenance

Priority 3 – Structural Deficiencies

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Ordinance No.

Board of Supervisors, County of San Mateo, State of California

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An Ordinance Amending Sections 4.32.020 and 4.32.030 of Chapter 4.32 of Title 4, Sanitation and Health, San Mateo County Ordinance Code, Concerning Sewer Maintenance Districts or County Sanitation Districts Governed by the Board of Supervisors

The Board of Supervisors of the County of San Mateo, State of California, ORDAINS follows:

Section 1.: Chapter 4.32 of Title 4, Sanitation and Health, of the San Mateo County Ordinance Code is hereby amended to read as follows:

Section 4.32.020 RATES. Sewer Service Charges are hereby prescribed for each residential unit or residential unit equivalent per connection to each district's sanitary sewerage system, per year or portion thereof, as follows:

District	2001-02	2002-03	2003-04	2004-05	2005-06
Burlingame Hills SMD	489	530	571	614	657
Emerald Lake – Zone 1	353	384	416	449	482
Emerald Lake – Zone 2	256	280	304	328	353
Fair Oaks SMD	188	207	227	247	267
Harbor Industrial SMD	194	212	231	249	268
Kensington Sq. SMD	272	291	311	331	352
Oak Knoll CSD	293	322	351	381	412
Crystal Springs CSD	386	413	440	468	496
Devonshire CSD	313	335	358	381	404
Scenic Heights CSD	272	297	323	349	376

Section 2.: Section 4.32.030 RATES. The sewer service charge for non-residential use shall be determined by the formula indicated in 4.32.010 of Title 4, Sanitation and Health, of the San Mateo County Ordinance Code.

Section 3.: This Ordinance shall be in full force and effect 30 days after its adoption.

* * * * * * * *

NRC:BCL:WDC:sdd - June 19, 2001

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Resolution No.

Board of Supervisors, County of San Mateo, State of California

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Resolution Setting Time and Place for a Public Hearing on the Filing of the Sewer Service Charges Report for Fiscal Year 2001-2002 for County Sewer Maintenance and Sanitation Districts

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of

California, as the governing board of the following Sewer Maintenance and County Sanitation Districts:

Burlingame Hills Sewer Maintenance District; Emerald Lake Heights Sewer Maintenance District; Fair Oaks Sewer Maintenance District; Harbor Industrial Sewer Maintenance District; Kensington Square Sewer Maintenance District; Oak Knoll Sewer Maintenance District; Crystal Springs County Sanitation District; Devonshire County Sanitation District; Scenic Heights County Sanitation District.

that

WHEREAS, San Mateo County Ordinance Code Chapter 4.32 requires that sewer service charges for Fiscal Year 2001/2002 in the above named Sewer Maintenance and County Sanitation Districts shall be collected on the tax roll in accordance with the amounts shown for each parcel of real property receiving such services, in a written report filed with the Clerk of this Board; and

WHEREAS, the Constitution of the State of California requires that written notice of any proposed new or increased fees or charges be provided by mail to the record owner of each parcel upon which the charge is proposed for imposition;

WHEREAS, California Health and Safety Code Section 5473.1 requires that the Clerk of this Board shall cause notice of the filing of said written report and of the time and place of a hearing thereon to be published once a week for two successive weeks prior to the date set for hearing in a newspaper of general circulation in the above named Sewer Maintenance and County Sanitation Districts:

NOW, THEREFORE, NOTICE IS HEREBY GIVEN that <u>Tuesday</u>, <u>August 7, 2001</u>, at <u>9:30 a.m.</u>, in the Chambers of the Board of Supervisors of the County of San Mateo, in the Hall of Justice and Records, Redwood City, California, is hereby fixed as the time and place of the hearing on the filing of the 2001/2002 Sewer Service Charges Report for County Sewer Maintenance and Sanitation Districts with the Clerk of this Board.

The Clerk of this Board shall cause a copy of the "NOTICE OF PUBLIC HEARING", attached hereto, to be published once a week for two successive weeks prior to the date set for hearing in the <u>San Mateo County Times</u>, a newspaper of general circulation in the above named Sewer Maintenance and County Sanitation Districts.

The Director of Public Works shall provide notice by mail to the record owner of each parcel upon which the charge is proposed for imposition.

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Public Hearing Notice

The San Mateo County Board of Supervisors has scheduled a public hearing on the adoption of the 2001/2002 Sewer Charges Report for County Sewer Maintenance and Sanitation Districts. This report contains the individual charges for each parcel of real property receiving sanitary sewer service in one of the following Sewer Maintenance or County Sanitation Districts:

Burlingame Hills Sewer Maintenance District Emerald Lake Heights Sewer Maintenance District Fair Oaks Sewer Maintenance District Harbor Industrial Sewer Maintenance District Kensington Square Sewer Maintenance District Oak Knoll Sewer Maintenance District Crystal Springs County Sanitation District Devonshire County Sanitation District Scenic Heights County Sanitation District

The adoption of the 2001/2002 Sewer Service Charges Report for County Sewer Maintenance and Sanitation Districts will result in these charges being placed on the tax roll. They will appear on the tax bill of each affected property and be collected in the same manner as the property tax.

The public hearing will be held on Tuesday, August 7, 2001, at 9:30 A.M. in the Chamber of the Board of Supervisors, located in the Hall of Justice and Records, 400 Government Center, Redwood City, California. The meeting will be open to the public and anyone interested may appear and be heard on this matter or submit a written statement.

If you own property in one of these districts, you may obtain information about these charges from the San Mateo County Department of Public Works, 555 County Center, 5th Floor, Redwood City, telephone (650) 363-4100, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.