

## **Appendix J**

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*Judgement Upon Arbitration Award and  
Annual Demand Water Report*



March 21, 2014

Ms. Mary Chang  
Senior Planner  
Planning and Environmental Review  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

RE: North Willow Springs Conceptual Review

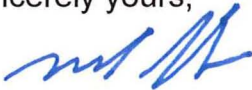
Dear Ms. Chang:

At our meeting on March 20 we had a brief discussion about water service for North Willow Springs. I have enclosed a copy of the recorded Judgment which was entered in the Superior Court to provide water service for all of the Willow Springs property, which I purchased from the prior owners. You will see in Section 5 that we are entitled to 100.89 AFY, and we expect to be somewhat under that amount with the total development of the property, including Willow Springs I, Willow Springs II and North Willow Springs.

We paid the cost of construction described in Section 4 to the Goleta Water District in connection with obtaining water service for Phase One of Willow Springs.

Please let me know if you have any additional questions.

Sincerely yours,



MICHAEL TOWBES

/bjr

Enclosure

cc: Lisa Prasse, Planning Manager  
Joe Pearson, Assistant Planner  
Stephanie Diaz, Contract Planner

# Coleman & Richards

APR 04 2002

RICHARD M. COLEMAN  
LAURIE J. RICHARDS

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
21355 PACIFIC COAST HIGHWAY, SUITE 203A  
MALIBU, CALIFORNIA 90265  
MALIBU TELEPHONE (310) 317-0228 / FACSIMILE (310) 317-4658  
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CENTURY CITY OFFICE  
(310) 277-2700

April 2, 2002

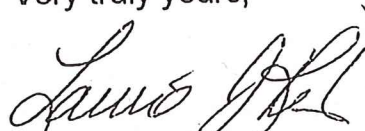
Mr. Michael Towbes, President and CEO  
The Towbes Group  
P. O. Box 20130  
Santa Barbara CA 93120-0130

Re: Los Carneros and Goleta Water District Arbitration

Dear Mr. Towbes:

Enclosed is a copy of the Judgment entered on February 25, 2002.

Very truly yours,



Laurie J. Richards

enclosure

cc: Stanley Properties, Inc. (w/encl)

1 RICHARD M. COLEMAN (SBN 39564)  
LAURIE J. RICHARDS (SBN 67274)  
2 COLEMAN & RICHARDS  
A Professional Corporation  
3 21355 Pacific Coast Highway, Suite 203A  
Malbu, California 90265  
4 (310) 317-0228

5 REICKER, PFAU, PYLE, McROY & HERMAN, LLP.  
6 1421 State Street, Suite B  
Santa Barbara, CA 93101  
7 (805) 966-2440  
8 Attorneys for Claimants

FILED  
SANTA BARBARA  
SUPERIOR COURT

FEB 26 2002

GARY M. BLAIR, EXEC. OFFICER  
By *[Signature]*  
RESA REYES, Deputy Clerk

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SANTA BARBARA

11 LOS CARNEROS COMMUNITY  
12 ASSOCIATES, INC. and LOS CARNEROS  
COMMUNITY ASSOCIATES, a partnership,

Petitioners

Case No. 232281

(PROPOSED) <sup>11/00</sup> JUDGMENT UPON  
ARBITRATION AWARD

14 AND

15 GOLETA WATER DISTRICT,

Respondent

18  
19 The Court, having read and considered the Stipulation of Petitioners LOS  
20 CARNEROS COMMUNITY ASSOCIATES, INC. and LOS CARNEROS COMMUNITY  
21 ASSOCIATES, a partnership, now known as Stanley Properties, Ltd, a California  
22 corporation ("Petitioners" herein), and Respondent GOLETA WATER DISTRICT  
23 ("Respondent" herein), and good cause appearing therefor:

24 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment shall be

25 ///

1 entered as follows:

2           A. Judgment is awarded in favor of Petitioners and against Respondent on  
3 Petitioners' claim for declaratory relief and Respondent's claim for rescission of the Water  
4 Service and Management Agreement dated October 6, 1986, ("the 1986 Agreement"), as  
5 amended ("the 1997 Amendment") on November 17, 1997 (collectively "the WMSA")  
6 between Petitioners' predecessor(s) in interest and Respondent with respect to the  
7 unimproved real property in the County of Santa Barbara described on County Assessor's  
8 Parcel No. 35-050-24, and more particularly described on Exhibit "A" hereto and  
9 incorporated herein by this reference as though fully set forth at length [ herein referred to  
10 as "the Property."] and the Court declares:

11           1. That the WMSA shall continue in full force and effect as set forth in this  
12 Judgment for the benefit of Petitioners or their successors in interest or any successor in  
13 interest hereafter (jointly and severally referred to in this Paragraph A as "Petitioners or  
14 their successors");

15           2. That no water supply facilities (herein "Water Supply Facilities") have  
16 been or will be constructed on the Property by Petitioners or their successors, and  
17 Respondent has elected that it will issue meters for the Property when needed and that it  
18 will neither operate nor construct Water Supply Facilities for the Property, all as set forth in  
19 the 1997 Amendment, Sections 1.1 through 1.4.3;

20           3. That, pursuant to paragraph 6 of the 1986 Agreement as amended by  
21 paragraph 1 of the 1997 Amendment, at the time or times (if the Property is developed in  
22 phases), Respondent is notified by Petitioners or their successors that water meters are  
23 required to serve the Property, Respondent shall issue said water meters once Petitioners  
24 or their successors have paid the estimated cost of construction of the Water Supply  
25 Facilities as set forth below. Petitioners or their successors shall make such other  
26 payments as provided in the 1997 Amendment Section 1.4.3 and as set forth in Paragraph  
27

1 5 below.

2 4. That the Court finds that said cost of construction of the Water Supply  
3 Facilities to be \$674,758.00, which amount shall be adjusted by the percentage increase in  
4 the 20 Cities Construction Index (CCI) of the Engineering News Record (or comparable  
5 index if CCI has ceased publication) for the period commencing March 1, 2001 and ending  
6 on the most recent date the index is published prior to the date that Petitioners or their  
7 successors notify Respondent that the meters are required (herein "the Payment");

8 5. That, to the extent the projected water usage at the time or times meters  
9 requested by Petitioners or their successors cumulatively exceeds 100.89 AFY, Petitioners  
10 or their successors shall pay Respondent's then prevailing fees with respect to the meters  
11 for such excess amount.

12 6. That the Payment shall be made to Respondent at the time the meters are  
13 first required pursuant to Respondent's standard procedures.

14 B. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Judgment is  
15 awarded in favor of Respondent and against Petitioners on Petitioners' claim for damages  
16 for breach of contract.

17 C. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Petitioners are  
18 awarded the sum of \$280,000.00 as and for attorneys' fees and \$70,862.37 in costs, for a  
19 total monetary award of \$350,862.37.

20  
21 DATED: 2-15, 2002

**WILLIAM McLAFFERTY**

Judge of the Superior Court

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**DESCRIPTION:**

All that certain land situated in the State of California in the unincorporated area of the County of Santa Barbara, described as follows:

**PARCEL ONE:**

That portion of Tract 13,646 being Lot 19 and the Southeasterly portion of Camino Vista, a public road, from the centerline of said public road and lying contiguous thereto; Lot 21; Lot 22; Lot 23 and the Easterly portion of Via Las Flores, a public road, from the centerline of said public road, and the Northerly portion of Hollister Avenue, a public road, from the Santa Barbara City Limits terminating at the centerline of Via Las Flores, and lying contiguous thereto; Lot 24 and the Northerly portion of Via Las Flores from the centerline of said public road terminating at the centerline of Camino Vista, and the Southeasterly portion of Camino Vista, a public road, from the centerline of said public road and lying contiguous thereto, as shown on the map of Tract No. 13,646 in the County of Santa Barbara, State of California, recorded in Book 150 at Pages 92 through 98 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the Southeasterly corner of Tract 13,646, being also the Southeasterly corner of Lot 23, as recorded in Book 150, Page 92, et seq., of Maps, in the office of the County Recorder of said County, being the true point of beginning of the parcel described by the following fourteen (14) courses and distances:

Thence 1st, along the Northerly line of Hollister Avenue being also the Southerly line of Lot 23 as recorded in Book 150, Page 92, et seq. of Maps in the office of the County Recorder of County, South  $84^{\circ}35'52''$  West, 59.78 feet;

Thence 2nd, continuing along the Northerly line of Hollister Avenue, being also the Southerly line of Lot 23, as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $85^{\circ}43'22''$  West, 390.47 feet;

Thence 3rd, along the centerline of Via Las Flores, currently named Calle Koral, being also the Westerly line of Lot 23, as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $04^{\circ}16'38''$  West, 261.45 feet to the beginning of a tangent curve concave to the Southwest having a radius of 475.00 feet;

Continued...

EXHIBIT "A"

Thence 4th, continuing along the centerline of Via Las Flores, currently named Calle Koral, being also the Westerly line of Lot 23 and the Southwesterly line of Lot 24 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, along the arc of said curve through a central angle of  $49^{\circ}23'10''$ , an arc length of 409.43 feet;

Thence 5th, continuing along the centerline of Via Las Flores, currently named Calle Koral, being also the Southwesterly line of Lot 24 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $53^{\circ}39'48''$  West, 422.79 feet;

Thence 6th, along the centerline of Camino Vista being also the Northwesterly line of Lot 24 as recorded in Book 150, Page 92, et seq. and along the Northwesterly line of Lot 19 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $36^{\circ}20'12''$  East, 567.49 feet;

Thence 7th, leaving the centerline of Camino Vista, along the Northeasterly line of Lot 19 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $53^{\circ}39'48''$  East 239.00 feet;

Thence 8th, along the Easterly line of Lot 19 and Lot 21 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $11^{\circ}32'49''$  East 206.00 feet;

Thence 9th, along the Northeasterly line of Lot 21 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $50^{\circ}35'12''$  East, 149.73 feet;

Thence 10th, along the Northwesterly line of Lot 22 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $62^{\circ}40'47''$  East, 164.57 feet;

Thence 11th, along the Easterly line of Lot 22 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $00^{\circ}16'03''$  West, 128.00 feet;

Thence 12th, along the Northerly line of Lot 22 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, North  $89^{\circ}43'57''$  East 165.00 feet;

Thence 13th, along the Easterly line of Lot 22 as recorded in Book 150, Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $00^{\circ}16'03''$  East, 632.64 feet;

Thence 14th, along the Easterly line of Lot 23 as recorded in Book 150 Page 92, et seq. of Maps, in the office of the County Recorder of said County, South  $00^{\circ}16'03''$  East 414.00 feet to the true point of beginning of the parcel described herein.

Said legal description was disclosed by Certificate and Declaration of Voluntary Merger recorded December 3, 1998 as Instrument No. 98-094181 of Official Records.

EXCEPTING therefrom 1/2 of any and all oil, gas and other hydrocarbon substances within and under the above described property 500 feet beneath the surface thereof, without right to drill for or mine for said oil, gas and other hydrocarbon substances from the surface of said land as reserved by Edith William Lefevre, a widow by deed recorded November 27, 1964 as Instrument No. 50017 in Book 2080, Page 976 of Official Records, Santa Barbara County, California.

Continued...



**PARCEL TWO:**

Lots 1 through 18 and Lots 20, 25, 26, 27 and 28 of Tract No. 13,646 in the County of Santa Barbara, State of California, as per map recorded in Book 150 at Pages 92 to 98 of Maps, filed in the County Recorder's office of said County.

**EXCEPTING** therefrom  $\frac{1}{2}$  of any and all oil, gas and other hydrocarbon substances within and under the above described property 500 feet beneath the surface thereof, without right to drill for or mine for said oil, gas and other hydrocarbon substances from the surface of said land as reserved by Edith William Lefevre, a widow by deed recorded November 27, 1964, as Instrument No. 50017 in Book 2080, Page 976 of Official Records, Santa Barbara County, California.

**PARCEL THREE:**

That portion of Calle Koral (formerly known as Via Las Flores) as described by the Summary Vacation as Resolution No. 99-36 by the Board of Supervisors of the County of Santa Barbara, State of California, recorded March 30, 1999 as Instrument No. 99-025401 of Official Records in the County Recorder's office of said County.

**EXCEPTING** therefrom any portion thereof lying within Parcel One hereinabove described.

**ALSO EXCEPTING** therefrom  $\frac{1}{2}$  of any and all oil, gas and other hydrocarbon substances within and under the above described property 500 feet beneath the surface thereof, without right to drill for or mine for said oil, gas and other hydrocarbon substances from the surface of said land as reserved by Edith William Lefevre, a widow by deed recorded November 27, 1964, as Instrument No. 50017 in Book 2080, Page 976 of Official Records, Santa Barbara County, California.



July 7, 2015 (Revised December 7<sup>th</sup>, 2015)

Mr. John McInnes  
General Manager  
Goleta Water District  
4699 Hollister Avenue  
Goleta, CA 93110-1999

RE: Water Services for Willow Springs I, Willow Springs II and Heritage Ridge  
(formerly North Willow Springs)

Dear John,

Our Heritage Ridge project application (formerly North Willow Springs) was deemed complete by the City of Goleta on October 1<sup>st</sup>, 2014 and is currently in the environmental review process. As you recall, our Judgment Upon Arbitration Award dated February 26, 2002, provides a maximum water usage of 100.89 AFY for the Willow Springs I, Willow Springs II, and Heritage Ridge properties. As you will see, the combined measured and projected use is 100.795 AFY.

In our previous correspondence we had provided projections of water use at each of these properties. To substantiate these projections, our team utilized the water usage history established since the construction of Willow Springs I and Willow Springs II to extrapolate water usage for the three projects.

The calculations for water usage for Willow Springs I, Willow Springs II and Heritage Ridge were derived from WS I and WSII actual water use data provided by Goleta Water District. GWD staff provided the WS I and WSII water usage for the years between 2007 and 2015. To capture the most current project domestic water usage patterns, our analysis used a 24 month period (January 2012 through December 2013) as the base period. Please note that this was before the current drought conditions reduced our water consumption. The water meters are categorized as either domestic, landscape or commercial meters. The domestic meters were further separated by unit types: 1BR/1BA, 2BR/1BA, 2BR/2BA, and 3BR/2BA. We believe that is important, because domestic water use varies substantially based on the type of unit, as illustrated in Chart 1.

The goal was to determine the average water consumption rate by unit type, so for example, all 1BR/1BA water usage was totaled for each month of the base period and then converted to a monthly average based on the data for the 24 month period. This was then converted to Acre Feet per Year (AFY)/month for all 32 1BR/1BA units at WS I. The total of 2.545031 AFY was divided by those 32 units, which results in an average

usage of 0.079532 AFY per 1BR/1BA unit. This method was then replicated for all the unit types.

**Chart 1**

<b>Willow Springs I – Domestic Water Use</b>				
<b>BR</b>	<b>BA</b>	<b># Units</b>	<b>Total Domestic Use (AFY)</b>	<b>Domestic Water Use Rate (AFY)/Unit</b>
1	1	32	2.545	0.079
2	1	67	7.636	0.114
2	2	80	8.820	0.110
3	2	56	9.116	0.163
<b>TOTAL</b>		<b>235</b>	<b>28.117</b>	

The common area/landscape water usage for WS I was calculated in a similar fashion. The average monthly usage from the same base period (January 2012-December 2013) was used to reach the 11.949 AFY of water usage for the 6.24 acres of landscape area exclusive of Lot 20 at WS I. (The separate meter for Lot 20 was excluded in the WS I figure because of its very low water use of 0.31AFY for the 2.37 acres.) The total water usage was then converted to the landscape water use rate of 1.923 AFY per acre.

**Chart 2**

<b>Willow Springs I – Landscape Water Use (Excludes Lot 20)</b>		
<b>Total Landscape Use (AFY)</b>	<b>Total Landscape Area (Acre)</b>	<b>Landscape Water Use Rate (AFY/Acre)</b>
11.949	6.24	1.923

The commercial water usage for WSI was calculated by using the actual annual usage from the same base period (January 2012-December 2013), and the result was 1.182 AFY.

**Chart 3**

<b>Total Commercial Use (AFY)</b>
1.182

There is insufficient water use history to utilize actual figures for WS II, but the unit types are the same as WS I, so the rates which were established for each type of unit for WS I were applied to WS II.

**Chart 4**

<b>Willow Springs II – Domestic Water Use</b>				
<b>BR</b>	<b>BA</b>	<b># Units</b>	<b>Total Domestic Use (AFY)</b>	<b>Domestic Water Use Rate (AFY)/Unit</b>
1	1	48	3.818	0.079
2	1	12	1.368	0.114
2	2	16	1.764	0.110
3	2	24	3.907	0.163
<b>TOTAL</b>		<b>100</b>	<b>10.856</b>	

The common area/landscape water usage for WS II was calculated based on the WS I figures. (Our reason for this is that the landscaping in WS II was being established in the second half of 2014, so the water use per acre would be greater during that period). The landscape water use rate for WS II of 1.923 AFY per acre results in 3.250 AFY of water usage for the 1.691 acres of landscape area at WS II.

**Chart 5**

<b>Willow Springs II – Landscape Water Use</b>		
<b>Total Landscape Use (AFY)</b>	<b>Total Landscape Area (Acre)</b>	<b>Landscape Water Use Rate (AFY/Acre)</b>
3.250	1.691	1.923*

The commercial water usage for WSII was calculated by using the actual annual usage from the base period (July 2014-June 2015), and the result was 0.321 AFY.

**Chart 6**

<b>Total Commercial Use (AFY)</b>
0.321

As with WS II, we utilized the WS I actual water usage to project water usage at Heritage Ridge. The Heritage Ridge units are smaller than the Willow Springs apartments, so we believe the water usage would be lower.

**Chart 7**

<b>Average Unit Sizes</b>				
<b>BR</b>	<b>BA</b>	<b>WS I &amp; II</b>	<b>HR – Workforce</b>	<b>HR – Seniors</b>
1	1	744 SF	684 SF	652 SF
2	1	894 SF	817 SF	835 SF
2	2	1,025 SF	847 SF	847 SF
3	2	1,197 SF	988 SF	None

The data presented in Chart 7 above demonstrates use of WS I water usage data is a very conservative approach.

There are two separate housing types at Heritage Ridge: senior and workforce. Water usage for each housing type is calculated separately, but the same rates that were established for each type of unit for WS I were applied to the workforce units at HR.

**Chart 8**

<b>Heritage Ridge – Workforce Domestic Water Use</b>				
<b>BR</b>	<b>BA</b>	<b># Units</b>	<b>Total Domestic Use (AFY)</b>	<b>Domestic Water Use Rate (AFY)/Unit</b>
1	1	149	11.850	0.079
2	1	33	3.761	0.114
2	2	22	2.425	0.110
3	2	24	3.907	0.163
<b>TOTAL</b>		<b>228</b>	<b>21.943</b>	

Senior housing by nature has a lower average occupancy than workforce housing, so there is a reduction in domestic water use. The occupant/unit ratio for WS I and WS II was populated based on actual occupancy figures from March 8, 2015 rent rolls. The average occupancy for each type of unit was as follows: 1.40 for 1BR/1BA's, 1.53 for 2BR/1BA's, 1.72 for 2BR/2BA's, and 2.36 for 3BR/2BA's.

For the purposes of this study, the WS I and WS II average occupancy was then compared to the average senior occupancy of 1.11. The figure was derived from a

study performed on August 6, 2014 analyzing occupant/unit ratios within the three senior properties in The Towbes Group portfolio. A table summarizing this study has been attached.

The ratio of 1.11 average senior occupancy was compared to each type of unit for workforce. Therefore the percentage reduction of senior average occupancy comparable to workforce is as follows: 21% for 1BR/1BA's, 27% for 2BR/1BA's, and 35% for 2BR/2BA's. The Senior Domestic Water Use Chart 6 below reflects these reductions in use.

**Chart 9**

<b>Heritage Ridge – Seniors Domestic Water Use</b>				
<b>BR</b>	<b>BA</b>	<b># Units</b>	<b>Total Domestic Use (AFY)</b>	<b>Domestic Water Use Rate (AFY)/Unit</b>
1	1	108	6.786	0.063
2	1	18	1.497	0.083
2	2	6	0.430	0.072
<b>TOTAL</b>		<b>132</b>	<b>8.713</b>	

**Chart 10**

<b>Combined Heritage Ridge Domestic Water Use</b>		
	<b>Units</b>	<b>Total Domestic Use (AFY)</b>
<b>Workforce</b>	<b>268</b>	<b>21.943</b>
<b>Seniors</b>	<b>132</b>	<b>8.713</b>
<b>Total</b>	<b>360</b>	<b>30.657</b>

The total landscape area for HR, including the 2-acre park, is approximately 7,264 acres. Landscape water was calculated by the landscape architect in a preliminary water calculation study dated September 28, 2015.

**Chart 11**

	<b>Total Landscape Use (AFY)</b>
Site Landscape & Public Park	12.540

The commercial water usage for HR was calculated by using the total actual commercial usage from WSI and WSII of 1.504 AFY, and multiplying by a factor of 360 units/335 units, or 1.0746. This gives a commercial use for HR of 1.616 AFY

**Chart 12**

<b>Total Commercial Use (AFY)</b>
1.616

The maximum water consumption available under the water services agreement for all three properties is 100.89 AFY. Based on the calculations above, the combined actual water use for WS I and projected water use for WS II and HR is 100.795 AFY. Therefore, the measured and projected use is within the allotment by 0.095 AFY.

**Chart 13**

	<b>Total Domestic Use (AFY)</b>	<b>Total Landscape Use (AFY)</b>	<b>Total Commercial Use (AFY)</b>	<b>Total Water Use (AFY)</b>
<b>Willow Springs I</b>	28.117	11.949	1.182	41.248
<b>Willow Springs II</b>	10.856	3.250	0.321	14.427
<b>Lot 20</b>	N/A	0.308	N/A	0.308
<b>Heritage Ridge</b>	30.657	12.540*	1.616*	44.812
<b>TOTAL</b>	69.630	28.047*	3.119*	100.795*

*\*Includes site landscape and 2 acre Public Park*

235 units (WS I) + 100 units (WS II) + 360 units (HR) = 695 TOTAL units  
100.795 AFY / 695 units = 0.145 AFY/Unit. As further confirmation of the validity of this estimate, the overall figure of 0.145 AFY/Unit is consistent with the Multi-Family Residential Water Demand Factor Update Report (Oct. 2009) Appendix A – Range between MFR 1-4 and MFR 5+ prepared by the City of Santa Barbara, copy enclosed. This October 2009 study was done before all of the current water conservation measures, and thus included much higher usage rates than today's current usage rates.

I am confident that our approach is sound and the most suitable method for determining water usage for the three projects. The analysis clearly demonstrates current and future developments will remain within the arbitration allotment. I would like to meet with you to discuss these matters and to get your concurrence prior to submitting a formal application for water service. If we are in agreement that the study provided is accurate, this will streamline the environmental review process for our Heritage Ridge project and supply the framework for our forthcoming water service application.

I look forward to hearing from you.

Sincerely yours,



Dale W. Weber, P.E.  
MAC Design Associates

Enclosures

- Total Water Use Calculation Sheet
- Water Use Analysis Report

cc: Michael Towbes, The Towbes Group  
Craig Minus, The Towbes Group  
Linda Blackburn, The Towbes Group