

TO : Bennett Boeschstein

FROM: Mark Eckert *ME*

DATE: May 29, 1985

As you may be aware, we are in the process of finishing the 201 Update for the Persigo Plant area. One aspect of the completion which we have discussed in the past is how to change the present boundaries of the service area. After a discussion with MCC last month, I was directed to "identify those areas within the present 201 service area into which sewer lines cannot be introduced." This land was to be identified and measured for size and potential flow capabilities. These size/flow dimensions could then be added outside of the 201 service area at the discretion of the MCC.

After discussion with the consulting engineers, ARIX, and City/County staff, several problems arose with this approach:

- a) from a strictly engineering point of view, very little, if any, of the area is undevelopable;
- b) it is my thought that so designating such an area (with any margin for error) could result in County liability under a "taking"

In light of the facts that your department is actively pursuing an adjustment of zoning throughout parts of the 201 service area and because you have expressed several thoughts on the boundary problem and possible areas that could be excluded without fear of a taking challenge, my thought was that you and your staff develop a policy amendment for the MCLUC to deal with the situation.

Such a policy might eliminate some of those steep, rocky areas adjacent to the monument and others you consider valid (watch the floodplain-potential taking), but, would further require new developments proposed outside the 201 to perform an impact study for sewer lines, roads, etc.

Consider this and let's discuss it June 5, 1985 at 10:00 a.m. in my office. Call if this is a problem.

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