

Mesa County, Colorado  
**BOARD OF COUNTY COMMISSIONERS**

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P.O. Box 20000 • 750 Main Street • Grand Junction, Colorado 81502-5010 • FAX (303) 244-1639

January 18, 1994

Tony Medrano, Chief  
Program Operations Section  
Municipal Facilities Branch  
U.S.E.P.A.  
999 18th Street  
Suite 500  
Denver, CO 80202

Mail Code 8WM-MF

Re: WASTEWATER TREATMENT FACILITIES FOR VALLE VISTA SUBDIVISION,  
MESA COUNTY, COLORADO.

Dear Mr. Medrano:

The purpose of this letter is to inquire concerning E.P.A. involvement in the now apparent controversy over sewer service to Valle Vista Subdivision in Mesa County, Colorado, and to express our strong concern about how the matter is being handled. Based upon the history of this matter and the fact that Mesa County has been involved from the beginning, we find it inconceivable that we have not been contacted or consulted in any way by E.P.A..

Mesa County held hearings on a proposed amendment to the Grand Junction Area 201 Plan on June 16, 1993. On July 27, 1993, we passed and adopted Resolution MCM 93-106 Recommending Expansion Of The 201 Planning Area And Service Area For The Persigo Waste Water Treatment Facility Located In Mesa County, Colorado. The Resolution and the Record of the matter was forwarded to the Water Quality Control Division of the Colorado Department of Health by letter dated July 30, 1993. Subsequently, by letter dated September 10, 1993, we adopted statements made in an August 13, 1993 letter by Larry Beckner, Attorney for the Orchard Mesa Sanitation District. We understand that you have the State files in your possession and we strongly recommend that you review the record and our correspondence. To assist you, we have enclosed the August 13, 1993 Beckner letter and our September 10, 1993 letter. The letters make abundantly clear that the property to be served by the project is small, already developed, and served by a failing sewer system. The expanded 201 Study Area is for the purposes of planning and until a master plan is completed and in place, no other use of the sewer line will be made.

We have received no correspondence or contact from you regarding E.P.A. review of this matter. We understand that, based solely upon representations made by individuals representing themselves to be the "East Valley Citizens Association", E.P.A. has determined to review final decisions of the Colorado Department Of Health regarding sewer service to Valle Vista Subdivision and to

delay construction of the interceptor facility needed to provide such sewer service. Please note that it is now almost five (5) months after the above actions were taken. If delays continue until the irrigation water is again turned into the canal systems, the project will be unable to be undertaken. Resolving the difficult and long standing Valle Vista Subdivision sewer problem has long been a goal of Mesa County. We hope we are conveying strongly enough to you our intense dissatisfaction that E.P.A. has involved itself at this late date and that upon obviously incomplete information and poorly developed legal authority, E.P.A. is delaying this project.

We respectfully demand that you respond to the following questions as soon as possible:

1. What is the specific statutory or regulatory authority of E.P.A. to "review" this matter?
2. What specific process is E.P.A. following in making this "review"?
3. How is party status achieved in the process?
4. Specifically, who does E.P.A. contend are parties in this "review" process before E.P.A.? Which official has the responsibility to make a "decision" on this matter? Where and when will a hearing take place and who will officiate? Under what rules will the hearing be conducted?
5. How is it that an unincorporated association without defined membership can apparently achieve a party status before E.P.A. while Mesa County which has a well defined interest and statutory involvement is not contacted at all?
6. What are the specific allegations raised by the Citizens' group? Are the allegations regarding procedural matters or substantive matters? Does E.P.A. contend that the Agency has a right to overrule factual determinations of State or local jurisdictions where such matters have been delegated to such jurisdictions?
7. The Federal "Agricultural Preservation Act" which is apparently being cited by the Citizens group as a basis for E.P.A. intervention in this matter does not appear to us to provide such a basis. Does E.P.A. contend that the Act provides such basis?

The Mesa County Attorney, Lyle Dechant, has been contact today with you and Dave Schachterle, E.P.A. Assistant Regional Counsel, to discuss this matter. Mr. Dechant has expressed to us his

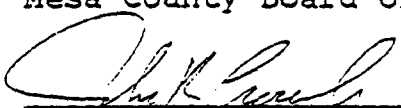
concerns that no one seems to be "in charge", particularly at E.P.A., and that no one seems to know the authority for E.P.A. actions or to have a plan or a legally authorized process in mind to deal with the matter. We respectfully suggest that Mr. Schachterle's thoughts about "mediation" by E.P.A. imply the existence of valid parties and some sort of process. During the conversation, Mr. Dechant suggested to you that the presently occurring Mesa County Orchard Mesa Master Planning Process was the appropriate time and place to review the agricultural status of the Orchard Mesa area. You indicated that the Citizens' group "didn't trust" the County.

Be that as it may, it is not within the authority of E.P.A. to deal with issues of trust between Mesa County and its citizens.

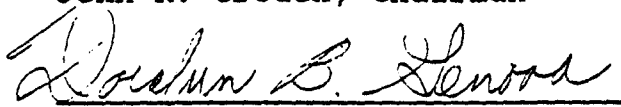
It is respectfully requested that E.P.A. carefully review its authority in this matter. If you determine after consideration that you have authority, please so state and provide citations to the appropriate statute or regulation and to the specific process that will govern your review. In the absence of such determination and statement, it is respectfully suggested that you remove yourselves from the matter so that Orchard Mesa Sanitation District can construct the sewer facilities in a timely manner.

Sincerely:

Mesa County Board of County Commissioners

  
John R. Crouch, Chairman

  
Jim Spehar, Commissioner

  
Doralyn Genova, Commissioner

cc: • Hon. Ben Nighthorse Campbell, Senator  
• Hon. Hank Brown, Senator  
• Hon. Scott McInnis, Representative  
• United States Environmental Protection Agency  
• Hon. Roy Romer, Governor  
• Hon. Tilman Bishop, State Senator  
• Hon. Dan Prinster, State Representative  
• Hon. Tim Foster, State Representative  
• Pat Nolan, M.D., Colo. Dept. of Health  
• Orchard Mesa Sanitation District  
• Larry Beckner, Attorney, O.M. San. Dist.  
• Larry Kallenberger, Dept. of Local Affairs  
• Valle Vista Homeowners' Association  
• Daily Sentinel  
• Dave Schachterle, U.S.E.P.A. Asst. Regional Counsel