



**CITY OF CORNING
CLOSED SESSION AGENDA
TUESDAY, OCTOBER 9, 2012
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 6:30 p.m.

B. ROLL CALL:

Council:

**Toni Parkins
John Leach
Darlene Dickison
Dave Linnet
Gary Strack**

Mayor:

The **Brown Act** requires that the Council provide the opportunity for persons in the audience to briefly address the Council on the subject(s) scheduled for tonight's closed session. Is there anyone wanting to comment on the subject(s) the Council will be discussing in closed session? If so, please come to the podium, identify yourself and give us your comments.

C. PUBLIC COMMENTS:

D. ADJOURN TO CLOSED SESSION:

- 1. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO SECTION 54957.6:
Agency Negotiator: William May, Labor Relations Consultant
Management, Dispatch, Public Safety and Miscellaneous Employee Bargaining
Units.**

E. RECONVENE SPECIAL MEETING AND REPORT ON CLOSED SESSION:

F. ADJOURN TO REGULAR MEETING OF THE CITY COUNCIL:

Posted: Thursday, October 4, 2012



**CITY OF CORNING
CITY COUNCIL AGENDA
TUESDAY, OCTOBER 9, 2012
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 7:30 p.m.

B. ROLL CALL:

Council:	Toni Parkins John Leach Darlene Dickison Dave Linnet Gary Strack
Mayor:	

C. PLEDGE OF ALLEGIANCE: Led by the City Manager.

D. INVOCATION: Led by Mayor Strack.

Persons of no religious persuasion will not be expected in any manner to stand or to participate other than to remain quiet out of respect for those who do choose to participate.

E. PROCLAMATIONS, RECOGNITIONS, APPOINTMENTS, PRESENTATIONS:

- 1. Proclamation – October 20 - 27, 2012 as “City of Corning Red Ribbon Week”.** Representatives of the Tehama County Young Marines will be present to accept the Proclamation.
- 2. Proclamation – October 25 – 27, 2012 as “Western Open Fiddle Week”.** Co-Chairman Tex Ash will be present to accept the Proclamation.
- 3. Proclamation – October 18, 2012 “Lights on After School Day”.** Present to accept the Proclamation will be Beth Birk, Tehama County Department of Education Recreation Specialist.

F. BUSINESS FROM THE FLOOR: If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, and briefly identify the matter you wish to have placed on the Agenda. The Council will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Council from taking formal action on the issue, however, unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.

G. CONSENT AGENDA: It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

- 4. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
- 5. Waive the reading and approve the Minutes of the September 25, 2012 meeting with any necessary corrections.**
- 6. October 3, 2012 Claim Warrant - \$363,335.71.**
- 7. October 3, 2012 Business License Report.**
- 8. September 2012 Wages and Salaries - \$321,146.03.**

9. September 2012 Building Permit Valuation Report - \$652,809.25.
10. September 2012 Treasurer's Report.
11. City of Corning Wastewater Operations Summary Report – September 2012.
12. Approve the Annual Statement of Investment Policy for Fiscal Year 2012-2013.
13. Accept Letter of Withdrawal from Ken Vaughan & Son and Award Contract for pruning 514 City Palm Trees to George Salinas Tree Preservation for the amount of \$48 per tree (\$24,672 total).

H. ITEMS REMOVED FROM THE CONSENT AGENDA:

I. PUBLIC HEARINGS AND MEETINGS: None.

J. REGULAR AGENDA:

14. Presentation regarding possible refinancing of Public Employees Retirement System (PERS) Side Fund obligations; possible Placement Agent Services Agreement with Brandis Tallman, LLC.
15. Request for water service; occupation without owner's authority: Sandra Beck; 1791 Colusa Street.

K. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

L. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION:

M. REPORTS FROM MAYOR AND COUNCIL MEMBERS: City Councilmembers will report on attendance at conferences/meetings reimbursed at City expense (Requirement of Assembly Bill 1234).

Parkins:

Leach:

Dickison:

Linnet:

Strack:

N. ADJOURNMENT!:

POSTED: THURSDAY, OCTOBER 4, 2012

**PROCLAMATION
RED RIBBON WEEK
OCTOBER 20-27, 2012**

WHEREAS, Cities across California have been plagued by the numerous problems associated with alcohol, tobacco and other drug use; and

WHEREAS, the Red Ribbon Week theme adopted by Tehama County; "The Best Me Is Drug Free" highlights the hope that lies in the hard work and determination of our communities to create a drug free environment; and

WHEREAS, local leaders, in government and in the community, know that the support of the people in the neighborhoods is the most effective tool they can have in their efforts to reduce use of alcohol, tobacco, and other drugs by our citizens; and

WHEREAS, success will not occur overnight, our patience and continued commitment to drug education and prevention are imperative; and

WHEREAS, the red ribbon was chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration Agent, who was murdered in the line of duty and has come to represent the belief that one person **CAN** make a difference; and

WHEREAS, the Red Ribbon Campaign was established by Congress in 1988 to promote this belief and encourage a drug-free lifestyle and involvement in drug prevention efforts; and

WHEREAS, the National Young Marines Program was awarded the 2012 Secretary of State Fulcrum Shield Award from the Department of Defense for their efforts in spreading the anti-drug message throughout their communities; and

WHEREAS, October 20-27, 2012 has been designated Red Ribbon Week calling on all Tehama County residents to show their support for a drug-free community by wearing a red ribbon and participating in drug-free activities during that week;

NOW, THEREFORE BE IT RESOLVED, that I, Gary R. Strack, as Mayor of the City of Corning, **DO HEREBY PROCLAIM OCTOBER 20-27, 2012 AS "RED RIBBON WEEK"** and encourage all citizens to participate in alcohol, tobacco and other drug prevention programs and activities, making a visible statement that we are strongly committed to a drug-free community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Great Seal of the City of Corning to be affixed this 9th day of October 2012.

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk

**PROCLAMATION
WESTERN OPEN FIDDLE WEEK
OCTOBER 25 - 27, 2012**

WHEREAS, the 30th Annual Western Open Fiddle Championships are being held in Red Bluff at the Tehama District Fairground; and

WHEREAS, the Annual Western Open Fiddle Championships are supported by the California State Old-Time Fiddle Association, whose purpose is to perpetuate and promote the art of old-time fiddle music; and

WHEREAS, the Western Open Fiddle Championships will be held in Red Bluff for the 16th year; and

WHEREAS, the Western Open draws fiddlers and fans, age 3 to 93 from throughout the Western United States and Canada to Tehama County.

NOW, THEREFORE, I Gary R. Strack, as Mayor of the City of Corning, **DO HEREBY PROCLAIM OCTOBER 25 - 27, 2012 AS "WESTERN OPEN FIDDLE WEEK"**. I invite all citizens to join in with the participants of the 16th Red Bluff Edition of the 30th Annual Western Open Fiddle Championships in promoting and perpetuating the art and music of our cultural heritage and old time fiddling.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Great Seal of the City of Corning to be affixed this 9^h day of October 2012.

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk

PROCLAMATION
OCTOBER 18, 2012
“LIGHTS ON AFTER SCHOOL” DAY

WHEREAS, the City of Corning stands firmly committed to quality after school programs and opportunities because they:

- Provide safe, challenging, engaging and fun learning experiences to help children and youth develop their social, emotional, physical, cultural and academic skills; and
- Support working families by ensuring that children are safe and productive after the regular school day ends; and
- Build stronger communities by involving our students, parents, business leaders and volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults; and
- Promote “Character Counts” and “You Matter” through weekly lessons about positive self-esteem and expressing gratitude through deeds and actions, sharing that “Every Afternoon Matters” as SERRF Students.

WHEREAS, the SERRF Afterschool Program has provided significant leadership in the area of community involvement and character development in the education and well-being of our youth, grounded in the principal that quality afterschool programs are key to helping our children become successful adults.

WHEREAS, “Lights on After School”, a national celebration of afterschool programs on October 18th and Character Counts/You Matter Week, October 22 – 26, 2012 promotes the critical importance of quality afterschool programs and character development in the lives of children to benefit their families and communities.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Corning urge the citizens of Corning to ensure that every child has access to a safe, engaging place where the “**LIGHTS ARE ON**” after school and positive character development is taught.

BE IT FURTHER RESOLVED THAT I, Gary R. Strack, as Mayor of the City of Corning, enthusiastically endorse **LIGHTS ON AFTERSCHOOL** and am committed to innovative afterschool programs and activities that ensure that the lights stay on and the doors stay open for all children after school.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Corning to be affixed this 9th day of October 2012.

Gary R. Strack, Mayor

ATTEST:

Lisa M. Linnet, City Clerk



**CITY OF CORNING
CITY COUNCIL MINUTES
TUESDAY, SEPTEMBER 25, 2012
7:30 p.m.
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: 7:30 p.m.

B. ROLL CALL:

Council:

**Toni Parkins
John Leach
Darlene Dickison
Dave Linnet
Gary Strack**

Mayor:

All members of the City Council were present.

C. PLEDGE OF ALLEGIANCE: Led by the City Manager.

D. INVOCATION: Led by Councilman John Leach.

Persons of no religious persuasion will not be expected in any manner to stand or to participate other than to remain quiet out of respect for those who do choose to participate.

E. PROCLAMATIONS, RECOGNITIONS, APPOINTMENTS, PRESENTATIONS: None

F. BUSINESS FROM THE FLOOR: None.

G. CONSENT AGENDA: It is recommended that items listed on the Consent Agenda be acted on simultaneously unless a Councilmember or members of the audience requests separate discussion and/or action.

- 1. Waive reading, except by title, of any Ordinance under consideration at this meeting for either introduction or passage, per Government Code Section 36934.**
- 2. Waive the reading and approve the Minutes of the September 11, 2012 City Council Meetings with any necessary corrections.**
- 3. September 19, 2012 Claim Warrant: \$686,958.29.**
- 4. September 19, 2012 Business License Report.**
- 5. Approve appointment of Carol Mueller to the City's Library Commission.**
- 6. Award City Palm Tree Pruning Bid to Ken Vaughan & Son at \$17 per tree for pruning 514 City palm trees, authorize City Manager to sign associated contract, and authorize the Public Works Director to utilize any remaining "Tree Pruning" funds for pruning/replacement of City street trees.**

Councilor Leach moved to approve Consent Agenda Items 1-6 and Councilor Dickison seconded the motion. **Ayes: Strack, Parkins, Leach, Dickison and Linnet. Opposed/Absent/Abstain: None. Motion was approved by a 5-0 vote.**

H. ITEMS REMOVED FROM THE CONSENT AGENDA: None.

I. PUBLIC HEARINGS AND MEETINGS: None.

J. REGULAR AGENDA:

- 7. Resolution 09-25-2012-01, Trash and Recycling Bin Enclosures: Adoption of a Resolution adding Drawing S-25 to the City of Corning Construction Specifications**

and Standard Details for Public Works requiring trash and recycling bin enclosures pursuant to Assembly Bill No. 341.

Mayor Strack introduced this item by title explaining that this is something that we have to do and that it basically is for all new constructed 5 Unit Apartments. Planning Consultant John Stoufer provided Council with additional information regarding the requirements. He stated that this would be applicable to new construction or if any of the existing did a remodel, the City would then require that the trash bin enclosures be enlarged to also have a recycling container. Previously the goal was to divert 50% and now the goal is to accomplish 75% by 2020. It encourages recycling.

Mayor Strack confirmed that we are not going back and making any of the existing comply; Mr. Stoufer stated no, however he believes that they will be required to do some type of conversion.

Councilor Parkins moved to adopt Resolution 09-25-2012-01 adding drawing S-25 to the City of Corning Construction Specifications and Standard Details for Public Works requiring bin enclosures to include an area for recycling bins. Councilor Leach seconded the motion. **Ayes: Strack, Parkins, Leach, Dickison and Linnet. Opposed/Absent/Abstain: None. Motion approved by a 5-0 vote.**

8. Kennel License Application: Consider granting a non-commercial Kennel License to Salome Serna for four (4) dogs at 1798 Blue Heron Court pursuant to Section 6.16.080 of the Corning Municipal Code.

Mayor Strack introduced this item by title and stated that before we start discussion on this item, this is not a public hearing but we will listen to anyone in the audience that wants to speak on this, however the discussion must be addressed to the Council, not the audience as it is the Council that must make the decision on whether or not it is deemed a nuisance.

Planning Consultant John Stoufer stated that included in the Staff Report provided to Council is the applicable sections of the City's Municipal Code which states that the Council has to find that the establishment of the Kennel would not create a nuisance or public nuisance. He further outlined the contents of the Staff Report such as:

- Exhibit A (Letters from property owner dated August 20, 2012 and July 28, 2012 (which contained pictures of the animals with their children, vaccination and dog licensing records, copy of Citation and Court documents related to citation issued, Police logs, and medical information and physician reports relating to alleged stress caused to children),
- Exhibit B - an aerial photo of the property,
- Exhibit C - copy of City's Municipal Code definition that defines a nuisance,
- Exhibit D - a copy of the notice sent to property owners within 300 feet of the residence,
- Exhibit E - Letters and signed Petition from 14 residents of neighboring properties.

Mr. Stoufer then presented the Council with additional information received following the posting of the Agenda (letter and a color printout of Blue Heron Court showing in yellow those that have responded).

Five individuals from the audience addressed the Council.

Councilor Parkins asked Mr. and Mrs. Serna if they understand what has just been presented to the Council and that these comments are from your neighbors?

Mrs. Serna then addressed the Council.

Assistant City Attorney Jody Burgess provided the Council with legal guidance relating to what information the Council can consider and the legal definition of a nuisance.

Following further discussion among the members of the Council, statements by members of the Council to the petitioners, and an appeal by Mr. Serna, Councilor Leach moved to find that the establishment and maintenance of a private kennel for four small dogs owned by the Serna Family does create a public nuisance for adjoining property owners or others and deny the establishment and maintenance of a private kennel by the Serna Family at 1798 Blue Heron

Court. Councilor Linnet seconded the motion. **Ayes: Strack, Parkins, Leach, Dickison and Linnet. Opposed/Absent/Abstain: None. Motion was approved by a 5-0 vote (two reluctantly).**

By consensus of the Council the Serna's will have 15 days from tomorrow (until October 11, 2012) to comply with City Municipal Code and remove one of the dogs with only three dogs remaining at that address. By direction of the City Council, Assistant City Attorney Jody Burgess will provide the Serna's with a letter stating the afore mentioned decision.

K. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None.

L. COMMUNICATIONS, CORRESPONDENCE AND INFORMATION: None.

M. REPORTS FROM MAYOR AND COUNCIL MEMBERS: City Councilmembers will report on attendance at conferences/meetings reimbursed at City expense (Requirement of Assembly Bill 1234).

Parkins: None.

Leach: Attended the Community Action Agency Board Meeting last Thursday.

Dickison: None.

Linnet: Stated that he would be unable to attend the 3CORE Meeting tomorrow in Willows at 10:00 a.m. and asked if any other member of the Council would be interested in attending. Councilor Dickison stated she would see if she could attend.

Strack: None.

N. ADJOURNMENT!: 8:03 p.m.

Lisa M. Linnet, City Clerk



MEMORANDUM

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: LORI SIMS
ACCOUNTING ASSISTANT

DATE: October 3, 2012

SUBJECT: Cash Disbursement Detail Report for the
Tuesday, October 9, 2012 Council Meeting

PROPOSED CASH DISBURSEMENTS FOR YOUR APPROVAL CONSIST OF THE FOLLOWING:

A.	Cash Disbursements	Ending 09-26-12	\$41,792.35
B.	Cash Disbursements	Ending 09-28-12	\$22,040.15
C.	Cash Disbursements	Ending 10-01-12	\$103,188.99
D.	Payroll Disbursements	Ending 10-01-12	\$44,411.32
E.	Cash Disbursements	Ending 10-03-12	\$151,902.90

GRAND TOTAL **\$363,335.71**

REPORT.: Sep 26 12 Wednesday
 RUN....: Sep 26 12 Time: 12:55
 Run By.: LORI

CITY OF CORNING
 Cash Disbursement Detail Report
 Check Listing for 09-12 Bank Account.: 1020

PAGE: 001
 ID #: PY-DP
 CTL.: COR

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Payment Information Invoice #	Description
015168	09/26/12	ATT13	AT&T	723.32	.00	723.32	120911	COMMUNICATIONS-
015169	09/26/12	BAS01	BASIC LABORATORY, INC	114.00	.00	114.00	1208541	ProfServices Water Dept
015170	09/26/12	BAS02	BASSETT, RANDALL	386.18	.00	386.18	120926	TRAINING/ED-POLICE
015171	09/26/12	BIC01	BICKLEY'S AIR CONDITIONIN	295.14	.00	295.14	00025383	BLD MAINT-TRANS FAC
015172	09/26/12	CAM02	FERGUSON ENTERPRISES INC.	3264.97	.00	3264.97	0842748	MAT & SUPPLIES-WTR
015173	09/26/12	CON07	CONEXIS	30.00	.00	30.00	08120R348	MEDICAL INS-COBRA
015174	09/26/12	DAY03	DAY WIRELESS SYSTEMS {04}	232.27	.00	232.27	974241	SMALL TOOLS-PW ADMIN
				170.00	.00	170.00	974262	COMMUNICATIONS-POLICE
			Check Total.....	402.27	.00	402.27		
015175	09/26/12	DEP03	DEPT OF TRANS/CAL TRANS	1040.62	.00	1040.62	13001236	Equip.Maint. St&Trf Light
015176	09/26/12	GRA02	GRAINGER, W.W., INC	314.19	.00	314.19	992942429	MAT & SUPPLIES-POOL
				18.78	.00	18.78	993277230	MAT & SUPPLIES-BLD MAINT
			Check Total.....	332.97	.00	332.97		
015177	09/26/12	HAM06	HAMPTON INN & SUITES	472.30	.00	472.30	120924	TRAINING/ED-DISPATCH
015178	09/26/12	KEE00	KEENER, SHELLEY	410.17	.00	410.17	120924	TRAINING/ED-DISPATCH
015179	09/26/12	MSC00	MSC INDUSTRIAL SUPPLY CO.	235.04	.00	235.04	25009412	MAT & SUPPLIES-WTR
				30.86	.00	30.86	43578063	MAT & SUPPLIES-WTR
			Check Total.....	265.90	.00	265.90		
015180	09/26/12	NAP01	NAPA AUTO PARTS	43.50	.00	43.50	120921F	BLD MAINT-
015181	09/26/12	NOR03	NCCSIF	33225.25	.00	33225.25	2013057	WORKMENS COMP-GEN CITY
015182	09/26/12	NOR14	NORTHWOOD BACKFLOW SERV	195.00	.00	195.00	12658	MAT & SUPPLIES-PARKS
015183	09/26/12	TEH01	TEHAMA ASPHALT	381.50	.00	381.50	4169	MAT & SUPPLIES-WTR
015184	09/26/12	XER00	XEROX CORPORATION	209.26	.00	209.26	063890873	EQUIP MAINT-POLICE
			Cash Account Total.....	41792.35	.00	41792.35		
			Total Disbursements.....	41792.35	.00	41792.35		

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
015185	09/28/12	AUTO00	AUTO ZONE	12.39	.00	12.39	409502320	VEH/OP MAINT-POLICE
015186	09/28/12	CLA01	CLARKS DRUG STORE	2.12	.00	2.12	40760	MAT & SUPPLIES-POLICE
015187	09/28/12	COR11	CORNING SAFE & LOCK	20.38	.00	20.38	3670	VEH/OP MAINT-POLICE
015188	09/28/12	COR23	CORNING CARPET STORE	1328.56	.00	1328.56	005793	BLD MAINT-DISPATCH
				150.00	.00	150.00	005809	MAT & SUPPLIES-POLICE
			Check Total.....	1478.56	.00	1478.56		
015189	09/28/12	DEP16	DEPT OF PUBLIC HEALTH	12223.42	.00	12223.42	1260683	REQ PYMTS STATE-WTR
015190	09/28/12	ELL01	ELLIS ART & ENGINEERING	257.80	.00	257.80	147630	THEATRE RESTORE-RODGERS T
015191	09/28/12	NAP01	NAPA AUTO PARTS	481.92	.00	481.92	120921	MAT & SUPPLIES-
015192	09/28/12	NOR10	NICOLINO CLEMENTE	117.03	.00	117.03	2238	SAFETY ITEMS-POLICE
015193	09/28/12	PG&E	PG&E	7171.98	.00	7171.98	120921	ELECT-WWTP
015194	09/28/12	WAR05	WARREN, DANA KARL	274.55	.00	274.55	120927	REC INSTRUCTOR-REC
			Cash Account Total.....	22040.15	.00	22040.15		
			Total Disbursements.....	22040.15	.00	22040.15		

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
015201	10/01/12	CAR03	CARDENAS, ANTHONY	1853.34	.00	1853.34	000B210011	MEDICAL REIMBURSEMENT
015202	10/01/12	COR07	CORBIN WILLITS SYSTEMS	729.72	.00	729.72	000B210011	EQUIP MAINT-FINANCE
015203	10/01/12	COR09	CORNING CHAMBER OF COMM.	1000.00	.00	1000.00	000B210011	ECONOMIC DEVELOPMENT
015204	10/01/12	FIT01	FITZPATRICK LAW OFFICES	3575.00	.00	3575.00	000B210011	CONSULTING SVCS-LEGAL SVC
015205	10/01/12	HALL05	HALL, ROBERT	104.70	.00	104.70	000B210011	PROF SVCS-FIRE
015206	10/01/12	KEN00	KEN VAUGHAN & SONS	950.00	.00	950.00	000B210011	LANDSCAPE MAINT-
015207	10/01/12	MAT00	MATRE & BURGESS	2025.00	.00	2025.00	000B210021	CONSULTING SVCS-IGL SVCS
015208	10/01/12	PIT01	PITNEY BOWES	192.92	.00	192.92	000B210011	EQUIP LEASE-FINANCE
015209	10/01/12	S&L00	S & L BREWER ENTERPRISES	200.00	.00	200.00	000B210011	K-9 PROGRAM-POLICE
015210	10/01/12	TID01	TEDC	208.33	.00	208.33	000B210011	ECONOMIC DEVELOPMENT
015211	10/01/12	TOM03	TOMLINSON JR., ROBERT L.	54.70	.00	54.70	000B210011	PROF SVCS-FIRE
015212	10/01/12	WHI05	WHITE GLOVE CLEANING SERV	2800.00	.00	2800.00	000B210011	JANITORIAL SVCS-
015213	10/01/12	COR01	CORNING VETERINARY CLINIC	70.00	.00	70.00	36238	SPAY/NEUTER PROGRAM-ACO
015214	10/01/12	COR12	CORNING FORD MERCURY, INC	22949.36	.00	22949.36	121001	VEH REPLAC-POLICE
015215	10/01/12	AND03	ANDERS, JOANN	87.50	.00	87.50	12-138	PROF SVCS-BLKBURN AVE IMP
				1155.00	.00	1155.00	12-139	PROF SVCS-HOUSING REHAB
			Check Total.....	1242.50	.00	1242.50		
015216	10/01/12	BAS01	BASIC LABORATORY, INC	114.00	.00	114.00	1208818	ProfServices Water Dept
015217	10/01/12	BIC01	BICKLEY'S AIR CONDITIONIN	493.75	.00	493.75	00025396	BLD MAINT-TRANS FAC
015218	10/01/12	CAM02	FERGUSON ENTERPRISES INC.	863.36	.00	863.36	0846289	MAT & SUPPLIES-WTR
015219	10/01/12	DUR01	DURHAM PUMP	3760.27	.00	3760.27	0125887IN	MAT & SUPPLIES-WTR
015220	10/01/12	GRA01	GRANDFLOW, INC	417.21	.00	417.21	120419	OFFICE SUPPLIES-FINANCE
015221	10/01/12	GRA02	GRAINGER, W.W., INC	46.96	.00	46.96	993444916	MAT & SUPPLIES-WTR
015222	10/01/12	HOL04	HOLIDAY MARKET #32	18.56	.00	18.56	132110	MAT & SUPPLIES-BLD MAINT
				13.66	.00	13.66	227321	MAT & SUPPLIES-POLICE
			Check Total.....	32.22	.00	32.22		
015223	10/01/12	JAC02	JACOBUS, BOB	214.19	.00	214.19	209230	SMALL TOOLS-MECH MAINT

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
015224	10/01/12	LAR01	LARRY'S PEST & WEED	3632.00	.00	3632.00	2724	CLEANING CONTRACT-STR
015225	10/01/12	PAC16	PACIFIC TELEMANAGEMENT SE	38.00	.00	38.00	446329	COMMUNICATIONS-GEN CITY
015226	10/01/12	PGB01	PAGE	157.46	.00	157.46	120926	ELECT-STR & TRF LIGHTS
015227	10/01/12	SEI01	SETLER, ROY R., CPA	2997.30	.00	2997.30	25263	PROF SVCS-FINANCE
015228	10/01/12	STO07	STOFFER, JOHN BEDFORD	3200.00	.00	3200.00	120101	PROF SVCS-PLANNING
015229	10/01/12	SWW00	SWWC SERVICES, INC.	49217.70	.00	49217.70	100006219	PRETREATMENT PROGRAM-
015230	10/01/12	TEH15	TEHAMA CO SHERIFF'S DEPT	49.00	.00	49.00	120928	PROF SVCS-
Cash Account Total.....				103188.99	.00	103188.99		
Total Disbursements.....				103188.99	.00	103188.99		
Cash Account Total.....				.00	.00	.00		

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
5687	10/01/12	BAN03	POLICE OFFICER ASSOC.	275.00	.00	275.00	B21001	POLICE OFFICER ASSOC
5688	10/01/12	CAL37	CALIFORNIA STATE DISBURSE	179.07	.00	179.07	B21001	WITHHOLDING ORDER
5689	10/01/12	EDD01	EMPLOYMENT DEVELOPMENT	3106.55	.00	3106.55	B21001	STATE INCOME TAX
				940.52	.00	940.52	1B21001	SDI
Check Total.....				4047.07	.00	4047.07		
5690	10/01/12	ENL01	ENLOE MEDICAL CENTER	720.00	.00	720.00	B21001	ENLOE FLIGHTCARE
5691	10/01/12	ICM01	ICMA RETIREMENT TRUST-457	4294.92	.00	4294.92	B21001	ICMA DEF. COMP
5692	10/01/12	OEU03	OPERATING ENGINEERS	700.00	.00	700.00	B21001	CREDIT UNION SAVINGS
5693	10/01/12	PERS1	PUBLIC EMPLOYEES RETIRE	28566.63	.00	28566.63	B21001	PERS PAYROLL REMITTANCE
5694	10/01/12	PERS4	Cal Pers 457 Def. Comp	640.50	.00	640.50	B21001	PERS DEF. COMP.
5695	10/01/12	PRE03	PREMIER WEST BANK	2720.38	.00	2720.38	B21001	HSA DEDUCTIBLE
5696	10/01/12	TEH15	TEHAMA CO SHERIFF'S DEPT	548.66	.00	548.66	B21001	WAGE ASSN #16679
5697	10/01/12	VAL06	VALIC	1719.09	.00	1719.09	B21001	ATG VALIC P TAX

Cash Account Total..... 44411.32 .00 44411.32
 Total Disbursements..... 44411.32 .00 44411.32

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Description
015231	10/02/12	AME19	AMERICAN ABATEMENT, INC.	6950.00	.00	6950.00	1006	PROP 84 NON-CONSTR-PARK D
015232	10/02/12	AND01	ED ANDERSON	2737.50	.00	2737.50	12-1002	PROP SVCS-
015233	10/02/12	BIG02	BIG VALLEY SANITATION II	112.50	.00	112.50	848008	CLEANING CONTRACT-STR
015234	10/02/12	COM01	COMPUTER LOGISTICS, INC	23.00	.00	23.00	578333	EQUIP MAINT-GEN CITY
015235	10/02/12	COR01	CORNING VETERINARY CLINIC	276.65	.00	276.65	36237	PROF SVCS-ACO
015236	10/02/12	COR03	CORNING RENTALS	72.90	.00	72.90	35464	MAT & SUPPLIES-STR
015237	10/02/12	COR08	CORNING LUMBER CO INC	203.30	.00	203.30	120925	MAT & SUPPLIES-
015238	10/02/12	ENL01	ENLOE MEDICAL CENTER	120.00	.00	120.00	121001A	ENLOE FLIGHTCARE
015239	10/02/12	FIR01	FIRST NATIONAL BANK	997.79	.00	997.79	120927	MAT & SUPPLIES-
015240	10/02/12	GOL03	GSEFM / WFM	241.31	.00	241.31	I-035850	MAT & SUPPLIES-WTR
015241	10/02/12	MCC07	MCCOY'S HARDWARE & SUPPLY	809.90	.00	809.90	120927	MAT & SUPPLIES-
015242	10/02/12	MUN03	MUNNELL & SHERRILL, INC.	130.50	.00	130.50	025084	MAT & SUPPLIES-
			Check Total.....	159.24	.00	159.24		
015243	10/02/12	NEX01	NEXTEL COMMUNICATIONS	572.39	.00	572.39	120929	COMMUNICATIONS-
015244	10/02/12	NOR25	NORTHERN LIGHTS ENRGY, INC	2746.49	.00	2746.49	73174	MAT & SUPPLIES-
015245	10/02/12	PGE01	PGE	377.10	.00	377.10	120925	ELECT-SWR
015246	10/02/12	PGE2A	PGE	215.37	.00	215.37	120927	ELECT-MCDONALD,CASSANDRA,
			Check Total.....	49.73	.00	49.73	120927M	ELECT-MARTINI PLAZA
			Check Total.....	265.10	.00	265.10		
015247	10/02/12	PUB00	PETER J. BOICE CONSULTANT	548.40	.00	548.40	12-0917	PROP 84 NON-CONSTR-PARK D
015248	10/02/12	PON10	PONCIT'S WELDING	318.26	.00	318.26	53052	MAT & SUPPLIES-WTR
				242.99	.00	242.99	53058	MAT & SUPPLIES-WTR
				95.79	.00	95.79	53066	MAT & SUPPLIES-
			Check Total.....	657.04	.00	657.04		
015249	10/02/12	WAS01	WASTE MANAGEMENT OF	110069.26	.00	110069.26	120930	WASTE MGMT PYMT-SOLID WAS
015250	10/03/12	ATT14	AT&T	161.18	.00	161.18	120923F	COMMUNICATIONS-FIRE

Check Number	Check Date	Vendor Number	Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Description
015250	10/03/12	ATT14	AT&T	182.03	.00	182.03	120923P	COMMUNICATIONS-POLICE
Check Total.....:				343.21	.00	343.21		
015251	10/03/12	COM01	COMPUTER LOGISTICS, INC	1840.00	.00	1840.00	57824	EQUIP MAINT-
				116.67	.00	116.67	57825	COMMUNICATIONS-POLICE
				27.00	.00	27.00	57834	COMMUNICATIONS-POLICE
Check Total.....:				1983.67	.00	1983.67		
015252	10/03/12	COR22	CORNING MEDICAL ASSOC	65.00	.00	65.00	120928	EMP PHYSICALS-FIRE
015253	10/03/12	COR45	CORNING ACE HARDWARE	943.85	.00	943.85	120927	MAT & SUPPLIES-
015254	10/03/12	DIS01	DISCOUNT DISPOSABLES	143.37	.00	143.37	111960	SAFETY ITEMS-POLICE
015255	10/03/12	FIR06	FIRST NATIONAL BANK OMAHA	2429.04	.00	2429.04	120927	MAT & SUPPLIES-
015256	10/03/12	HEN03	HENRY SCHEIN INC.	95.99	.00	95.99	593278000	SAFETY ITEMS-FIRE
015257	10/03/12	NOR25	NORTHERN LIGHTS ENRGY, INC	3314.23	.00	3314.23	73133	VEH/OP MAINT-
				491.67	.00	491.67	73175	VEH/OP MAINT-FIRE
Check Total.....:				3805.90	.00	3805.90		
015258	10/03/12	PGE05	P&E	1566.75	.00	1566.75	120928	FIRE-ELECT & GAS
015259	10/03/12	RON03	RON DUPRATT FORD	75.59	.00	75.59	712987	VEH/OP MAINT-
				94.07	.00	94.07	713717	VEH/OP MAINT-POLICE
				224.71	.00	224.71	714050	VEH/OP MAINT-POLICE
Check Total.....:				394.37	.00	394.37		
015260	10/03/12	TEH13	TEHAMA CO AUDITOR	125.00	.00	125.00	120930	PKngClcteoCnnty PoliceServ
015261	10/03/12	WES02	WESTERN BUSINESS PRODUCTS	44.96	.00	44.96	035127	EQUIP MAINT-FIRE DISPATCH
015262	10/03/12	AUS00	AUSMUS ENGINEERING	6650.00	.00	6650.00	12-0909	RODGERS THEATRE RESTORE-
015263	10/03/12	BLU04	BLUE BEACON INTERNATIONAL	99.00	.00	99.00	1269996	VEH/OP MAINT-
015264	10/03/12	CAL35	CALIFORNIA BUILDING STAND	61.20	.00	61.20	12-1003	SB 1473-BID & SAFETY
015265	10/03/12	CAM02	FERGUSON ENTERPRISES INC.	127.21	.00	127.21	0848406	MAT & SUPPLIES-WTR
				453.44	.00	453.44	0842748-1	MAT & SUPPLIES-WTR
				52.55	.00	52.55	0846289-1	MAT & SUPPLIES-WTR
Check Total.....:				633.20	.00	633.20		
015266	10/03/12	DIA05	DIAMOND M FIRE PROTECTION	400.00	.00	400.00	499	THEATRE RESTORE-THEATRE

Check Number	Check Date	Vendor Number	Vendor Name	Gross Amount	Discount Amount	Net Amount	Invoice #	Payment Information Description
015267	10/03/12	GRA02	GRAINGER, W.W., INC	48.77	.00	48.77	993693136	MAT & SUPPLIES-WTR
015268	10/03/12	NOR31	NORM'S PRINTING	81.19	.00	81.19	011789	OFFICE SUPPLIES-FINANCE
015269	10/03/12	PGE01	PG&E	3171.97	.00	3171.97	120928	CLARK PARK WELL-WTR
015270	10/03/12	SCH01	IES SCHWAB TIRE CENTER	45.00	.00	45.00	611000400	VEH/OP MAINT-
				758.60	.00	758.60	611000403	VEH/OP MAINT-
Check Total.....:				803.60	.00	803.60		
015271	10/03/12	TH001	THOMES CREEK ROCK CO	72.99	.00	72.99	121001	MAT & SUPPLIES-WTR
Cash Account Total.....:				151902.90	.00	151902.90		
Total Disbursements.....:				151902.90	.00	151902.90		

Date.: Oct 3, 2012
Time.: 3:00 pm
Run by: LORI

CITY OF CORNING
NEW BUSINESSES FOR CITY COUNCIL

Page.: 1
List.: NEWB
Group: WTFMB

Business Name	Address	CITY/STATE/ZIP	Contact Name	Business Desc. #1	Business Start Date	Primary Teleph
AMERICAN ABATEMENT, GUTIERREZ LANDSCAPE	1269 FOURTH AVE	ANDERSON, CA 96007	O'BRIEN-NIXT PATRICI	CONTRACTOR	09/20/12	(530) 410-2386
HOPE RESCUE MISSION	410 SOLANO ST	CORNING, CA 96021	GUTIERREZ ARNULFO	GARDENING, MOWING, PRUNING, EDGING,	10/02/12	(530) 824-9032
TOMASINI, JAMES	3482 COLUMBIA AVE	CORNING, CA 96021	COCCELLATO BARRY	CHRISTIAN MINISTRY, THRIFT STORE, BIBLE	09/25/12	(530) 838-4159
UNITED SIGN SYSTEMS	5201 PENTECOST DRIVE	MODESTO, CA 95356	TOMASINI JAMES	TRANSPORTATION SERVICE	10/01/12	(530) 824-4140
			SHERWOOD BRYAN	CONTRACTOR	10/01/12	(209) 543-1320

CITY OF CORNING

PERMITS ISSUED (sort by Permit #)
For the Period 9/1/2012 thru 9/30/2012

Item. No.: G-9

Owner and Address	Parcel Number	Issued On	Valuation
T A TRAVEL CENTERS 2151 SOUTH AVE CORNING CA 96021 Permit Description: REMOCE & REPLACE DIESEL DISPENSERS	8710066 Site Street Address: 2151 SOUTH AVE	9/6/2012	250,000.00
T A TRAVEL CENTERS 3524 HWY 99 W CORNING CA 96021 Permit Description: REMOVE & REPLACE DIESEL DISPENSERS	8709042 Site Street Address: 3524 HWY 99 W	9/6/2012	250,000.00
ALFRED DRUM 1115 EAST AVE CORNING CA 96021 Permit Description: REROOF OVER 1st LAYER	7310209 Site Street Address: 1115 EAST AVE	9/4/2012	2,300.00
JULIAN CASTREJON 918 FIFTH AVE CORNING CA 96021 Permit Description: REROOF & REPAIR DRY ROT FRONT PORCH	7117106 Site Street Address: 918 FIFTH AVE	9/4/2012	475.00
ANN RADCLIFF 515 WEST ST CORNING CA 96021 Permit Description: REPLACE SEWER MAIN	7110515 Site Street Address: 515 WEST ST	9/4/2012	39.00
DENNIS MAHUTGA 620 SOUTH ST CORNING CA 96021 Permit Description: TEAR OFF & REROOF	7307409 Site Street Address: 620 SOUTH ST	9/5/2012	6,000.00
SHAWN FREDRICKSON 2019 BLOSSOM AVE CORNING CA 96021 Permit Description: INSTALL ROOF MOUNTED SOLAR SYSTEM	7120520 Site Street Address: 2019 BLOSSOM AVE	9/27/2012	8,262.75

CITY OF CORNING
PERMITS ISSUED (sort by Permit #)
For the Period 9/1/2012 thru 9/30/2012

Owner and Address	Parcel Number	Issued On	Valuation
JOSE BRISENO 2170 BLOSSOM AVE CORNING CA 96021 Permit Description: INSTALL ROOF MOUNTED SOLAR SYSTEM	7120235 Site Street Address: 2170 BLOSSOM AVE	9/11/2012	30,000.00
KIM WESTON 2076 BLOSSOM AVE CORNING CA 96021 Permit Description: INSTALL ROOF MOUNTED SOLAR SYSTEM	7120434 Site Street Address: 2076 BLOSSOM AVE	9/12/2012	25,000.00
JAMES HORNER 505 CHESTNUT ST CORNING CA 96021 Permit Description: ADD HARDY BOARD SIDING	7315109 Site Street Address: 505 CHESTNUT ST	9/13/2012	1,800.00
METRO PCS 2351 CARONA AVE CORNING CA 96021 Permit Description: REPLACE BATTERY BACK-UP SYSTEM	6921055 Site Street Address: 2351 CARONA AVE	9/20/2012	10,000.00
DALE BARRETTA 1204 FIFTH AVE CORNING CA 96021 Permit Description: ELECT SERVICE, FENCE, ADD COVERED PATIO	7124117 Site Street Address: 1204 FIFTH AVE	9/14/2012	2,000.00
SEAN SCHROEDER 1191 HWY 99W CORNING CA 96021 Permit Description: TEAR OFF & REROOF, UPGRADE ELECT. SERVICE	7120122 Site Street Address: 1191 HWY 99W	9/17/2012	17,500.00
ART PALMER 1504 TEHAMA ST CORNING CA 96021 Permit Description: RECONSTRUCT EXISTING FRONT PATIO COVER	7104307 Site Street Address: 1504 TEHAMA ST	9/17/2012	1,200.00
MARY THOMALSON 2048 NORTH ST CORNING CA 96021 Permit Description: CHANGE OUT FURNACE	7132002 Site Street Address: 2048 NORTH ST	9/27/2012	4,100.00

CITY OF CORNING
PERMITS ISSUED (sort by Permit #)
For the Period 9/1/2012 thru 9/30/2012

Owner and Address	Parcel Number	Issued On	Valuation
TARA PRITCHETT 1240 FIFTH AVE CORNING CA 96021 Permit Description: TEAR OFF RESHEAT & REROOF	7124105 Site Street Address: 1240 FIFTH AVE	9/20/2012	2,500.00
LARRY GIFFORD 1424 SIXTH AVE CORNING CA 96021 Permit Description: ADD 12' X 36' COVERED PATIO	7126303 Site Street Address: 1424 SIXTH AVE	9/26/2012	1,800.00
PAUL LEMMON 809 SOUTH ST CORNING CA 96021 Permit Description: ADD HVAC & DUCTING	7309503 Site Street Address: 809 SOUTH ST	9/27/2012	10,929.00
VALLEY TERRACE APARTMENTS 982 TOOMES AVE CORNING CA 96021 Permit Description: REPAIR WATER DAMAGE TO 3 UPSTAIRS LANE	7118001 Site Street Address: 982 TOOMES AVE	9/25/2012	6,748.50
TARA PRITCHETT 1240 FIFTH AVE CORNING CA 96021 Permit Description: REPAIR FRONT ENTRY ROOM	7124105 Site Street Address: 1240 FIFTH AVE	9/25/2012	2,500.00
DAN & LINDA LIMA 1516 FIG LN CORNING CA 96021 Permit Description: REPLACE FOUNDATION & POSTS TO EXISTING	7126104 Site Street Address: 1516 FIG LN	9/27/2012	10,255.00
BRIAN GRACE 130 VICTORIAN PK CORNING CA 96021 Permit Description: REROOF OVER 1st LAYER COMP	7533009 Site Street Address: 130 VICTORIAN PK	9/26/2012	2,800.00
HPT PSC PROPERTIES TRUST (TA) 2151 SOUTH AVE CORNING CA 96021 Permit Description: REFACE SIGNS	8710081 Site Street Address: 2151 SOUTH AVE	9/27/2012	5,000.00

CITY OF CORNING
PERMITS ISSUED (sort by Permit #)
For the Period 9/1/2012 thru 9/30/2012

Owner and Address	Parcel Number	Issued On	Valuation
ROBERT THAYER 1720 MCKINLEY AVE CORNING CA 96021 Permit Description: REPLACE SEWER LATERAL	7115507 Site Street Address: 1720 MCKINLEY AVE	9/28/2012	1,600.00
24 Permits Issued from		9/1/2012 Thru 9/30/2012	FOR A TOTAL VALUATION OF \$ 652,809.25

*** END OF REPORT ***

CITY OF CORNING

SEPTEMBER 2012

TREASURERS REPORT

AGENCY	BALANCE	RATE
LOCAL AGENCY INVESTMENT FUND	2,269,481.62	.36

Respectfully Submitted

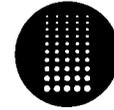
Pala Cantrell
City Treasurer

RECEIVED

SEP 25 2012

CITY OF CORNING

Item No.: G-11



**SouthWest
Water Company®**

SWWC Services, Inc.
P.O Box 230
25010 Gardiner Ferry Rd
Corning, CA 96021
Phone 530.824.5863
Fax 530.824.5769
www.swwc.com

**CITY OF CORNING
WASTEWATER OPERATION SUMMARY REPORT
SEPTEMBER 2012**

Below is a summary of the Monthly Operations Report that will be available for City review on OCTOBER 2012

- 1) Filled out monthly reports.
- 2) Performed weekly Operator 10 maintenance on all plant equipment.
- 3) Changed flow disk.
- 4) Sent vehicle report to Texas.
- 5) Wasted solids to thickener
- 6) Staff meeting on plant operations and issues.
- 7) Changed chart on So3 analyzer.
- 8) Safety meeting.
- 9) Sent Salinity study and Constituents study to Regional Board.
- 10) Inspected eyewash and emergency showers.
- 11) Unloaded chlorine truck.
- 12) Cleaned So2 pump.
- 13) Checked storm water discharge sites at WWTP and airport.
- 14) Cleaned distiller.
- 15) Tested all chlorine and So2 sensors

- 16) Cleaned probe at lift station.
- 17) Tested alarms with Fire Dept.
- 18) Exercised lift station stand –by pump
- 19) Collected sample and ran Colilert test on eye wash station.
- 20) Exercised emergency generator.
- 21) Completed annual Chronic Toxicity testing
- 22) IIPP plant inspection
- 23) Cleaned drying beds
- 24) Checked all fire extinguishers.
- 25) Cleaned chemical storage and delivery rooms.
- 26) Downloaded data logger from effluent chart recorder
- 27) Completed SSO no spill report
- 28) Collected River sample
- 29) Mowed lawns
- 30) Inspected Dos Amigos grease trap
- 31) Checked man holes in problem areas for grease build-up
- 32) North State Aggregate hauled dry sludge to landfill (20 loads)
- 33) Cleaned scum trough vaults with Vac-Con truck

SEPTEMBER/2012

Domestic Flow Monthly Average = 678,709 GPD

**ITEM NO.: G-12
ANNUAL STATEMENT OF
INVESTMENT POLICY FOR
FISCAL YEAR 2012-2013**

OCTOBER 9, 2012

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS
OF THE CITY OF CORNING**

**FROM: JOHN L. BREWER, CITY MANAGER
PALA CANTRELL, CITY TREASURER**



SUMMARY:

Per Government Code 53646, the Statement of Investment Policy is to be reviewed and submitted annually to the City Council for approval. The Investment Policy serves as the guidance mechanism for the investment of City Funds.

RECOMMENDATION:

MAYOR AND CITY COUNCIL APPROVE THE ANNUAL STATEMENT OF INVESTMENT POLICY AS SUBMITTED FOR FISCAL YEAR 2012-2013.

CITY OF CORNING

STATEMENT OF INVESTMENT POLICY

I. Introduction:

The purpose of this document is to identify various policies that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities. Related activities that comprise good cash management include accurate cash projections, expeditious collection of revenue, control of disbursements, and cost effective banking relations.

II. Scope:

The Investment Policy covers all funds and investment activities under the direct authority of the City of Corning.

III. Objective:

- A. Safety:** Safety of principal is the foremost objective of the investment program. Investments of the City of Corning shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- B. Liquidity:** An adequate percentage of the portfolio will be maintained in liquid, short-term securities which can be converted to cash if necessary to meet disbursements requirements. Since all cash requirements cannot be anticipated, investments in securities with active secondary or resale markets is highly recommended. Emphasis will be on low sensitivity to market risk.
- C. Yield:** Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.
- D. Market-Average Rate of Return:** The investment portfolio shall be designed to attain a market average rate of return throughout budgetary and economic cycles, taking into account the City's risk constraints, the cash flow characteristics of the portfolio, State and Local Laws and Ordinances.
- E. Diversification:** The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding either specific security types or individual financial instruments.
- F. Prudence:** The City of Corning adheres to the guidance provided by the "Prudent Man Rule" (Civil Code Section #2261), which obligates a fiduciary to ensure that: "...investment shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment considering the probable safety of their capital as well as the probable income to be derived."
- G. Public Trust:** All participants in the investment process shall act as custodians of the public trust. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust.

IV. Declaration of Authority:

The City Treasurer has the authority to invest funds in certain eligible securities (Government Code Section 53635).

V. Reporting:

The City Treasurer shall submit a quarterly investment report to the City Council, which shall include all the elements of the report as prescribed by Government Code Section 53646.

VI. Investment Instruments:

Investments for the City of Corning shall only be made in one or more of the following:

<u>Maximum Investment Instrument Financial Institution</u>	<u>Percentage Or Amount</u>	<u>Maximum Maturity</u>
A. Checking Accounts	Unlimited	N/A
B. Certificates of Deposits	Unlimited	5 Years
C. Local Agency Investment Fund	\$ 40 MM	N/A
D. Passbook Savings Accounts	Unlimited	N/A

VII. Internal Controls:

A system of internal controls shall be established to prevent losses of public funds arising from fraud, employee error, misrepresentation of third parties, unanticipated changes in financial markets, and imprudent actions by employees, and officers of the City.

VIII. Maturities:

Security purchases and holdings shall be maintained within statutory limits imposed by Government Code.

IX. Banks and Securities Dealers:

The City Treasurer, in selecting financial institutions for deposits and investments of the City funds, shall consider the credit worthiness of such institutions. The Treasurer shall continue to monitor financial institutions, credit characteristics and financial history throughout the period in which City funds are either deposited or invested.

X. Risk Tolerance:

The City of Corning recognized that investment risk can result from issuer defaults, market price changes or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. No individual investment transaction shall be undertaken which jeopardizes the total capital position of the overall portfolio. The Treasurer shall periodically establish guidelines and strategies to control risk of default, market price changes, and illiquidity. A competitive bid process, when practical, will be used to place investments.

XI. Statement of Investment Policy:

This Statement of Investment Policy shall be reviewed and submitted annually to the City Council.

Date

John L. Brewer, AICP, City Manager

**ITEM NO: G-13
ACCEPT LETTER OF WITHDRAWAL FROM KEN
VAUGHAN & SON AND AWARD CONTRACT FOR
THE PRUNING OF 514 PALM TREES TO GEORGE
SALINAS TREE PRESERVATION FOR THE AMOUNT
OF \$24,672**

OCTOBER 9, 2012

**TO: HONORABLE MAYOR AND COUNCILMEMBERS
OF THE CITY OF CORNING**

**FROM: JOHN L. BREWER, AICP; CITY MANAGER & PUBLIC WORKS DIRECTOR
PATRICK WALKER, ASSISTANT PUBLIC WORKS DIRECTOR**



SUMMARY:

Staff received six proposals at the bid opening on September 18, 2012 at 10am. Ken Vaughan & Son was the lowest bidder with a proposal of \$17 per tree for a total cost of \$8,738. The Contract was awarded at the September 25, 2012 City Council Meeting. On October 2, 2012 Mr. Vaughan submitted the attached letter to City Staff formally withdrawing his proposal due to medical reasons.

City Attorney Mike Fitzpatrick refers to Public Contract Code 20174 which allows the City to award the contract to the second lowest bidder without having to reject all the bids and go out to bid all over again.

George Salinas Tree Preservation of Placentia, CA is the second lowest bidder with a proposal of \$48 per tree for a total cost to the City of \$24,672. This amount still comes under the budgeted \$30,000 annually allotted for this project. The Bid Summary is attached for Council review.

BACKGROUND:

Every two years the Public Works Department requests Council approval to seek proposals for the pruning of palm trees within the City Limits. The palm trees were last pruned during the summer of 2010.

Council authorized Staff to seek proposals for the pruning of 514 Palm Trees at the August 14, 2012 City Council Meeting.

FINANCIAL:

The 2012/2013 City Budget provides a total of \$30,000 to fund the pruning of all City trees (including the Solano Street Ornamental Pear trees). The funding is budgeted under Public Works Streets/Tree Pruning item number 111-8002-3000 (\$30,000).

The Ornamental Pear trees along Solano Street require annual (spring) pruning maintenance to prevent disease. M&S Wesley Tree Service of Chico pruned the Solano Street trees during January 2012 for a cost of \$3,500. So, we should reserve at least \$4,000 for that tree pruning cost from the budget item number for this project.

With this Palm Tree contract and the reservation for fiscal year 2012/13 Ornamental Pear pruning, ($\$24,672 + \$4,000 = \$28,672$) there will be \$1,328 remaining for this fiscal year.

RECOMMENDATION:

Mayor and Council:

1. **Accept the Letter of Withdrawal from Ken Vaughan & Son, and**
2. **Award the Contract for the pruning of 514 Palm Trees to George Salinas Tree Preservation for the amount of \$24,672, and**
3. **Authorize the City Manager to sign the Contract on behalf of the City**

CITY OF CORNING
 2012
 Palm Tree Pruning
 Bid Summary: 10am, September 18, 2012

Company Name	Proposal Amount Per Tree
Ken Vaughan & Son Corning, CA	\$17.00 Proposal Withdrawn 10/2/2012
George Salinas Tree Preservation Placentia, CA	\$48.00
North Valley Tree Service Chico, CA	\$49.00
M&S Wesley Tree Service Chico, CA	\$49.99
Bill Taylor Tree Service Anderson, CA	\$57.00
Roll'n Rock Construction, Inc. Mt. Shasta, CA	\$327.00

West Coast Arborists, Inc. (Anaheim, CA) proposal was not received by the City prior to the 10am Bid Opening time.

Ken Vaughan & Son
P.O. Box 722
Corning, CA 96021
(530) 824-4991

October 2, 2012

City of Corning
ATTN: John Brewer, AICP
794 Third Street
Corning, CA 96021

RECEIVED

OCT 02 2012
CITY OF CORNING

Dear Mr. Brewer,

I thank the City of Corning for the opportunity to bid on the palm tree pruning project. Unfortunately, due to health concerns and my doctor's advise, I must formally withdraw my bid, effective immediately.

I look forward to continued business with the City of Corning and would appreciate the opportunity to bid on future projects.

Sincerely,


Ken Vaughan
Owner

20170. All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security:

- (a) Cash.
- (b) Cashier's check made payable to the city.
- (c) A certified check made payable to the city.
- (d) A bidder's bond executed by an admitted surety insurer, made payable to the city.

20171. The security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

20172. If the successful bidder fails to execute the contract, the amount of the bidder's security shall be forfeited to the city except as hereinafter provided.

20173. The cash or proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost, and publication of notice are paid.

20174. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the legislative body awards the contract to the second lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder if cash or a check is used, or to the surety on the bidder's bond if a bond is used.

**ITEM NO.: J-14
PRESENTATION REGARDING POSSIBLE
REFINANCING OF PUBLIC EMPLOYEES
RETIREMENT SYSTEM (PERS) SIDE FUND
OBLIGATIONS; POSSIBLE PLACEMENT AGENT
SERVICES AGREEMENT WITH BRANDIS
TALLMAN, LLC**

OCTOBER 9, 2012

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA

FROM: JOHN L. BREWER, AICP; CITY MANAGER



SUMMARY:

The City of Corning participates in the California Public Employees Retirement System (PERS). One component of that participation is an obligation in a "risk sharing pool" commonly known as the PERS "Side Fund". This obligation is a requirement of jurisdictions with fewer than 100 employees.

The City's Side Fund obligation currently totals over \$2.5 million. We make annual payments to cover this debt. The payments include an interest rate of 7.75% (reducing to 7.5% in 2013-2014), and total over \$360,000/year. Under the current arrangement, that debt would be paid off in 2023.

Mr. Jeffrey Land of Brandis Tallman, LLC of San Francisco, has prepared the attached Powerpoint presentation (Attachment "A"). In it he explains how we could refinance this side fund obligation with the issuance of "Pension Obligation Bonds", at a much lower interest rate and thereby reap savings of over \$35,000 per year for the same term. See also the pages marked Attachment "B", also prepared by Mr. Land, that provide additional details of the proposed refinancing.

Also attached to this staff report is a services agreement (Attachment "C") with Brandis Tallman LLC. If approved, it would start the refinancing process that Mr. Land will outline in his presentation. The agreement has been reviewed by the City Attorney.

There is one "unknown" component to all this. That is the possibility that PERS could rewrite the Side Fund rules in response to AB 340 (Pension reform Act) that was recently signed by the Governor. See the attached emails marked Attachments "D & "E"; respectively.

BACKGROUND:

Mr. Land and his firm have made similar presentations to several other cities in the northstate, including Red Bluff, Anderson and Orland. Those communities ultimately opted to refinance their side fund obligations.

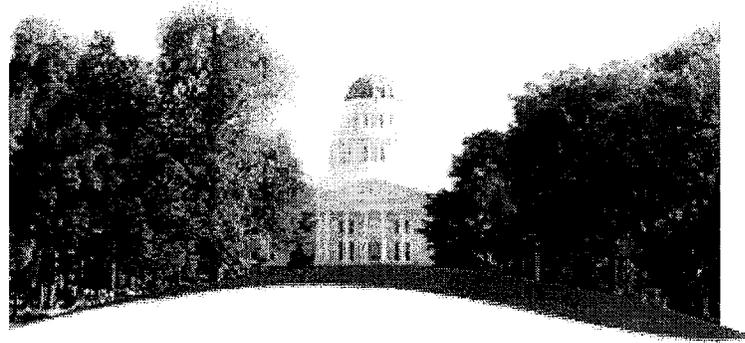
In our case, we have the opportunity to save over \$374,000 over the term of the loan. Roy Seiler and I have examined this and have reviewed this and believe that refinancing is an appropriate course of action.

**RECOMMENDATION:
That the City Council:**

- **OBSERVE THE POWERPOINT PRESENTATION, AND,**
- **AUTHORIZE THE MAYOR OR THE CITY MANAGER TO SIGN THE ATTACHED
“AGREEMENT FOR PLACEMENT AGENT SERVICES” WITH BRANDIS TALLMAN
LLC.**

October 9, 2012

Refinancing CalPERS Side Fund Obligations Mitigating Financial Risks



Presentation Prepared for
the City of Corning
by


BRANDIS TALLMAN LLC

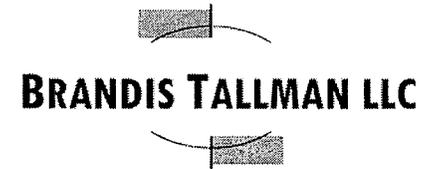

22 Battery Street, Suite 500
San Francisco, CA 94111
415-912-5630

*Investment Banking for
California's Communities*

A-1

About Brandis Tallman LLC

- Brandis Tallman is a full service investment banking firm that provides bond underwriting and placement agent services to public agencies.
- Our investment banking department offers financial analysis, planning and debt structuring for capital projects.
- Our trading and sales department distributes our municipal underwritings to a customer base that includes retail accounts, institutional investors such as mutual funds, banks, and insurance companies, and money managers and investment advisors.
- Brandis Tallman began working on Side Fund refinancings in 2010 and has developed a private placement/direct loan program with our institutional lenders to provide an efficient, cost effective financing process.



CalPERS Side Fund

- The City of Corning contracts with CalPERS to provide retirement benefits to employees.
- In 2003, California legislation mandated that all CalPERS member agencies with less than 100 employees be enrolled in a risk-sharing pool, in order to establish less volatile employer contribution rates for smaller agencies.
- At the time of being placed in the risk-sharing pool, a “Side Fund” was created to account for the difference between the funded status of the City’s plan and the funded status of the risk pool. These liabilities are treated as loans by CalPERS.
- The City has approximately \$2,592,027 outstanding as of 12/30/12 in their Side Fund. The maturity date is 6/30/23, an 11 year term.



BRANDIS TALLMAN LLC

A-3

Available Options

- **Continue Side Fund Participation**

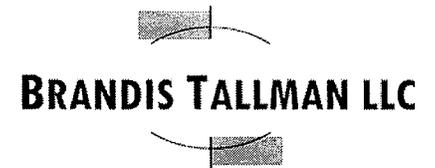
Participants are currently paying into the Side Fund at an interest rate of 7.75%. Beginning with FY 2013-14, the rate will decrease to 7.50%.

- **Pay Off Side Fund Obligation with Cash**

Participants could use cash reserves to pay off their Side Fund Obligations.

- **Pay Off Side Fund Obligation with a New Loan (Refunding)**

Participants could refinance their Side Fund Obligations by accessing the capital marketplace.



A-2

Access to Capital Markets

- **Local Banks**

- **Municipal Bond Market**
 - **Public Offering Method of Sale**
 - Sold to public at large
 - Credit rating required for optimal interest rate
 - Official statement required
 - Trustee required
 - Continuing disclosure required

 - **Private Placement Method of Sale**
 - Direct loan from institutional investor such as a bank
 - Bare bones version of public offering
 - No credit rating required
 - No official statement required
 - No continuing disclosure required
 - Trustee may be required




BRANDIS TALLMAN LLC

A-5

Side Fund Refinancing Experience

Agency	Par Amount	Closing Date
City of Anderson	\$4,318,000	10/2012
Central FPD of Santa Cruz County	\$6,184,000	4/13/2011
County of Colusa	\$2,830,800	5/7/2012
City of Healdsburg	\$9,025,000	9/20/2012
Lakeside Fire Protection District	\$3,816,000	7/21/2011
County of Mono	\$4,875,000	2/29/2012
Montecito Fire Protection District	\$3,520,000	5/26/2011
Monterey Peninsula Airport District	\$3,077,000	6/27/2012
City of Orland	\$2,308,200	2/22/2012
Pleasant Valley Recreation and Park District	\$1,886,409	8/31/2012
San Miguel Fire Protection District	\$11,282,000	6/29/2011
City of Rolling Hills Estates	\$1,854,000	8/23/2012
City of Santa Fe Springs	\$7,147,000	4/30/2012
Sierra County	\$4,642,000	6/21/2012
Stanislaus Consolidated FPD	\$3,209,800	5/26/2011
City of Suisun City	\$3,300,000	10/2012
Tehachapi-Cummings County Water District	\$1,719,700	8/15/2012
Truckee-Donner Public Utility District	\$7,816,000	6/29/2011
City of West Sacramento	\$10,806,700	2/17/2012

A-6

REFINANCING ANALYSIS RESULTS

REFUNDING LOAN	
Loan Payoff Amount as of 12/30/2012	\$2,592,027
Cost of Issuance	\$57,973
Par Amount	\$2,650,000
Arbitrage Yield	4.40%
All-In True Interest Cost	4.82%
TOTAL DEBT SERVICE	
Refunding Loan	\$3,371,138
Existing [3]	\$3,745,184
Savings	\$374,046 9.99 %
Net Present Value Savings	\$266,092 10.04% (cont.)



BRANDIS TALLMAN LLC

A-7

REFINANCING ANALYSIS RESULTS (CONTINUED)

AVERAGE FISCAL YEAR DEBT SERVICE	
Refunding Loan	\$325,184
Existing [3]	\$360,834
Savings	\$35,651

[1] Rate is fixed for 10 years. After that, the City can payoff the loan, refinance the loan with another lender, or refinance the loan with the existing lender. The existing lender would offer to refinance the loan based on a similar term Treasury plus a spread. This rate would be calculated as of the date reset in 10 years. For the half year reset, the rate would be based on the 1 year Treasury, which is approximately .17%. We used a rate of 4.40% for the full term of the Side Fund obligation for this analysis.

[2] Based on a 4.40% rate for the entire term of the loan, the savings are \$35,651 per year, or about \$374,046 in total. However, the rate is only locked for the first 10 years, so the savings are only quantifiable for that time. The savings for the first 10 years are \$356,107 in total. The savings for the remaining half year will vary depending on the rate and reset/refinance structure after year 10. Based on the current market rate of 4.40%, the savings for the last half year are estimated at \$17,939 in total. There is approximately \$146,000 outstanding after year 10.

[3] Based on a rollforward of the CalPERS Actuarial Report of October 2011. The rollforward was based on "PERSable" payroll for the last 3 fiscal years, current year, FYE 2014 and FYE 2015 "PERSable" payroll projections, and the last two CalPERS Valuation Reports (dated/delivered October 2011 and 2010).



BRANDIS TALLMAN LLC

A-8

Financing Structure

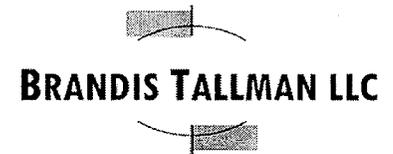
- General obligation of the agency from any legally available funds
- Liability that goes on balance sheet
- Collateral required on case by case basis depending on credit quality of the issuer
- Loan Agreement, resolution to approve financing and all related documents, CalPERS payoff letter




BRANDIS TALLMAN LLC


Court Validation

- Debt Limit Entities (cities, counties, school districts) are required to get a court validation.
- Court is not validating legal principles but is validating the transaction itself and all related documents.
- Before validation action is filed, it is necessary for the issuer to adopt a resolution authorizing the transaction and approving all related documents, including the validation action.
- Validation action is filed in the superior court of the county in which the issuer is located. The validation process takes about 90 days.
- Non-Debt Limit Entities (authorities, agencies, and special districts other than school districts) do not require validation action.
- A collateralized lease structure relieves the Debt Limit Entity from the validation requirement.



Private Placement Refunding Timeline with Validation

<u>Timing</u>	
Week One	Kick-off conference call with financing team to discuss elements of the Side Fund refunding
Week Three	1 st draft of documents due
Week Four	Comments on documents due
Week Five	Documents due for Agenda deadline
Week Six	Governing Body adopts resolution and authorizes bonds, validation action filed with superior court
Week Twelve	Validation judgment, 30-day appeal period begins
Week Sixteen	Appeal period ends, validation complete, close transaction



BRANDIS TALLMAN LLC

A-11

**CITY OF CORNING- CalPERS Side Fund Refunding
Taxable Pension Obligation Bond
Summary of Refunding as of 8-28-2012
Preliminary, Subject to Change**

**Private
Placement**

REFUNDING LOAN

Loan Payoff Amount @ 12/30/2012	2,592,027
Costs of Issuance	57,973
Par Amount	2,650,000
Arbitrage Yield	4.40%
All-In True Interest Cost	4.82%

TOTAL DEBT SERVICE

Refunding Loan	3,371,138	
Existing [3]	3,745,184	
Savings	374,046	9.99%
Net Present Value Savings	266,092	10.04%

AVG. FY DEBT SERVICE

2012/13 thru 2022/23 - Refunding	325,184	(Misc. plan drops off at FYE 2022)
2012/13 thru 2022/23 - Existing [3]	360,834	
2012/13 thru 2022/23 - Savings	35,651	

[1] Rate is fixed for 10 years. After that, the City can payoff the loan, refinance the loan with another lender, or refinance the loan with the existing lender. The existing lender would offer to refinance the loan based on a similar term Treasury. This rate would be calculated as of the date reset in 10 years. For the half year reset, the rate would be based on the 1 year Treasury (which today is about .17%). We used a rate of 4.40% for the full term of the Side Fund obligation for this analysis.

[2] Based on a 4.40% rate for the entire term of the loan, the savings are \$35,651 per year, or about \$374,046 in total. However, the rate is only locked for the first 10 years, so the savings are only quantifiable for that time. The savings for the first 10 years are \$356,107 in total. The savings for the remaining half year will vary depending on the rate and reset/refinance structure after year 10. Based on today's rate of 4.40%, the savings for the last half year are estimated at \$17,939 in total. There is approximately \$146,000 outstanding after year 10.

[3] Based on a rollforward of the CalPERS Actuarial Report of October 2011. The rollforward was based on "PERSable" payroll for the last 3 fiscal years, current year and FYE 2014 thru FYE 2015 "PERSable" payroll projections, and the last two CalPERS Valuation Reports (dated/delivered October 2011 and 2010).

SOURCES AND USES OF FUNDS
 City of Corning
 2012 CalPERS Side Fund Refunding Misc. & Safety Plans

Sources:		
<hr/>		
Bond Proceeds:		
	Par Amount	2,650,000.00
		<hr/>
		2,650,000.00
		<hr/>
Uses:		
<hr/>		
Project Fund Deposits:		
	Side Fund Payoff @ 12/30/12	2,592,026.50
Delivery Date Expenses:		
	Cost of Issuance	57,897.50
Other Uses of Funds:		
	Rounding	76.00
		<hr/>
		2,650,000.00
		<hr/>

B-2

COST OF ISSUANCE
City of Corning
2012 CalPERS Side Fund Refunding Misc. & Safety Plans

<u>Cost of Issuance</u>	<u>Amount</u>
Bond Counsel	22,500.00
Placement Agent	22,500.00
Investor's Counsel	10,000.00
CDIAC	397.50
COI Payment	500.00
Miscellaneous	2,000.00
	<u>57,897.50</u>

BOND SUMMARY STATISTICS

City of Corning

2012 CalPERS Side Fund Refunding Misc. & Safety Plans

Dated Date 12/30/2012
 Delivery Date 12/30/2012
 Last Maturity 6/30/2023

Arbitrage Yield 4.400000%
 True Interest Cost (TIC) 4.400000%
 Net Interest Cost (NIC) 4.400000%
 All-In TIC 4.824528%
 Average Coupon 4.400000%

Average Life (years) 6.185

Par Amount 2,650,000.00
 Bond Proceeds 2,650,000.00
 Total Interest 721,138.00
 Net Interest 721,138.00
 Total Debt Service 3,371,138.00
 Maximum Annual Debt Service 370,266.00
 Average Annual Debt Service 321,060.76

Underwriter's Fees (per \$1000)

Average Takedown
 Other Fee

Total Underwriter's Discount

Bid Price 100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life
Bond Component	2,650,000.00	100.000	4.400%	6.185
	2,650,000.00			6.185

	TIC	All-In TIC	Arbitrage Yield
Par Value	2,650,000.00	2,650,000.00	2,650,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense		-57,897.50	
- Other Amounts			
Target Value	2,650,000.00	2,592,102.50	2,650,000.00
Target Date	12/30/2012	12/30/2012	12/30/2012
Yield	4.400000%	4.824528%	4.400000%

B-4

BOND DEBT SERVICE
City of Corning
2012 CalPERS Side Fund Refunding Misc. & Safety Plans

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
6/30/2013	61,000	4.400%	58,300	119,300	119,300
12/30/2013	73,000	4.400%	56,958	129,958	
6/30/2014	73,000	4.400%	55,352	128,352	258,310
12/30/2014	107,000	4.400%	53,746	160,746	
6/30/2015	108,000	4.400%	51,392	159,392	320,138
12/30/2015	110,000	4.400%	49,016	159,016	
6/30/2016	111,000	4.400%	46,596	157,596	316,612
12/30/2016	115,000	4.400%	44,154	159,154	
6/30/2017	116,000	4.400%	41,624	157,624	316,778
12/30/2017	125,000	4.400%	39,072	164,072	
6/30/2018	125,000	4.400%	36,322	161,322	325,394
12/30/2018	136,000	4.400%	33,572	169,572	
6/30/2019	136,000	4.400%	30,580	166,580	336,152
12/30/2019	148,000	4.400%	27,588	175,588	
6/30/2020	148,000	4.400%	24,332	172,332	347,920
12/30/2020	160,000	4.400%	21,076	181,076	
6/30/2021	160,000	4.400%	17,556	177,556	358,632
12/30/2021	173,000	4.400%	14,036	187,036	
6/30/2022	173,000	4.400%	10,230	183,230	370,266
12/30/2022	146,000	4.400%	6,424	152,424	
6/30/2023	146,000	4.400%	3,212	149,212	301,636
	2,650,000		721,138	3,371,138	3,371,138

SAVINGS SCHEDULE
 City of Coming
 2012 CalPERS Side Fund Refunding Misc. & Safety Plans

Period Ending	Debt Service	Annual Debt Service	Existing Side Fund Payments	(Savings)	Net Present Value (Savings)
6/30/2013	119,300	119,300	136,840	(17,539.88)	(17,162.31)
12/30/2013	129,958				124,423.16
6/30/2014	128,352	258,310	294,071	(35,760.61)	(155,245.35)
12/30/2014	160,746				147,345.40
6/30/2015	159,392	320,138	355,651	(35,513.00)	(176,025.30)
12/30/2015	159,016				139,551.80
6/30/2016	157,596	316,612	352,303	(35,690.56)	(167,195.40)
12/30/2016	159,154				133,724.32
6/30/2017	157,624	316,778	352,649	(35,870.77)	(160,336.25)
12/30/2017	164,072				131,985.28
6/30/2018	161,322	325,394	360,917	(35,523.03)	(157,104.95)
12/30/2018	169,572				130,600.06
6/30/2019	166,580	336,152	371,745	(35,592.55)	(154,611.10)
12/30/2019	175,588				129,473.92
6/30/2020	172,332	347,920	382,897	(34,976.88)	(151,922.64)
12/30/2020	181,076				127,834.05
6/30/2021	177,556	358,632	394,384	(35,751.79)	(149,778.58)
12/30/2021	187,036				126,418.05
6/30/2022	183,230	370,266	406,215	(35,949.30)	(147,471.88)
12/30/2022	152,424				98,636.00
6/30/2023	149,212	301,636	337,514	(35,877.55)	(119,229.87)
	3,371,138	3,371,138	3,745,184	(374,045.92)	(266,091.58)

Net Present Value Savings % 10.04%

B-6

AGREEMENT FOR PLACEMENT AGENT SERVICES

This Agreement, made and entered into as of _____, 2012, by and between the City of Corning (the "City") and Brandis Tallman LLC ("BTLLC") is for the purpose of establishing BTLLC as Placement Agent for the City's proposed issuance of 2012/2013 Pension Obligation Bonds (the "Bonds"). Our fee for services for this financing will not exceed \$22,500 for a private placement of the City's Side Fund Refinancing Loan with a par amount of not to exceed \$2.7 million. The fee is contingent upon the issuance of bonds and is paid out of bond proceeds. There is no upfront fee or accruing liability to the City for the services of BTLLC. The City reserves the right to terminate this Agreement or reject the proposed financing at any time.

SCOPE OF SERVICES

BTLLC shall perform all the duties and services specifically set forth herein and shall provide such other services as it deems necessary or advisable, or are reasonable and necessary to accomplish the intent of the City in a manner consistent with the standards and practices of placement agents or underwriters prevailing at the time such services are rendered to the City.

The City may, with the concurrence of BTLLC, expand this Scope of Services to include any additional services not specifically identified within the terms herein.

DEBT ISSUANCE SERVICES

Insofar as BTLLC is providing services which are rendered only to the City, the overall coordination of the financing shall be such as to minimize the costs of the transaction coincident with maximizing the City's financing flexibility and capital market access. BTLLC's proposed services may include, but shall not be limited to, the following:

- Develop Financing Schedule
- Monitor the Transaction Process
- Compute Sizing and Design Structure of the Debt Issue
- Compilation/Drafting of Disclosure Reports for Private Placement Distribution
- Conduct Marketing and Distribution
- Structure Financing Terms
- Provide Financial Advice to the City Relating to Financing Documents
- Provide Pre-Closing and Closing Assistance

Specifically, BTLLC will:

1. **Develop the Financing Schedule.**

BTLLC shall take the lead role in preparing a schedule and detailed description of the interconnected responsibilities of each team member and update this schedule, with refinements, as necessary, as the work progresses.

2. Monitor the Transaction Process.

BTLLC shall have primary responsibility for the successful implementation of the financing strategy and timetable that is adopted. BTLLC shall coordinate (and assist, where appropriate) in the preparation of the legal and disclosure documents and shall monitor the progress of all activities leading to the sale of debt. BTLLC shall prepare the timetables and work schedules necessary to achieve this end in a timely, efficient and cost-effective manner and will coordinate and monitor the activities of all parties engaged in the financing for the Project.

3. Compute Sizing and Design Structure of Debt Issue.

BTLLC shall work with the City's staff to design a financing that is consistent with the City's objectives and that reflects current conditions in the capital markets. BTLLC will perform numerical iterations to provide examples of financing scenarios, prepare sources and uses of funds, debt service schedules and cash flow projections, as needed. BTLLC will also prepare pro formas and structure debt consistent with existing covenants and requirements.

4. Compilation/Drafting of Disclosure Reports (as necessary and appropriate) for Distribution to Sophisticated Investors.

BTLLC will be responsible, as deemed appropriate by Bond Counsel and the City, to compile and draft disclosure information relating to the security of the Bonds for distribution to sophisticated investors.

5. Conduct Marketing and Distribution.

BTLLC shall provide regular summaries of current municipal bond market conditions, trends in the market and how these may favorably or unfavorably affect the City's proposed financing. We will provide feedback from investors and analyze proposed rates and terms.

6. Structure Financing Terms.

Our goal is to achieve the best possible financing terms (which usually translates into the lowest cost of borrowing). These terms will be weighed and considered against what the investor will accept (and at what price) and what works best for the City. Financing terms can include final maturity, call provisions, interest rate reset structure and additional bonds consideration.

7. Provide Financial Advice to the City Relating to Financing Documents.

BTLLC shall assist the consultants, bond counsel and/or other legal advisors in the drafting of the respective financing resolutions, notices and other legal documents. In this regard, BTLLC shall monitor document preparation for a consistent and accurate presentation of the recommended business terms and financing structure, it being specifically understood however that BTLLC's services shall in no manner be construed as engaging in the practice of law.

8. Provide Pre-Closing and Closing Activities.

BTLLC shall assist in arranging for the closing. BTLLC shall assist bond counsel in assuming responsibility for such arrangements as they are required, including arranging for or monitoring the progress of final delivery of the securities and settlement of the costs of issuance.

Confirming discussions with the City regarding risk, BTLLC represents the following:

- a. we have no conflict of interest with the City, such as a third party payment or profit-sharing with investors in connection with this financing;
- b. we have made every effort to have a reasonable basis for all information provided and to present it in a clear, accurate and not misleading presentation;
- c. it must be noted that as a broker/dealer, our relationship with an issuer is basically an arm's-length commercial transaction and we may have financial and other interests that differ from the City.

The City and BTLLC have each caused this Agreement to be executed by their duly authorized officers as of the date first above written.

BRANDIS TALLMAN LLC

CITY OF CORNING

By _____

By _____

John Brewer

From: JLand [jland@brandistallman.com]
Sent: Friday, September 21, 2012 10:43 AM
To: jbrewer@corning.org
Cc: Nicki Tallman; rbrandis@brandistallman.com
Subject: Pension Reform Bill - Side Fund

Hi John,

Please call me when you return to the office on the 24th to discuss the information in this email.

Now that Governor Brown signed the Pension Reform Bill, we expect that your side fund could be impacted. Given our conversations with other CalPERS Side Fund participants, and with one of the top private actuaries who works closely with CalPERS and is used by most of the cities in the state, we do expect Side Fund amortizations to be recalculated. CalPERS has not yet indicated how (or even if) existing Side Funds will be impacted, but given the changes in future employee benefits, we do expect some modifications. We do not expect the annual reports (due October of 2012) to discuss the modifications, but it is possible that by the beginning of 2013 CalPERS will publish a recommendation for reconfiguring amortization and/or payoff of the Side Funds. If changes are recommended, we do not know that they will be approved by the CalPERS Board or when they will take effect, but, we do want to make you aware that changes may be coming. We can only provide you with a savings schedule based on what we know today. Any future CalPERS changes, whether related to recently enacted pension reform or not, could impact these estimated savings.

Thanks

Jeff Land
Brandis Tallman
415-912-5635

JD

John Brewer

From: JLand [jland@brandistallman.com]
Sent: Thursday, September 27, 2012 10:35 AM
To: jland@brandistallman.com
Cc: ntallman@brandistallman.com; rbrandis@brandistallman.com; Andy Hall
Subject: Fw: RE: Pension Reform Bill - Side Fund Impact

Good morning,

Please see the email below from a Senior Pension Actuary at CalPERS we contacted regarding AB 340 the Pension Reform Bill.

Thanks

Jeff Land
Brandis Tallman
415-912-5635

-----Original Message-----

From: "Worgan, Kerry" <Kerry_Worgan@calpers.ca.gov>
To: "Jeff Land" <jland@brandistallman.com>
Date: 09/26/12 03:43 PM
Subject: RE: Pension Reform Bill - Side Fund Impact

Hi Jeff, at this point no decisions have been made with respect to the impact of Pension Reform on the closing of the pools or its impact on the funding of Side Funds. We are still trying to gather information on the specifics of AB 340 and how best to implement the required changes. Note that there is a review of amortization policies scheduled for the Board in December so I'm sure a lot of these issues will be discussed at that time. Keep in mind that those policies will not be reflected until the June 30, 2012 valuations which will be completed next summer/fall so I don't believe there will be any impact on Side Fund payoffs or rates for at least a year. Any information on these policy changes or potential changes will be communicated through information circulars to all agencies.

*Kerry J. Worgan, FSA, FCIA, MAAA
Senior Pension Actuary
Actuarial and Employer Services Branch
CalPERS*

(916) 795-0003

**ITEM NO. : J-15
REQUEST FOR WATER SERVICE;
OCCUPATION WITHOUT OWNER'S
AUTHORITY; SARA BECK; 1791 COLUSA
STREET**

OCTOBER 9, 2012

TO: CITY COUNCIL OF THE CITY OF CORNING, CALIFORNIA
FROM: JOHN L. BREWER, AICP; PUBLIC WORKS DIRECTOR & CITY MANAGER

SUMMARY:

Sara Beck occupies the residence at 1791 Colusa Street. She (and others on her behalf) have applied to the City for Water service at that property. In this era of multiple foreclosures and conflicts between owners and tenants, our Finance Department has begun requiring authorization to occupy from new utility customers.

Ms. Beck contends that she has paid property taxes and is legally occupying the property via "adverse possession"¹. She provided the attached information regarding her request for water service. In this case we have not provided water service since Ms. Beck is unable to provide a property deed, or rental/lease agreement that entitles her to occupy the premises. I did provide one email response (dated August 28th) to Ms. Beck after consulting with City Attorney Jody Burgess. A copy is attached.

BACKGROUND:

The latest Assessment roll shows the property owners as Jim & Joan Parker. However, the Parkers are now both deceased. Their daughter lives in southern California. When contacted, she stated that no one is entitled to be in the house. She also stated that the State of California may have filed a lien to recover costs associated with her parents' medical care. At that point the matter was referred to the Police Dept. for their action.

Since that time, the Police Dept. has been in contact with the Tehama County District Attorney to determine if this is a simple case of trespass, or a civil matter between the Parker's daughter and Ms. Beck. City Attorney Mike Fitzpatrick is currently communicating directly with the District Attorney regarding this matter. He can provide additional details at the meeting.

ADVERSE POSSESSION:

We've discussed the matter of "Adverse Possession" with both City Attorneys Jody Burgess and Mike Fitzpatrick. They have advised that Ms. Beck's claim to legal possession is unsubstantiated. Since the occupant is not authorized to be there, they have also advised against facilitating the residency by providing water service.

**RECOMMENDATION:
That the City Council:**

- **PROVIDE STAFF DIRECTION REGARDING THE REQUEST FOR WATER SERVICE.**

¹ According to the County, someone named E.M. Wells paid \$100 of the tax bill in June of this year. Note that as of this date, \$838.80 in property tax remains unpaid on this property.

To: City of Corning Council
Members =

- Toni Perkins

- John Leach

- Darlene Dickinson

- Dave Linnett

and Mayor: Gary Strack

(agenda not brought to the floor
because I froze :))

URGENT

AGENDA

RECEIVED
SEP 27 2012
CITY OF CORNING

City Council Members &
Mayor,

I'm not sure where to begin except to tell you I have set in several meetings now with intentions to stand up when it was open floor. For many different reasons I freeze. My daughter being very disappointed in me I have to approach you in letter.

My name is Sara Hicks/Beck. Daughter of James Hicks + Debra Hoffman. I was born in Corning. So were my parents. I'm not sure how far back we go... but I do know my family's things are in your museum. The rest of my family = Hoffmans, Hammonds, Andrews, Blandhard it goes on & on, they held high standing in our community. I have always struggled. Now being 40 I realized I have nothing to show, well my 3 beautiful + smart children. ;)

K

Last year I found myself living under
Caldwell Park Bridge. The death of
my father was very hard on me. That's
when I realized I was creating a
somewhat death of myself to my
children. I pulled myself up, dusted
off (with the help of my friends at Bethel Church
Got 2 jobs, a crappy apartment in a
drug infested neighborhood in Redding.
I wanted more for my kids, the
violence on my street was crazy &
I was paying \$50 a month. Wow.
Even 2 jobs I could never save money
to move. I wanted my daughter
allison 11 years young. My Baby.
I did not care, I was backed into
a corner. She was being mentally
abused by her step mom & others for
her condition. She is severely epileptic.
With Learning Disabilities. That is
when I started looking into abandoned
homes. Why? Beautiful homes...
sitting for years? Why? And I
found this law: Amendment Bill #1684

And then was told by a child about the home I live in now. I researched, talked to attorneys, and found out the house would go to auction after, what?, 10 or 15 years of sitting abandoned? This beautiful home? Next door to my daughters grandparents & 2 blocks from her school? It was a godsend. I'm paying on the back taxes so it went auction. The owners have passed on. Family does not want it. A real estate would buy it for profit, or I could raise my daughter in a decent neighborhood close to family & friends.

The reason I come to you is John Brewer has personally told me I will not receive public utilities. Is that not why they are called public? I thought it was a privilege of being a tax payer, which I am. For 4 months my daughter & I have suffered without water & garbage. Do you know I haul in 30 to 40

gallons of water a day! It takes 5-9 gallons just to flush a toilet once! (Yeah, I had no idea) We shower at family + friends, and sometimes in a Bucket. It's embarrassing!

The only dead yard in my neighborhood + I live in the best 1791 Colusa Street.

It's wearing on me physically + emotionally My daughter gets sick a lot due to her condition, and cannot bathe in her own home, the city had my meters

Completley removed from the ground!

I'm not sure if you are aware of that.

How ridiculous. I have talked to local city, + the state water rights + they say, "as long as I pay my Bill you cannot keep water from me." I

don't want to have to hire an attorney because if I do, I will win + then sue for my hardship + the damages it has ^{done} to my yard, trees, toilets, floors and embarrassment. Or worse the

^{local} paper. No one wants to read "City of Corning denies water to local

5

"working"

Single mother of her special needs daughter
Come on. I'm not asking for anything more than what everyone else has. Just asking for a cleaner, healthy living conditions. If I have to I will, for 5 years, live with other means of water. But I would rather not.

Please... Please?? Let me + my daughter have water. It's so not fair. I have power in my name. The following pages ~~are~~ were printed for your reading, on water rights + laws. I'm not trying to be disrespectful by it just informed. Educated if you would. Please I respectfully request for water + garbage service.

Thank you

sorry its so long but
I appreciate you taking
the time to read this

1791 Colusk St
339-8808

Please understand I am a desperate mother!!
Wanting the best for my children. Dont We all!!

THE GIARDINELLI LAW GROUP, APC

Courtside Newsletter

Informing Real Estate Brokers, Association members, and local Businesses for over thirty years.

RECENT DEVELOPMENTS

The National Association of REALTORS® (NAR) requested that John Giardinelli be part of a work group to analyze the proper role of attorneys in the enforcement of the Code of Ethics and the proper role of attorneys in arbitration hearings. John is looking forward to working with attorneys from around the United States and with the excellent attorneys at NAR.

New California Law Raises Bar on Establishing Ownership Through Adverse Possession

BY: RYAN D. MILLER
RIVERSIDE COUNTY OFFICE



California Assembly Bill 1684 became law January 1, 2011. AB 1684 amended California Code of Civil Procedure §325 to change the requirements for title to pass via adverse possession.

been cases where a party simply moves in, plants a tree and claims to fulfill all of the requirements for adverse possession.

Adverse possession is accomplished when a party acquires ownership to another's real property, without compensation, by holding the property for a specified period of time in a manner that conflicts with the true owner's rights. For example, Party A owns an undeveloped acre of real property, but does not visit it often. Party B puts a mobilehome on Party A's acre, moves in, and claims it as his own. After occupying Party A's acre uninterrupted for the amount of time specified by law and paying taxes on the property, Party B becomes the owner of the property.

Prior to AB 1684 adverse possession was established by adhering to the standards set forth in the previous version of California Code of Civil Procedure §§321-326 and Civil Code §1007. Those code sections essentially required that a party must occupy the real property hostilely, openly, exclusively, and continuously for a period of five years and pay the property taxes on the land.

"Hostile possession" does not mean ill will or actual enmity, but rather is actual occupation or possession of the real property, without the permission of anyone claiming title, and claiming ownership (either express or implied). (The opposite would be a lease or other possession that recognizes or is subordinate to the true owner.)

"Open Possession" means undisguised and conspicuous possession of real property that is generally known or recognized.

"Exclusive possession" means that the person possessing the land must be the only one occupying the property - he can't share possession with strangers or the owner. Furthermore, an adverse possessor cannot give up the use of the property and then return

from old English law, when real property was the ultimate asset. Due in part to the fact that land was so important, adverse possession encouraged owners not to waste their land and to use it for its highest and best purpose.

If you thought that adverse possession is just a dated legal theory discussed by law professors, you would be wrong. Adverse possession is most commonly asserted in property line disputes, where Neighbor A claims ownership of the land of Neighbor B because it is on Neighbor A's side of the fence and has been for the statutorily required amount of time. However, there have also

CALENDAR

C.A.R. Business Meetings

Date: May 4 - 7, 2011

Location: Sacramento, California

Please visit C.A.R.'s website for registration and details!
www.car.org

MLS Rules & Regulations / Data Integrity (Traffic School)

Date: May 13, 2011

Time: 9:00 a.m. - 11:30 a.m.

Location: The Pacific West Association of REALTORS®

Please contact the Pacific West Association of REALTORS® to sign up!

Brown Bag - Seminar

Date: May 18, 2011

Time: 11:30 a.m. - 1:00 p.m.

Location: Southwest Riverside County Association of REALTORS®

Please contact the Southwest Riverside County Association of REALTORS® to sign up!

Important Dates:

Earth Day: Friday, April 22nd
Easter: Sunday, April 24th

Continued...

return to it and count the time that it was abandoned, as that would not be continuous possession for the required time period.

The problem under the old standard was proving the five-year continuous occupancy of the land. This was especially problematic when all of the taxes that were due were paid in a lump sum payoff at the end of the statutorily required time for possession.

AB 1684 amends California Code of Civil Procedure §325 by requiring that the adverse possessor *timely* pay all taxes associated with ownership of the real property. This requirement makes it more difficult for a cheating adverse possessor to claim ownership by paying back taxes when they were not actually occupying the property.

A related legal theory on which to acquire the use of another's land is that of prescriptive easement. A prescriptive easement is the right to use the land of another after adverse use (hostile,

continuous, and open) for a statutorily prescribed number of years. The difference between adverse possession and prescriptive easements is that the use does not need to be exclusive to establish a prescriptive easement. When complete control of the land cannot be established, instead of gaining ownership of the land, an easement is granted.

Though the legal theories behind prescriptive easements and adverse possession come from another time, these doctrines continue to arise in real property disputes. Even though AB 1684 brought a needed change to ensure compliance with the requirements of adverse possession, parties involved in real estate transactions must still be wary of these doctrines. It is a common mistake to wrongfully believe that a fence line and a property line are the same. The last thing any real estate buyer wants is to buy a lawsuit.

New Law: Post-Foreclosure Protection for Tenants

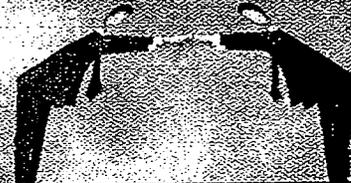
RULE: Until January 1, 2013, a purchaser of a foreclosed home that wants to remove tenants must attach a cover sheet to any notice of termination of tenancy indicating the tenant's rights if it is within the first year after the foreclosure sale.

Exceptions:

- The tenancy is terminated pursuant to Section 1161;
- The new owner and tenant executed a rental agreement or lease; or
- The Tenant was not a tenant at the time of the foreclosure.

BUSINESS CORNER

"We want to help."



BUSINESS TIPS

TIPS FOR CORPORATE DIRECTORS AND OFFICERS TO AVOID LIABILITY FOR BREACHES OF THEIR DUTIES

1. Directors and Officers must act in good faith.

2. "Good faith" means being honest.

3. Directors and Officers must abstain from self-dealing and competing corporate opportunities.

4. A Director/Officer may not take an opportunity that is in the corporation's line of work that the corporation is able to undertake unless the corporation refuses the opportunity.

5. Decisions made on an informed basis will be protected by the "business judgment rule."

6. A Director/Officer is not liable for a breach of duty if he or she acted in good faith, in the best interests of the corporation, and without a conflict of interest.

(951) 244-1856

www.glawgroupapc.com

info@glawgroupapc.com

April is Tax Season and the IRS is Cracking Down

According to an article on Bankrate.com, the IRS has begun taking the enforcement portion of its job seriously. With that in mind, certain things on tax returns are going to act as red flags to auditors. Those include, but are certainly not limited to, the following:

- Higher incomes;
- Income other than basic wages;
- Home businesses;
- Non-cash charitable deductions;
- Large business "entertainment" and meal deductions;
- Excessive auto usage for business purposes;

- Losses from an activity that could be construed as a hobby rather than a legitimate business transaction;
- Large casualty losses; and
- Unreported income, such as investment returns.

According to the article, the work you put into preparing your return will pay off in the even of an audit. In other words, keep good records and you will be better able to back up what your tax return says.

To view the full article, go to bankrate.com/finance/taxes/red-flags-that-tempt-the-tax-auditor-1.aspx

This Newsletter is a copyrighted publication and may not be reproduced or transmitted in any form or by any means without written permission. This article does not necessarily reflect the point of view of the Giardinelli Law Group, APC, or other person or entity who publishes it. This article provides legal information abridged from statutes, court decisions, and administrative rulings and contains opinions of the writers. Legal information is not the same as legal advice, which is the application of law to an individual's specific circumstances. Although every effort is made to ensure the information is accurate and useful, it is recommended that you consult with a lawyer to obtain professional assurance that the information provided and your interpretation of it is appropriate for a particular situation. To request further information or to comment on this newsletter, contact us at (951) 244-1856 and visit our website at www.glawgroupapc.com.

Right to water

From Wikipedia, the free encyclopedia

When taken as human right, the **right to water** places certain responsibilities upon governments to ensure that people can enjoy "sufficient, safe, accessible and affordable water, without discrimination" (cf. GC 15, below). Most especially, governments are expected to take reasonable steps to avoid a contaminated water supply and to ensure there are no water access distinctions amongst citizens.

Contents

- 1 Introduction
- 2 Right to water in international law
- 3 Political recognition of the right to water
- 4 Organizations involved in "right to water"
- 5 References
- 6 Further reading
- 7 External links

Introduction

"It is now time to consider access to safe drinking water and sanitation as a human right, defined as the right to equal and non-discriminatory access to a sufficient amount of safe drinking water for personal and domestic uses—drinking, personal sanitation, washing of clothes, food preparation and personal and household hygiene—to sustain life and health. States should prioritize these personal and domestic uses over other water uses and should take steps to ensure that this sufficient amount is of good quality, affordable for all and can be collected within a reasonable distance from a person's home." [1]

The number of people lacking access to safe drinking water is 884 million and more than 2.6 billion miss a basic sanitation.[2]

Given the fact that water access is a cross-border source of concern and potential conflict in the Middle East, the Eastern Mediterranean and parts of North America amongst other places, some Non-governmental organizations (NGOs) and scholars argue that the right to water also has a trans-national or extraterritorial aspect. They argue that given the fact that water supplies naturally overlap borders, States also have a legal obligation not to act in a way that might have a negative effect on the enjoyment of human rights in other States.[3]. The formal acknowledgement of this further legal obligation could prevent the negative effects of the global "water crunch" (as a future threat and one negative result of human over-population).[2] (<http://www.eurasianet.org/departments/civilsociety/articles/pp091805.shtml>)

Right to water in international law

Several international human rights conventions^[4] state provisions which could amount to an explicit recognition of the right to water. For example the 1989 Convention on the rights of the child (CRC) states: "Article 24 1. States parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health ... 2. States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and **clean drinking water** (...)"[5]

The 1979 Convention on the Elimination of Discrimination against Women (CEDAW) also states: "Article 14 (2) States parties shall take all appropriate measures to eliminate discrimination against women in rural areas to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular shall ensure to women the right: ... (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and **water supply**, transport and communications."[6]

However the most detailed definition of the content of the right to water came in 2002 from an expert body (CESCR) assessing the implementation of the ICESCR (International Covenant on Economic, Social and Cultural Rights)^[7], a treaty only recognizing "implicitly" the right to water. This definition is detailed in General Comment 15 (hereafter GC 15), in which the Committee asserts: "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements."^[8]

Following the publication of GC 15, several States agreed and formally acknowledged the right to water to be part of their treaty obligations under the ICESCR (cf. e.g. in Europe: Germany^[9]; United Kingdom^[10]; Netherlands^[11])

Political recognition of the right to water

This legal recognition must be distinguished from the international process promoting the recognition and the further definition of the right to water under international law. The main reason is that no legal obligation derives from a political acknowledgement (E.g. United Nations General assembly resolutions). However, it is important not to underestimate the political pressure which civil society might exercise towards governments while reminding them of their commitments (cf. the work of civil society in the field of Millenium Development Goals - MDGs which are only political commitments) as well as the fact that political acknowledgements might be used before courts so as to assess customary international law.

An initial step in 2006 was taken by the former United Nations Sub-commission on Human Rights which issued Guidelines ^[12].

These guidelines led the United Nations Human Rights Council to mandate in 2008, Ms Catarina de Albuquerque, as an Independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation.^[13]

Eventually, on 28 July 2010, following an intense negotiation, 122 countries formally acknowledged the "right to water" in the General Assembly (GA) resolution (A/64/292, based on draft resolution A/64/L.63/Rev.1)^[14]. In September, 2010, the UN Human Rights Council adopted a resolution recognizing that the human right to water and sanitation are a part of the right to an adequate standard of living.^[15]

Organizations involved in "right to water"

1. International organisations:
 - OHCHR (UN Office of the High Commissioner on Human Rights)
 - UNDP
 - UNICEF
2. Governmental cooperation agencies:
 - DFID (United Kingdom's Cooperation Agency)
 - GTZ (German Cooperation Agency)
 - SDC (Swiss Development Cooperation)^[16]
3. Development NGOs: Freshwater Action Network (FAN)^[17], WaterAid, Transnational Institute with the Water Justice project ^[18]
4. Humanitarian NGOs: Action against Hunger (ACF),
5. Human Rights NGOs: COHRE^[19], The DigDeep Right to Water Project^[20], WaterLex^[21], UUSC^[22]

References

1. ^ Office of the UN High Commissioner for Human Rights on The Right to Water (<http://www.righttowater.org.uk/code/HumanRights.asp>), September 2007
2. ^ The resolution laments the fact that 884 million people lack access to safe drinking water and that more 2.6 billion do not have access to basic sanitation <http://www.france24.com/en/20100728-un-declares-access-clean-water-human-right>.
3. ^ Hausmann, Ute, Globalising economic and social human rights by strengthening extraterritorial state obligations (Brot für die Welt, FIAN and CEED, october 2006), available at: <http://fian.org/resources/documents/others/germanys-extraterritorial-human-rights-obligations-in-multilateral-development-banks/pdf>

agreements which destroy that right, in use of our freedom and dignity, we declare the following:

"For the right to life, for the respect of nature and the uses and traditions of our ancestors and our peoples, for all time the following shall be declared as inviolable rights with regard to the uses of water given us by the earth:

1. Water belongs to the earth and all species and is sacred to life, therefore, the world's water must be conserved, reclaimed and protected for all future generations and its natural patterns respected.
2. Water is a fundamental human right and a public trust to be guarded by all levels of government, therefore, it should not be commodified, privatized or traded for commercial purposes. These rights must be enshrined at all levels of government. In particular, an international treaty must ensure these principles are noncontroversial.
3. Water is best protected by local communities and citizens who must be respected as equal partners with governments in the protection and regulation of water. Peoples of the earth are the only vehicle to promote earth democracy and save water."

[3] THE ACCRA DECLARATION ON THE RIGHT TO WATER
19th May, 2001

At the end of 4 days of debate during the National Forum on Water Privatization in Accra, Ghana, which took place between the 16-19th of May, we the undersigned declare as follows:

"...We are united by the following common principles, beliefs and values:

- That water is a fundamental human right, essential to human life to which every person, rich or poor, man or woman, child or adult is entitled.
- That water is not and should not be a common commodity to be bought and sold in the market place as an economic good.
- Water is a natural resource that is part of our common heritage to be used judiciously and preserved for the common good of our societies and the natural environment today and in the future.
- Water is an increasingly scarce natural resource, and as a result crucial to the securities of our societies and sovereignty of our country. For this reason alone, its ownership, control, delivery and management belong in the public domain today and tomorrow....["]"

More: www.africaaction.org/docs01/wat0105.htm

[4] TREATY INITIATIVE TO SHARE AND PROTECT THE GLOBAL WATER COMMONS
July 14th, 2001

The Treaty Initiative by the Blue Planet Project To Share And Protect The Global Water Commons
Adopted July 14th 2001

"We proclaim these truths to be universal and indivisible:

"That the intrinsic value of the Earth's fresh water precedes its utility and commercial value, and therefore must be respected and safeguarded by all political, commercial and social institutions, That the Earth's fresh water belongs to the earth and all species and therefore, must not be treated as a private commodity to be bought, sold and traded for profit, That the global fresh water supply is a shared legacy, a public trust and a fundamental human right and, therefore, a collective responsibility, :And, Whereas[].."

More:

http://www.blueplanetproject.net/cms_publications/treaty_eng.pdf



United Nations



All human beings are born with equal and inalienable rights and fundamental freedoms.

The United Nations is committed to upholding, promoting and protecting the human rights of every individual. This commitment stems from the United Nations Charter, which reaffirms the faith of the peoples of the world in fundamental human rights and in the dignity and worth of the human person.

In the Universal Declaration of Human Rights, the United Nations has stated in clear and simple terms the rights which belong equally to every person.

These rights belong to you.

*They are your rights. Familiarize yourself with them.
Help to promote and defend them for yourself
as well as for your fellow human beings.*

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social

progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission

which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

(1) Everyone has the right to freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and

to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2002/11
20 January 2003

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Twenty-ninth session
Geneva, 11-29 November 2002
Agenda item 3

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS

General Comment No. 15 (2002)

**The right to water (arts. 11 and 12 of the International Covenant
on Economic, Social and Cultural Rights)**

I. INTRODUCTION

1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. The Committee has been confronted continually with the widespread denial of the right to water in developing as well as developed countries. Over one billion persons lack access to a basic water supply, while several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked to water.¹ The

¹ In 2000, the World Health Organization estimated that 1.1 billion persons did not have access to an improved water supply (80 per cent of them rural dwellers) able to provide at least 20 litres of safe water per person a day; 2.4 billion persons were estimated to be without sanitation. (See WHO, *The Global Water Supply and Sanitation Assessment 2000*, Geneva, 2000, p.1.) Further, 2.3 billion persons each year suffer from diseases linked to water: see United Nations, Commission on Sustainable Development, *Comprehensive Assessment of the Freshwater Resources of the World*, New York, 1997, p. 39.

continuing contamination, depletion and unequal distribution of water is exacerbating existing poverty. States parties have to adopt effective measures to realize, without discrimination, the right to water, as set out in this general comment.

The legal bases of the right to water

2. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

3. Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living “including adequate food, clothing and housing”. The use of the word “including” indicates that this catalogue of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival. Moreover, the Committee has previously recognized that water is a human right contained in article 11, paragraph 1, (see General Comment No. 6 (1995)).² The right to water is also inextricably related to the right to the highest attainable standard of health (art. 12, para. 1)³ and the rights to adequate housing and adequate food (art. 11, para. 1).⁴ The right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.

4. The right to water has been recognized in a wide range of international documents, including treaties, declarations and other standards.⁵ For instance, Article

² See paras. 5 and 32 of the Committee’s General Comment No. 6 (1995) on the economic, social and cultural rights of older persons.

³ See General Comment No. 14 (2000) on the right to the highest attainable standard of health, paragraphs 11, 12 (a), (b) and (d), 15, 34, 36, 40, 43 and 51.

⁴ See para. 8 (b) of General Comment No. 4 (1991). See also the report by Commission on Human Rights’ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari (E.CN.4/2002/59), submitted in accordance with Commission resolution 2001/28 of 20 April 2001. In relation to the right to adequate food, see the report by the Special Rapporteur of the Commission on the right to food, Mr. Jean Ziegler (E/CN.4/2002/58), submitted in accordance with Commission resolution 2001/25 of 20 April 2001.

⁵ See art. 14, para. 2 (h), Convention on the Elimination of All Forms of Discrimination Against Women; art. 24, para. 2 (c), Convention on the Rights of the Child; arts. 20, 26, 29 and 46 of the Geneva Convention relative to the Treatment of Prisoners of War, of 1949; arts. 85, 89 and 127 of the Geneva Convention relative to the Treatment of Civilian Persons in Time of War, of 1949; arts. 54 and 55 of Additional Protocol I thereto of 1977; arts. 5 and 14 Additional Protocol II of 1977; preamble, Mar Del

14, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that States parties shall ensure to women the right to “enjoy adequate living conditions, particularly in relation to [...] water supply”. Article 24, paragraph 2, of the Convention on the Rights of the Child requires States parties to combat disease and malnutrition “through the provision of adequate nutritious foods and clean drinking-water”.

5. The right to water has been consistently addressed by the Committee during its consideration of States parties’ reports, in accordance with its revised general guidelines regarding the form and content of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, and its general comments.

6. Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses. Priority should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights.⁶

Water and Covenant rights

7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment

Plata Action Plan of the United Nations Water Conference; see para. 18.47 of Agenda 21, *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (A/CONF.151/26/Rev.1 (Vol. I and Vol. II/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1) (United Nations publication, Sales No. E.93.I.8), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II; Principle No. 3; The Dublin Statement on Water and Sustainable Development, International Conference on Water and the Environment (A/CONF.151/PC/112); Principle No. 2, Programme of Action, *Report of the United Nations International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex; paras. 5 and 19, Recommendation (2001) 14 of the Committee of Ministers to Member States on the European Charter on Water Resources; resolution 2002/6 of the United Nations Sub-Commission on the Promotion and Protection of Human Rights on the promotion of the realization of the right to drinking water. See also the report on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation (E/CN.4/Sub.2/2002/10) submitted by the Special Rapporteur of the Sub-Commission on the right to drinking water supply and sanitation, Mr. El Hadji Guissé.

⁶ See also World Summit on Sustainable Development, Plan of Implementation 2002, paragraph 25 (c).

No.12 (1999)).⁷ Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.⁸

8. Environmental hygiene, as an aspect of the right to health under article 12, paragraph 2 (b), of the Covenant, encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions.⁹ For example, States parties should ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes. Likewise, States parties should monitor and combat situations where aquatic eco-systems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments.¹⁰

9. With a view to assisting States parties' implementation of the Covenant and the fulfilment of their reporting obligations, this General Comment focuses in Part II on the normative content of the right to water in articles 11, paragraph 1, and 12, on States parties' obligations (Part III), on violations (Part IV) and on implementation at the national level (Part V), while the obligations of actors other than States parties are addressed in Part VI.

II. NORMATIVE CONTENT OF THE RIGHT TO WATER

10. The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.

⁷ This relates to both *availability* and to *accessibility* of the right to adequate food (see General Comment No. 12 (1999), paras. 12 and 13).

⁸ See also the Statement of Understanding accompanying the United Nations Convention on the Law of Non-Navigational Uses of Watercourses (A/51/869 of 11 April 1997), which declared that, in determining vital human needs in the event of conflicts over the use of watercourses “special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation”..

⁹ See also para. 15, General Comment No. 14.

¹⁰ According to the WHO definition, vector-borne diseases include diseases transmitted by insects (malaria, filariasis, dengue, Japanese encephalitis and yellow fever), diseases for which aquatic snails serve as intermediate hosts (schistosomiasis) and zoonoses with vertebrates as reservoir hosts.

11. The elements of the right to water must be *adequate* for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.¹¹

12. While the adequacy of water required for the right to water may vary according to different conditions, the following factors apply in all circumstances:

(a) *Availability*. The water supply for each person must be sufficient and continuous for personal and domestic uses.¹² These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.¹³ The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.¹⁴ Some individuals and groups may also require additional water due to health, climate, and work conditions;

(b) *Quality*. The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health.¹⁵ Furthermore, water should be of an acceptable colour, odour and taste for each personal or domestic use.

¹¹ For a definition of sustainability, see the *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 1992*, Declaration on Environment and Development, principles 1, 8, 9, 10, 12 and 15; and Agenda 21, in particular principles 5.3, 7.27, 7.28, 7.35, 7.39, 7.41, 18.3, 18.8, 18.35, 18.40, 18.48, 18.50, 18.59 and 18.68.

¹² "Continuous" means that the regularity of the water supply is sufficient for personal and domestic uses.

¹³ In this context, "drinking" means water for consumption through beverages and foodstuffs. "Personal sanitation" means disposal of human excreta. Water is necessary for personal sanitation where water-based means are adopted. "Food preparation" includes food hygiene and preparation of food stuffs, whether water is incorporated into, or comes into contact with, food. "Personal and household hygiene" means personal cleanliness and hygiene of the household environment.

¹⁴ See J. Bartram and G. Howard, "Domestic water quantity, service level and health: what should be the goal for water and health sectors", WHO, 2002. See also P.H. Gleick, (1996) "Basic water requirements for human activities: meeting basic needs", *Water International*, 21, pp. 83-92.

¹⁵ The Committee refers States parties to WHO, *Guidelines for drinking-water quality*, 2nd edition, vols. 1-3 (Geneva, 1993) that are "intended to be used as a basis for the development of national standards that, if properly implemented, will ensure the safety of drinking water supplies through the elimination of, or reduction to a

(c) *Accessibility*. Water and water facilities and services have to be accessible to *everyone* without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

(i) *Physical accessibility*: water, and adequate water facilities and services, must be within safe physical reach for all sections of the population. Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace.¹⁶ All water facilities and services must be of sufficient quality, culturally appropriate and sensitive to gender, life-cycle and privacy requirements. Physical security should not be threatened during access to water facilities and services;

(ii) *Economic accessibility*: Water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights;

(iii) *Non-discrimination*: Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds; and

(iv) *Information accessibility*: accessibility includes the right to seek, receive and impart information concerning water issues.¹⁷

Special topics of broad application

Non-discrimination and equality

13. The obligation of States parties to guarantee that the right to water is enjoyed without discrimination (art. 2, para. 2), and equally between men and women (art. 3), pervades all of the Covenant obligations. The Covenant thus proscribes any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water. The Committee recalls paragraph 12 of General Comment No. 3 (1990), which states that even in times of severe resource

minimum concentration, of constituents of water that are known to be hazardous to health.”

¹⁶ See also General Comment No. 4 (1991), para. 8 (b), General Comment No. 13 (1999) para. 6 (a) and General Comment No. 14 (2000) paras. 8 (a) and (b). Household includes a permanent or semi-permanent dwelling, or a temporary halting site.

¹⁷ See para. 48 of this General Comment.

constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes.

14. States parties should take steps to remove de facto discrimination on prohibited grounds, where individuals and groups are deprived of the means or entitlements necessary for achieving the right to water. States parties should ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society. Inappropriate resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favour expensive water supply services and facilities that are often accessible only to a small, privileged fraction of the population, rather than investing in services and facilities that benefit a far larger part of the population.

15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to prevent any discrimination on internationally prohibited grounds in the provision of water and water services.

16. Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees. In particular, States parties should take steps to ensure that:

(a) Women are not excluded from decision-making processes concerning water resources and entitlements. The disproportionate burden women bear in the collection of water should be alleviated;

(b) Children are not prevented from enjoying their human rights due to the lack of adequate water in educational institutions and households or through the burden of collecting water. Provision of adequate water to educational institutions currently without adequate drinking water should be addressed as a matter of urgency;

(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status;

(d) Indigenous peoples' access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;

(e) Nomadic and traveller communities have access to adequate water at traditional and designated halting sites;

(f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas.

Refugees and asylum-seekers should be granted the right to water on the same conditions as granted to nationals;

(g) Prisoners and detainees are provided with sufficient and safe water for their daily individual requirements, taking note of the requirements of international humanitarian law and the United Nations Standard Minimum Rules for the Treatment of Prisoners;¹⁸

(h) Groups facing difficulties with physical access to water, such as older persons, persons with disabilities, victims of natural disasters, persons living in disaster-prone areas, and those living in arid and semi-arid areas, or on small islands are provided with safe and sufficient water.

III. STATES PARTIES' OBLIGATIONS

General legal obligations

17. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to water, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2, para. 2) and the obligation to take steps (art. 2, para.1) towards the full realization of articles 11, paragraph 1, and 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to water.

18. States parties have a constant and continuing duty under the Covenant to move as expeditiously and effectively as possible towards the full realization of the right to water. Realization of the right should be feasible and practicable, since all States parties exercise control over a broad range of resources, including water, technology, financial resources and international assistance, as with all other rights in the Covenant.

19. There is a strong presumption that retrogressive measures taken in relation to the right to water are prohibited under the Covenant.¹⁹ If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources.

¹⁸ See arts. 20, 26, 29 and 46 of the third Geneva Convention of 12 August 1949; arts. 85, 89 and 127 of the fourth Geneva Convention of 12 August 1949; arts. 15 and 20, para. 2, United Nations Standard Minimum Rules for the Treatment of Prisoners, in *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1).

¹⁹ See General Comment No. 3 (1990), para. 9.

Specific legal obligations

20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to *respect*, obligations to *protect* and obligations to *fulfil*.

(a) Obligations to respect

21. The obligation to *respect* requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.

22. The Committee notes that during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law.²⁰ This includes protection of objects indispensable for survival of the civilian population, including drinking water installations and supplies and irrigation works, protection of the natural environment against widespread, long-term and severe damage and ensuring that civilians, internees and prisoners have access to adequate water.²¹

(b) Obligations to protect

23. The obligation to *protect* requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.

24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment, which

²⁰ For the interrelationship of human rights law and humanitarian law, the Committee notes the conclusions of the International Court of Justice in *Legality of the Threat or Use of Nuclear Weapons (Request by the General Assembly)*, ICJ Reports (1996) p. 226, para. 25.

²¹ See arts. 54 and 56, Additional Protocol I to the Geneva Conventions (1977), art. 54, Additional Protocol II (1977), arts. 20 and 46 of the third Geneva Convention of 12 August 1949, and common article 3 of the Geneva Conventions of 12 August 1949.

includes independent monitoring, genuine public participation and imposition of penalties for non-compliance.

(c) Obligations to fulfil

25. The obligation to *fulfil* can be disaggregated into the obligations to facilitate, promote and provide. The obligation to facilitate requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to fulfil (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.

26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.

27. To ensure that water is affordable, States parties must adopt the necessary measures that may include, inter alia: (a) use of a range of appropriate low-cost techniques and technologies; (b) appropriate pricing policies such as free or low-cost water; and (c) income supplements. Any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households.

28. States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations.²² Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity;²³ (f)

²² See footnote 5 above, Agenda 21, chaps. 5, 7 and 18; and the World Summit on Sustainable Development, Plan of Implementation (2002), paras. 6 (a), (l) and (m), 7, 36 and 38.

²³ See the Convention on Biological Diversity, the Convention to Combat Desertification, the United Nations Framework Convention on Climate Change, and subsequent protocols.

increasing the efficient use of water by end-users; (g) reducing water wastage in its distribution; (h) response mechanisms for emergency situations; (i) and establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.

29. Ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources.²⁴ In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.

International obligations

30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the right to water.

31. To comply with their international obligations in relation to the right to water, States parties have to respect the enjoyment of the right in other countries. International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party's jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction.²⁵

32. States parties should refrain at all times from imposing embargoes or similar measures, that prevent the supply of water, as well as goods and services essential for securing the right to water.²⁶ Water should never be used as an instrument of political

²⁴ Article 14, para. 2, of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates States parties shall ensure to women the right to "adequate living conditions, particularly in relation to [...] sanitation". Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to "To ensure that all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation."

²⁵ The Committee notes that the United Nations Convention on the Law of Non-Navigational Uses of Watercourses requires that social and human needs be taken into account in determining the equitable utilization of watercourses, that States parties take measures to prevent significant harm being caused, and, in the event of conflict, special regard must be given to the requirements of vital human needs: see arts. 5, 7 and 10 of the Convention.

²⁶ In General Comment No. 8 (1997), the Committee noted the disruptive effect of sanctions upon sanitation supplies and clean drinking water, and that sanctions regimes should provide for repairs to infrastructure essential to provide clean water.

and economic pressure. In this regard, the Committee recalls its position, stated in its General Comment No. 8 (1997), on the relationship between economic sanctions and respect for economic, social and cultural rights.

33. Steps should be taken by States parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries. Where States parties can take steps to influence other third parties to respect the right, through legal or political means, such steps should be taken in accordance with the Charter of the United Nations and applicable international law.

34. Depending on the availability of resources, States should facilitate realization of the right to water in other countries, for example through provision of water resources, financial and technical assistance, and provide the necessary aid when required. In disaster relief and emergency assistance, including assistance to refugees and displaced persons, priority should be given to Covenant rights, including the provision of adequate water. International assistance should be provided in a manner that is consistent with the Covenant and other human rights standards, and sustainable and culturally appropriate. The economically developed States parties have a special responsibility and interest to assist the poorer developing States in this regard.

35. States parties should ensure that the right to water is given due attention in international agreements and, to that end, should consider the development of further legal instruments. With regard to the conclusion and implementation of other international and regional agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to water. Agreements concerning trade liberalization should not curtail or inhibit a country's capacity to ensure the full realization of the right to water.

36. States parties should ensure that their actions as members of international organizations take due account of the right to water. Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the right to water is taken into account in their lending policies, credit agreements and other international measures.

Core obligations

37. In General Comment No. 3 (1990), the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. In the Committee's view, at least a number of core obligations in relation to the right to water can be identified, which are of immediate effect:

(a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;

(b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;

(c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;

(d) To ensure personal security is not threatened when having to physically access to water;

(e) To ensure equitable distribution of all available water facilities and services;

(f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;

(g) To monitor the extent of the realization, or the non-realization, of the right to water;

(h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;

(i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation;

38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations indicated in paragraph 37 above.

IV. VIOLATIONS

39. When the normative content of the right to water (see Part II) is applied to the obligations of States parties (Part III), a process is set in motion, which facilitates identification of violations of the right to water. The following paragraphs provide illustrations of violations of the right to water.

40. To demonstrate compliance with their general and specific obligations, States parties must establish that they have taken the necessary and feasible steps towards the realization of the right to water. In accordance with international law, a failure to act in good faith to take such steps amounts to a violation of the right. It should be stressed that a State party cannot justify its non-compliance with the core obligations set out in paragraph 37 above, which are non-derogable.

41. In determining which actions or omissions amount to a violation of the right to water, it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations in relation to the right to water. This follows from articles 11, paragraph 1, and 12, which speak of the right to an adequate standard of living and the right to health, as well as from article 2, paragraph 1, of the Covenant, which obliges each State party to take the necessary steps to the maximum of its available resources. A State which is unwilling to use the maximum of its available resources for the realization of the right to water is in violation of its obligations under the Covenant. If resource constraints render it impossible for a State party to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above.

42. Violations of the right to water can occur through *acts of commission*, the direct actions of States parties or other entities insufficiently regulated by States. Violations include, for example, the adoption of retrogressive measures incompatible with the core obligations (outlined in para. 37 above), the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to water, or the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the right to water.

43. Violations through *acts of omission* include the failure to take appropriate steps towards the full realization of everyone's right to water, the failure to have a national policy on water, and the failure to enforce relevant laws.

44. While it is not possible to specify a complete list of violations in advance, a number of typical examples relating to the levels of obligations, emanating from the Committee's work, may be identified:

(a) Violations of the obligation to respect follow from the State party's interference with the right to water. This includes, inter alia: (i) arbitrary or unjustified disconnection or exclusion from water services or facilities; (ii) discriminatory or unaffordable increases in the price of water; and (iii) pollution and diminution of water resources affecting human health;

(b) Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to water by third parties.²⁸ This includes, inter alia: (i) failure to enact or enforce laws to prevent the contamination and inequitable extraction of water; (ii) failure to effectively regulate and control water services providers; (iv) failure to protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction; and

(c) Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to water. Examples includes, inter alia: (i) failure to adopt or implement a national water policy designed to ensure the right to water for everyone; (ii) insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to

²⁸ See para. 23 for a definition of "third parties".

54. Having identified appropriate right to water indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator.²⁹ During the periodic reporting procedure, the Committee will engage in a process of “scoping” with the State party. Scoping involves the joint consideration by the State party and the Committee of the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. In the following five years, the State party will use these national benchmarks to help monitor its implementation of the right to water. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and the reasons for any difficulties that may have been encountered (see General Comment No.14 (2000), para. 58). Further, when setting benchmarks and preparing their reports, States parties should utilize the extensive information and advisory services of specialized agencies with regard to data collection and disaggregation.

Remedies and accountability

55. Any persons or groups who have been denied their right to water should have access to effective judicial or other appropriate remedies at both national and international levels (see General Comment No. 9 (1998), para. 4, and Principle 10 of the Rio Declaration on Environment and Development).³⁰ The Committee notes that the right has been constitutionally entrenched by a number of States and has been subject to litigation before national courts. All victims of violations of the right to water should be entitled to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.

56. Before any action that interferes with an individual’s right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies (see also General

²⁹ See E. Riedel, “New bearings to the State reporting procedure: practical ways to operationalize economic, social and cultural rights – The example of the right to health”, in S. von Schorlemer (ed.), *Praxishandbuch UNO*, 2002, pp. 345-358. The Committee notes, for example, the commitment in the 2002 World Summit on Sustainable Development Plan of Implementation to halve, by the year 2015, the proportion of people who are unable to reach or to afford safe drinking water (as outlined in the Millennium Declaration) and the proportion of people who do not have access to basic sanitation.

³⁰ Principle 10 of the Rio Declaration on Environment and Development (*Report of the United Nations Conference on Environment and Development*, see footnote 5 above), states with respect to environmental issues that “effective access to judicial and administrative proceedings, including remedy and redress, shall be provided”.

Comments No. 4 (1991) and No. 7 (1997)). Where such action is based on a person's failure to pay for water their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of the minimum essential level of water.

57. The incorporation in the domestic legal order of international instruments recognizing the right to water can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases. Incorporation enables courts to adjudicate violations of the right to water, or at least the core obligations, by direct reference to the Covenant.

58. Judges, adjudicators and members of the legal profession should be encouraged by States parties to pay greater attention to violations of the right to water in the exercise of their functions.

59. States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their right to water.

VI. OBLIGATIONS OF ACTORS OTHER THAN STATES

60. United Nations agencies and other international organizations concerned with water, such as WHO, FAO, UNICEF, UNEP, UN-Habitat, ILO, UNDP, the International Fund for Agricultural Development (IFAD), as well as international organizations concerned with trade such as the World Trade Organization (WTO), should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the right to water at the national level. The international financial institutions, notably the International Monetary Fund and the World Bank, should take into account the right to water in their lending policies, credit agreements, structural adjustment programmes and other development projects (see General Comment No. 2 (1990)), so that the enjoyment of the right to water is promoted. When examining the reports of States parties and their ability to meet the obligations to realize the right to water, the Committee will consider the effects of the assistance provided by all other actors. The incorporation of human rights law and principles in the programmes and policies by international organizations will greatly facilitate implementation of the right to water. The role of the International Federation of the Red Cross and Red Crescent Societies, International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees (UNHCR), WHO and UNICEF, as well as non-governmental organizations and other associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies. Priority in the provision of aid, distribution and management of water and water facilities should be given to the most vulnerable or marginalized groups of the population.

California Adverse Possession

People have the right to keep unwanted intruders off their property. They do this all the time, sometimes with fences or with signs, sometimes just by asking trespassers to please stay away. In cases of serious, repeated annoyance or threatened harm, landowners can call the police. They will usually warn the person to stay away and, if necessary, make an arrest. Trespass is a minor criminal offense, and someone convicted of criminal trespass can be fined and jailed.

Another kind of trespass is more permanent: using another's property as an owner would use it. If someone drives across a neighbor's land every day, it is a trespass unless the owner has granted permission or the driver has a legal right, called an easement, to use that part of the neighbor's property (see "Easements," below.) The other neighbor who just put up a fence two feet over the boundary line is trespassing, as is the one whose garage has been in the wrong place on the neighbor's property for several years.

These trespassers can also be asked to leave or warned away. But there's a chance that any of them may in fact have a legal claim to the property.

ADVERSE POSSESSION

Many landowners are surprised to learn that under certain circumstances, a trespasser can come onto land, occupy it and gain legal ownership of it. The trespasser may acquire a few feet of property or whole acres in this way. If someone is using your property, even a small strip on the edge, you should be alert to the risk.

A trespasser may also gain a legal right to use part of someone else's property; this is called a prescriptive easement. (See "Easements," below.)

The legal doctrine that allows trespassers to become owners is called "adverse possession." Although the name sounds nasty (and the results can be), the trespasser is not necessarily an intentional evildoer—far from it. The trespasser may simply have made a mistake—relying on a faulty property description in a deed, for example. In rural areas, the person who moves in and occupies several acres may believe he owned it, having purchased it from a scoundrel who sold someone else part of the Brooklyn Bridge. Questions about ownership often wind up in court after an absent owner of rural property discovers that someone is living on his land or, when a piece of urban property is sold, a title insurance company refuses to issue insurance because the neighbor's garage is found to be standing squarely on the property. If the people involved can't work something out, the property owner may sue the trespasser, or the trespasser may bring a lawsuit to quiet title—a request for the court to settle who owns what.

REQUIREMENTS FOR OBTAINING LAND BY ADVERSE POSSESSION

A trespasser is entitled to legal ownership of property if his occupation of the property is hostile, actual, open and notorious, exclusive and continuous for a period of years set by state statute. (We explain each of these terms below.) Some states, such as California, also require the trespasser to have paid the local property taxes on the land.(1) The time required, which varies from state to state, is usually twenty years. It can be as short as five years when the trespasser pays the property taxes.

HOSTILE CLAIM

The word "hostile" does not mean that the trespasser barricades himself on the land with a shotgun. Most courts follow one of two legal definitions of hostile. One is called the "Maine rule" and requires that the person be aware that he is trespassing.(2) For example, a man in Nebraska,

a state which follows this rule, gained ownership of the neighboring eight acres by using them for years. He knew the property was not his, and a court characterized his action as hostile.(3)

The other popular definition, the "Connecticut rule," defines hostile simply as occupation of the land.(4) The trespasser doesn't have to know that the land belongs to someone else. The Connecticut rule, kinder to the innocent trespasser, is followed by most states today.(5)

Example: Jesse isn't sure where his property line is, but he thinks an old fence marks the boundary. When he builds his new garage, he builds up to the fence line, which is actually ten feet over on his neighbor's property. Under the Connecticut rule, Jesse's intention doesn't matter, and his occupation is hostile even though he thinks he is on his own land.

A few states follow a third rule, which is directly opposite the Maine rule of requiring intentional trespass. The trespasser must be completely innocent and must have made a good faith mistake, such as relying on an invalid or incorrect deed. For example, in Iowa, which follows this good faith rule, a woman attempted to claim a strip of her neighbor's land by adverse possession. The court denied her claim because she knew it was not her property, even though she had treated the property as her own for thirty years.(6)

ACTUAL, OPEN AND NOTORIOUS POSSESSION

The trespasser must actually be in possession of the property and treat it as if he were an owner. This means there must be a physical presence on the land. It's not enough for someone just to make a claim, orally or in writing, of ownership.

The words "open and notorious" simply mean that it must be obvious to anyone, including an owner who investigates, that a trespasser is on the land. Actual (physical) possession is usually open and notorious. Someone out in the field harvesting crops is obvious, as is a person pruning the rose garden that she planted on a strip of the neighbor's back yard. Similarly, a neighbor who just put a fence up slightly on the next-door property is obvious. So is the one who just poured a concrete driveway two feet over the boundary line.

The point of this requirement is to let the owner know someone is occupying the land, so something can be done about it. An owner who allows someone to trespass for years without giving permission, complaining or taking action, the theory goes, loses the rights to the land.

EXCLUSIVE AND CONTINUOUS POSSESSION

The trespasser must possess the land exclusively and without interruption for the statutory time period. You can find how many years are required in your state from the chart below.

A trespasser can't give up the use of the property in such a way that he no longer acts as an owner, and then return to it and count the time that it was abandoned - that wouldn't be continuous possession for the whole time.

The person trespassing must be the only one occupying the property - he can't share possession with strangers or the owner. (By contrast, a trespasser can gain the right to use a certain part of another's property, a prescriptive easement, even if possession or use is shared with others. See "Easements," below.)

If one person uses the property for a while and leaves, and another shows up for a while, the times can't be combined - the possession hasn't been exclusive by one person.

If, however, the trespasser actually sells or gives the property to someone else, the recipient becomes the adverse possessor and the years that the first trespasser spent occupying the land

count for the new one's claim. This is called "tacking." When one trespasser passes the land to the next, then that person's claim is tacked on to the previous one.

Example: Joe occupied part of someone else's land for ten years. He then sold his land (including the part that was not legally his) to Adam, who stayed for ten years. If his state's adverse possession statute requires twenty years of occupancy, Adam has met the twenty-year requirement through tacking. On the other hand, if Joe stopped trespassing before Adam bought the property and started his own trespassing, the ten years of Joe's trespass don't count for Adam.

PAYMENT OF PROPERTY TAXES

Some states require the trespasser to have paid the taxes on the property for the statutory time period. If all the other requirements are met except the tax payment, a court will usually grant a prescriptive easement to use the property to the trespasser, instead of ownership through adverse possession. (See "Easements," below).

WHAT CAN THE OWNER DO?

A landowner who doesn't keep an eye on his property can lose it. Nobody should allow the boundaries to be redrawn by inattention and inaction -- in a city, a loss of even twenty feet could be devastating to a property investment.

If you become seriously concerned that someone has a possible claim to your land, check the local property tax records to see if anyone has made tax payments for the property. Paying taxes always bolsters an adverse possession claim, even when it is not required for a successful claim.

There are several steps an owner can take to prevent a trespasser from gaining a legal claim to the ownership.

POST SIGNS AND BLOCK ENTRY

Some people put up "Posted" or "No Trespassing" signs to keep people off their properties. Signs can alert a trespasser that the land belongs to someone else, but are not protection against adverse possession unless state law requires the trespasser to believe that he is on his own land to make a claim (see "Hostile Claim," above). Signs are never a substitute for periodic inspection of the property. It is easy to imagine someone tacking up a few signs and returning 25 years later -- or never, a new buyer returning instead. By that time, the signs are long gone and a neighbor may have shifted over onto the land.

Signs that don't tell trespassers to stay off, but instead grant permission to use the property may actually protect an owner from losing a property interest to the public as a whole (see "Easements," below).

Locked gates at entry points to the property when the land is enclosed, or across an access that is being used, will stop most trespassers. But you should routinely check to be sure someone is not ignoring them, or worse, removing them.

GIVE WRITTEN PERMISSION

One effective way to thwart a possible claim is by giving permission to use your land. If Norma is out planting a garden in your backyard, treating it as her own land, step over and say "Hello, you are on my property by a few feet, but that's okay." You don't have to throw her off your property; simply claim it. Then put the permission in writing and obtain an acknowledgment from Norma. The chain has been broken. She

John Brewer

From: John Brewer [jbrewer@corning.org]
Sent: Tuesday, August 28, 2012 1:14 PM
To: 'sara beck'
Subject: RE: water

Ms. Beck,
We've been through this matter on several occasions with you and/or others on your behalf.
You have been advised regarding our requirements to establish utility service.

We have no obligation to provide any such letter.

John L. Brewer, AICP
City Manager & Public Works Director
City of Corning
794 Third Street
Corning, CA 96021

(530) 824-7034
fax (530) 824-2489

-----Original Message-----

From: sara beck [mailto:sarahicksbeck@gmail.com]
Sent: Tuesday, August 28, 2012 12:55 PM
To: jbrewer@corning.org
Cc: sara beck
Subject: water

Dear Mr. Brewer,

My name is Sara Beck. I have been trying to contact you on the issue of water at my house. I would like to have water. I have been at this house for two months. I have a special needs daughter that lives with me. Im a tax payer. Not sitting on states money doing nothing. I work for walmart and do in home health services for the state. Im not sure why im being denied. I have asked for a letter of refusal. Your office replied it does not exist. All i want is water for myself and my daughter. Im not asking for anything more than is required. Thank you for your time

Sara Hicks/Beck
530-339-8808