

## MEMORANDUM

Date: March 19, 2018  
To: Board of Directors  
From: Mark Martin, General Manager  
Subject: Update on Sewer Lateral Issue – Lot 1709

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### RECOMMENDED ACTION

Receive update – no action.

### BACKGROUND

This is a follow-up to the homeowner's sewer line concern from the Board meeting of February 21, 2018.

At the last Board meeting, it was agreed the District would inspect the line from the cleanout closest to the sewer main, to the sewer main to determine where a line breakage may exist and to help determine the responsibility for the repair of such a breakage.

The District pursued a legal counsel review of District code to determine what are the limits of the District and the homeowner respectively.

It was my intent to establish the District's legal counsel opinion on the District's responsibility for maintenance of sewer lines before the District conducted the inspection of the homeowner's line, so that we would have a more clear picture of that responsibility. We received legal counsel's opinion on March 9 (See Attachment A). The District's legal counsel findings support that District responsibility generally extends from the sewer main up to the last cleanout closest to the sewer main. Per his review, District code itself *does* reflect a conflict within the code itself which in one sentence states District responsibility is up to the cleanout with another sentence stating it is up to and including the cleanout. Standard operating policy has been up to the cleanout but not including. The District's adopted standard specifications (drawing) from May of 1993, although not code, clearly shows the cleanout as the private property owner's responsibility with the sewer stub the responsibility of the District. So, it is reasonable to conclude the District's responsibility is from the main up to the nearest cleanout outside of District easements. Please see District standard specifications S-10 and S-13 (Attachments B & C).

With this opinion and with rains expected the rest of the week of March 12-16, 2-18 on March 12, I requested staff contact the homeowner to schedule an inspection of the line. Unfortunately, the homeowner was unable to meet that day. Due to rains, the next inspection window would be the following week.

On March 16, 2018, I met with the homeowners to discuss the matter and let them know that I would attend the scoping inspection from the last cleanout to the sewer main. Attachment E is a copy of correspondence handed me by the homeowner at that meeting.

On March 19, 2-18, District staff met with the homeowner and family members to scope the line. District staff included the General Manager, Utilities Supervisor, and a Utility Worker. The General Manager observed the activity of the placement of the scope and watched the video monitor as the scope traveled down the line.

The scope traveled down the shaft of the cleanout and upon approaching the “Y” of the cleanout structure evidenced an apparent breakage at the point the horizontal portion of the line carries effluent to the main. The breakage was immediate to the “Y” indicating the area of the break is within the cleanout structure and therefore is the responsibility of the homeowner for maintenance and repair. (See Attachment D screenshots, particularly 4B, 5, and 6). Staff continued to scope the remainder of the line which appeared to be in good shape including revealing what appears to be a successfully performing joint that is likely where the flexible coupling from the District’s sewer stub is located. After reviewing the video a number of times, it is my conclusion the break is within the area of responsibility of the homeowner to repair.

ATTACHMENT A

**BARTKIEWICZ, KRONICK & SHANAHAN**

RICHARD P. SHANAHAN  
ALAN B. LILLY  
RYAN S. BEZERRA  
JOSHUA M. HOROWITZ  
ANDREW J. RAMOS  
PATRICK K. FITZGERALD

A PROFESSIONAL CORPORATION  
1011 TWENTY-SECOND STREET  
SACRAMENTO, CALIFORNIA 95816-4907  
TEL. (916) 446-4254  
FAX (916) 446-4018  
EMAIL bks@bkslawfirm.com

*Retired*  
PAUL M. BARTKIEWICZ  
STEPHEN A. KRONICK

*Of Counsel*  
JENNIFER T. BUCKMAN

**MEMORANDUM**

**TO: Mark Martin, General Manager**

**FROM: Richard P. Shanahan, General Counsel**

**RE: Sewer Service to Kelly Property - Customer/District Responsibility for Sewer Line Maintenance**

**DATE: March 11, 2018**

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**ISSUE**

This memo responds to your request for advice concerning the sewer pipeline maintenance responsibilities of the District and the customer concerning sewer service to the property at 6411 Lobo Drive.

**CONCLUSION**

The District is responsible for maintenance of the sewer service pipeline up to the sewer cleanout located closest to the main and the customer is responsible from that point to the house plumbing. However, if the facts show that the customer or its contractor or landscaper caused damage to the pipeline, then the customer would be liable for the repair costs.

**BACKGROUND FACTS**

District staff have informed me about the following background facts. I assume these facts to be true. I have not conducted any independent investigation or verification of these facts. Please inform me if my understanding of the facts is incorrect or if the facts change because different facts could affect the legal analysis.

District customers Bill and Pat Kelly own a house in the District at 6411 Lobo Drive. It is a zero-lot-line house, meaning that the structure comes up to, or very near to, the edge of the parcel property line. The sewer main is behind (to the east of) the house. There is a sewer service pipeline that runs from the house to the main. There are two sewer cleanouts on the Kelly sewer service pipeline, one about five feet from the house and a second located

between the house and the sewer main near the end of the Kelly's landscaping. There is a drainage ditch that runs generally parallel to the main and that lies between the main and the Kelly house.

The property between the Kelly parcel and the District sewer main easement is owned by the Rancho Murieta Association. The District is not aware of any written sewer easement from RMA to the Kelly's or the District. Since the Kelly's have been using the sewer pipeline for decades, I assume that they have a license or prescriptive easement authorizing that use.

In 2001, the Kelly's applied to RMA for permission to landscape the RMA property behind their house. RMA approved a landscape plan and the Kelly's then installed and began maintaining (including irrigation) a variety of landscaping in the area, including a redwood tree located close to the sewer service pipeline. In the District's review of the landscape plan, it expressed concern about the redwood tree being located close to the lateral and recommended that the tree be moved away from the pipeline.

The sewer pipeline serving the Kelly house is shattered in part and needs to be repaired. There is a dispute between the District and the Kelly's regarding the exact location of the damaged pipeline. At the last District Board meeting, the Board directed staff to further investigate the pipeline in an effort to more precisely determine the location of the crushed pipe requiring repair. The Kelly's assert that the District is responsible for the repair work.

## ANALYSIS

District Code, chapter 15, section 3.02 governs the District and customer maintenance responsibilities relating to the customer's sewer service pipeline:

### 3.02 Responsibility for Sewer System

- a. The customer served by the District's collection system shall be responsible for the installation, operation and maintenance, and costs thereof, of the private sewer line, and all other devices or safeguards required by this Chapter, which are located upon the property owned by the customer and which are outside the District's right-of-ways or easements. The District's responsibility for maintenance extends only to the sewer cleanout; the responsibility beyond the sewer cleanout is born by the customer. The installation of a District device upon private property or within a portion of the collection system not owned by the District shall not obligate the District to operate, maintain, or replace works or facilities not otherwise owned by the District.
- b. District shall be responsible for operation and maintenance of that portion of the collection system, which is in the District's right-of-way, which has been dedicated to the District, or which is not located upon property of the customer served by the District's collection system.
- c. The customer served by the District's collection system shall be responsible for and liable for all costs involved in the repair of all damage caused by the customer or

agent thereof, to the collection system, wherever located, including but not limited to sewer obstructions.

The following are some related definitions from chapter 15:

“Private sewer line” means that portion of the collection system owned by the customer and running from the property line to the customer’s individual premises receiving sewer service. (Sec. 2.14.)

“Lateral sewer” means that portion of the collection system owned by the District, located in the street or public way, and running between the main line and the customer's property. (Sec. 2.09.)

Regarding the customer, the “customer ... shall be responsible for the ... operation and maintenance, and costs thereof, of the private sewer line, ... which are located upon the property owned by the customer and which are outside the District’s right-of-ways or easements.... the responsibility beyond the sewer cleanout is born [sic] by the customer.”

For the District, its “responsibility for maintenance extends only to the sewer cleanout.... District shall be responsible for operation and maintenance of that portion of the collection system, which is in the District's right-of-way, which has been dedicated to the District, or which is not located upon property of the customer served by the District's collection system.”

In the usual Rancho Murieta house/sewer service situation, the customer’s house sits on a standard lot that extends into front and back yards and there is a sewer cleanout located near the customer property line. In that situation, the division of responsibility between the District and customer is relatively clear. The District is responsible from the sewer main up to the first cleanout near the property line and the customer is responsible from that cleanout to the house.

Section 3.02 does not apply neatly to a zero-lot-line house. The Code provisions refer to both the property line and sewer cleanouts. In the Kelly property situation, the house property is limited to the land underneath the structure, yet the Kelly’s hold a license or prescriptive easement from RMA to use the sewer pipeline (with the license/easement area essentially becoming part of the customer/Kelly property). The Kelly’s also have RMA permission to landscape and use the RMA property behind their house (which made the area part of the house backyard and arguably extended the property line for sewer maintenance purposes). The two sewer cleanouts are located outside the house parcel, but within the license/easement area. The disputed sewer line sits on RMA property. The District does not hold an easement to the Kelly service line. How should section 3.02 be construed and applied to these facts?

In the zero-lot-line house situation, it seems most reasonable to focus on the sewer cleanouts. If, instead, one focuses on the house property line, then the District would be responsible for both sewer cleanouts and the entire service line up to the house. This construction would be inconsistent with the apparent intention behind section 3.02 and

would place the zero-lot-line house customers in a much different situation as compared to the standard house customer.

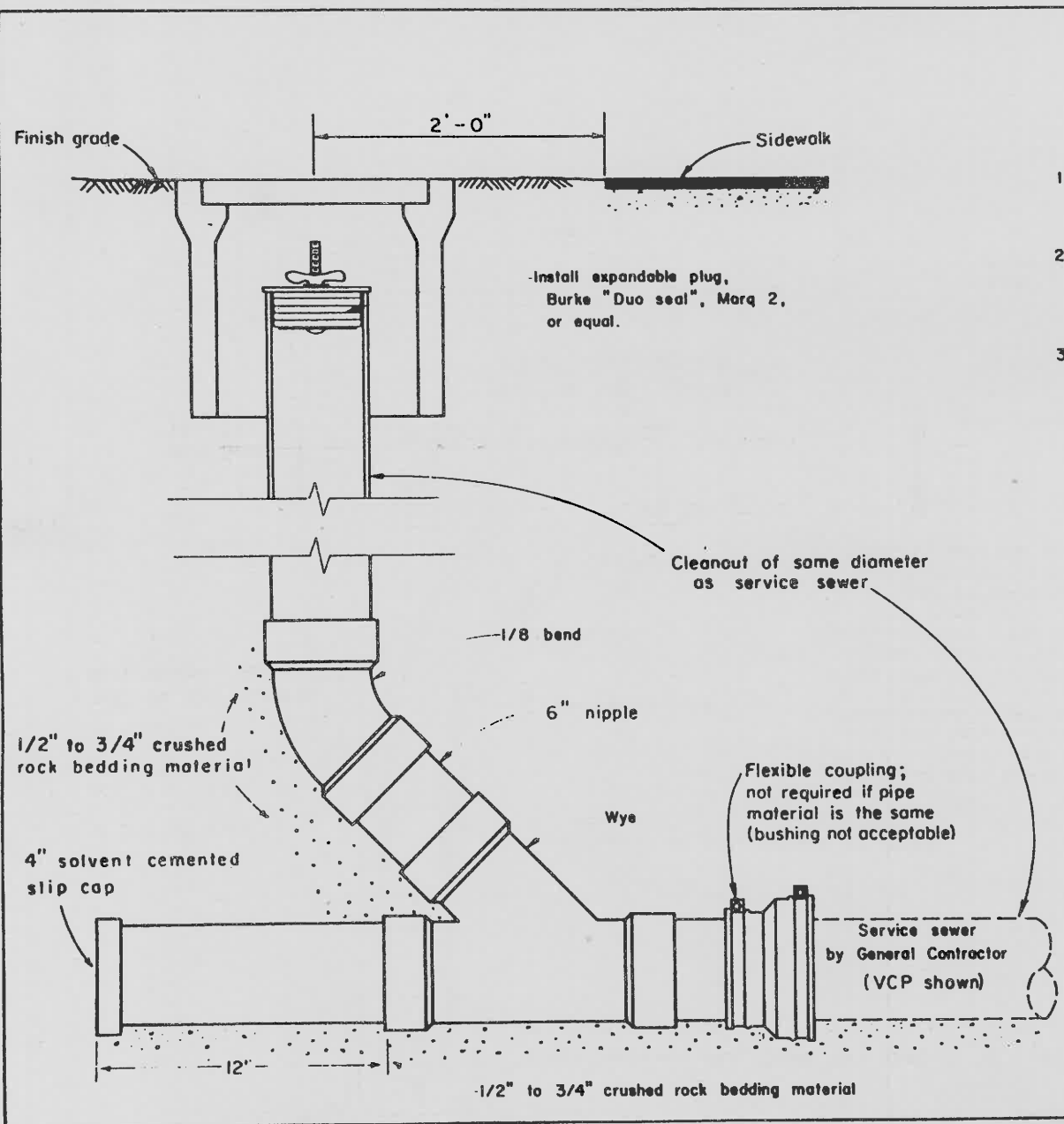
In many communities, the entire sewer pipeline from the sewer main to the house is owned and maintained by the property owner. However, in other communities (including Rancho Murieta CSD and Sacramento Area Sewer District) the public sewer service agency is responsible for the lower portion of the lateral closest to the sewer main. (See the Bay Area Clean Water Agencies factsheet at <https://bacwa.org/wp-content/uploads/2008/11/BACWA-Sewer-Laterals-Factsheet.pdf>.) I am not aware of any community sewer system where the local sewer agency is responsible for the sewer service pipeline all the way up to the house. Such an arrangement would be extraordinary and highly unusual.

Section 3.02(a) refers to “the sewer cleanout.” How should this phrase be construed in multiple cleanout situations? The District consistently has applied and construed the phrase to mean the sewer cleanout located closest to the sewer main. Additionally, consistent with this practice, District standard drawing S-13 shows the District/customer line of responsibility at the cleanout located closest to the main. This is a reasonable construction and consistent with the apparent intent behind section 3.02.

I therefore conclude that the District is responsible for sewer maintenance up to the sewer cleanout located closest to the sewer main and that the Kelly’s are responsible from that point to the house plumbing. If the investigation determines that the area of the shattered pipeline is between the main and that first cleanout, then the District is responsible for the repair work (except as noted below).

The discussion above focuses on the usual maintenance situation under section 3.02, subsections (a) and (b). Under subsection (c), though, the “customer ... shall be responsible for and liable for all costs involved in the repair of all damage caused by the customer or agent thereof, to the collection system, wherever located, including but not limited to sewer obstructions.” Therefore, if the facts show that the Kelly’s or their contractor or landscaper caused the damage to the pipeline, then the customer would be liable for the repair costs under subsection (c).

ATTACHMENT B



- 1) Cleanout to grade to be plastic DWV type PVC (ASTM D2665) or ABS (ASTM D2661) with solvent weld joints.
- 2) For 4" services, install round, non-traffic type, concrete or PVC valve box and cover, marked "Sewer". Box inside diameter to be a minimum of 7" and a maximum of 10".
- 3) For services 6" or larger, install round, concrete, traffic type valve box with cast iron cover. Cover to be marked "Sewer".

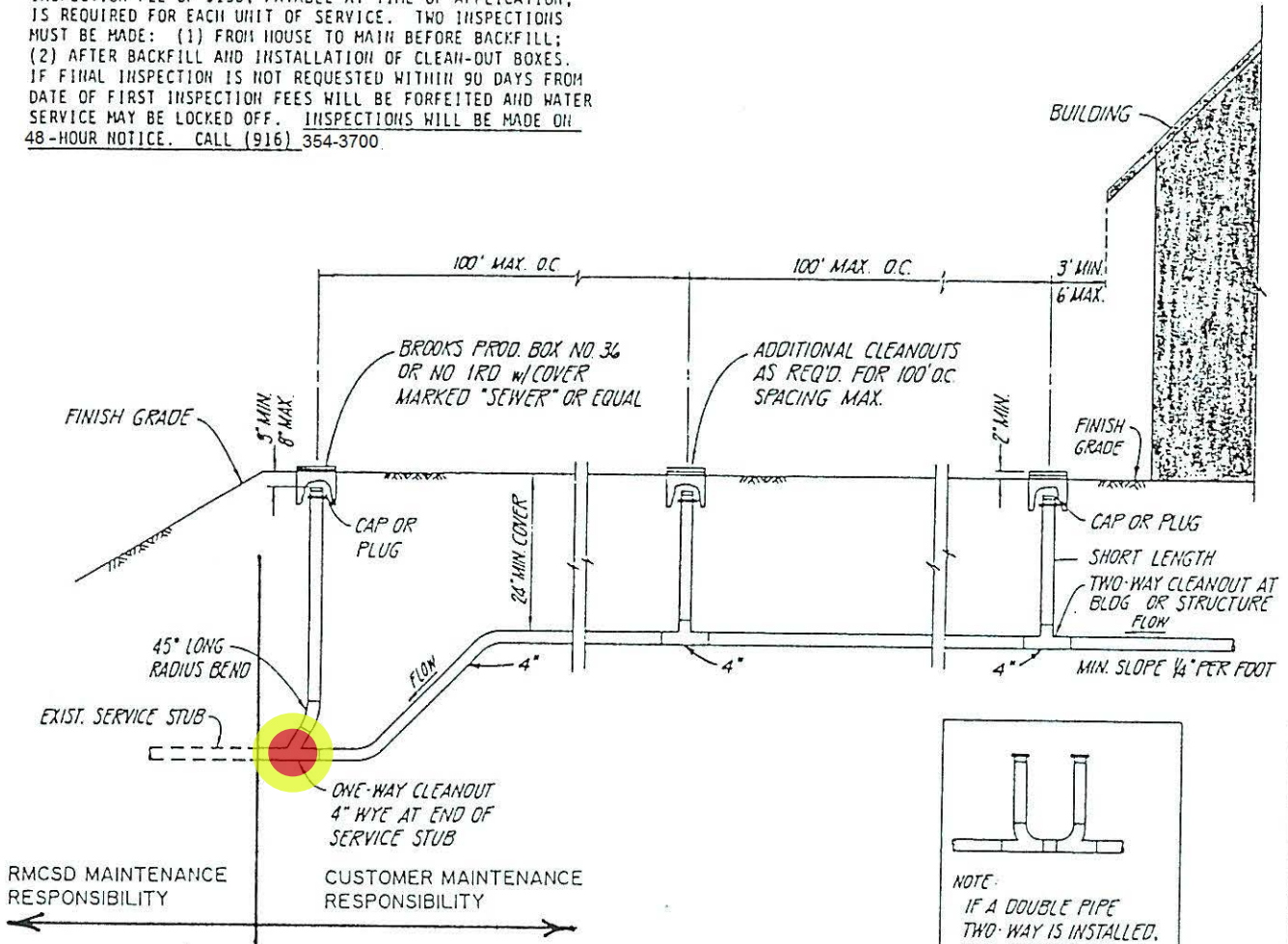
APPROVED BY: *K. J. Hill*

<b>RANCHO MURIETA COMMUNITY SERVICES DISTRICT</b>	
<b>ABS OR PVC CLEANOUT TO GRADE</b>	
NO SCALE DATE: DRAWN BY:	<b>S-10</b>

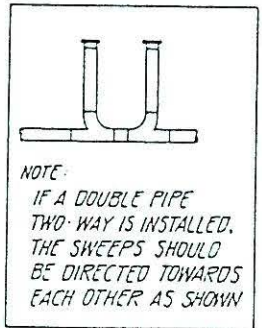
# ATTACHMENT C

## SEWER SYSTEM AND INSPECTION REQUIREMENTS

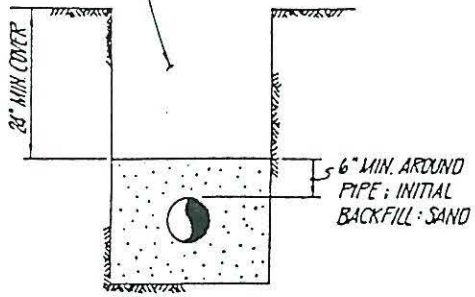
INSPECTION FEE OF \$150, PAYABLE AT TIME OF APPLICATION, IS REQUIRED FOR EACH UNIT OF SERVICE. TWO INSPECTIONS MUST BE MADE: (1) FROM HOUSE TO MAIN BEFORE BACKFILL; (2) AFTER BACKFILL AND INSTALLATION OF CLEAN-OUT BOXES. IF FINAL INSPECTION IS NOT REQUESTED WITHIN 90 DAYS FROM DATE OF FIRST INSPECTION FEES WILL BE FORFEITED AND WATER SERVICE MAY BE LOCKED OFF. INSPECTIONS WILL BE MADE ON 48-HOUR NOTICE. CALL (916) 354-3700.



- NOTE:
1. CAST IRON LIDS ON CLEANOUT WILL BE USED IN TRAFFIC AREAS.
  2. ALL PIPE AND CLEAN-OUTS WILL BE 4".



BACKFILL WITH JOBSITE EXCAVATED LOOSE MATERIAL MAX. OF 1" IN SIZE AND FREE OF ORGANIC MATERIAL, 90% COMPACTION



**TRENCH DETAIL**  
NO SCALE

<b>RANCHO MURIETA COMMUNITY SERVICES DISTRICT</b>	
SEWER SERVICE DETAIL ONE-WAY & TWO-WAY CLEANOUT FULL SEWERAGE	
Scale NONE Date Drawn By	S-13

APPROVED BY:



ATTACHMENT D – VIDEO CAPTURE SCREENSHOTS

Capture #1: Scope being lowered down shaft of cleanout (note absence of effluent along pipe)



Capture #2: Scope being lowered down shaft of cleanout



Capture #3: Scope being lowered down shaft of cleanout approaching cleanout "Y"



Capture #4A: Scope being lowered down shaft of cleanout at cleanout "Y"



Capture #4B: Same photo of Capture 4A with annotation – **Area of failure**



Capture #5: **Close-up of area of failure**



Capture #6: Shot of failure area taken by prior scoping – apparent jagged edges (January 22, 2018)



Capture #7: Beyond area of failure toward sewer main



Capture #8: Beyond area of failure toward sewer main (continued)



Capture #9: Beyond area of failure toward sewer main



Capture #10: Beyond area of failure toward sewer main (further)



Capture #11: Beyond area of failure toward sewer main (further)



Capture #12: Clear shot of joint likely where flexible coupling to stub exists



Capture #13: Beyond coupler joint to right to main



Capture #14: Beyond area of failure toward sewer main (further)



Capture #15: Clear shot of sewer main





## ATTACHMENT E

**Subject:** RMCS D Damaged lateral sewer line beyond the 2nd cleanout (CO) on North RM Lot 1709  
**From:** Bill Kelly ( @sbcglobal.net)  
**To:** @sbcglobal.net;  
**Date:** Friday, March 16, 2018 8:52 AM

RECEIVED

MAR 16 2018

Rancho Murieta  
Community Services District

ORIGINAL DRAFT HANDED TO MARK MARTIN ON 3/16/18

Gentlemen, attached are five pictures I took on 3/09/18 of the two holes dug by CSD personnel in their attempt to locate a 2nd CO for Lot 1709. On 1/10/18 the first hole dug is two foot North of CO and is five foot long and two foot deep. The CO was not found. On 1/22/18 the second hole dug was started two foot South of CO and is two foot long and two foot deep. Digging two foot North from this starting point the CO was finally uncovered five inches from the surface. The plumber I hired prior to either of the above dates mentioned he had found and clearly marked the direction of the lateral line from the first CO near the zero lot line house on Lot 1709 and is exactly where CSD found the 2nd CO. This plumber also discovered the collapsed lateral beyond the 2nd CO.

Each of you was given a hand delivered letter from me dated February 13, 2018. Except for Mark Pecotich all of you were at the RMCS D Board Meeting of February 21, 2018 and heard my presentation and reasons for declining any further responsibility to repair RMCS D damaged sewer lateral. Les Clark suggested RMCS D personnel bring their Camera to determine where the lateral is damaged and he and John Merchant would be present.

As of 3/09/18, I had not heard from any of you except CSD attorney Richard Shanahan.

This issue started 2 1/2months ago on 12/29/17 and the issue is still unresolved. Hopefully todays meeting of 3/16/18 with Mark Martin will resolve our original denial of any further responsibility to repair the damaged lateral pipe underneath and within RMCS D storm water ditch located upon RMA properties.

Respectively Submitted,

Bill & Pat Kelly

Sent from my iPhone

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**Attachments**

- IMG\_1026.JPG (54.21KB)
- IMG\_1027.JPG (52.93KB)
- IMG\_1028.JPG (52.80KB)
- IMG\_1029.JPG (54.27KB)
- IMG\_1030.JPG (52.25KB)