Decision 03-08-056 August 21, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MAYACAMA GOLF CLUB, LLC, for a Certificate of Public Convenience and Necessity in Order to Provide Public Utility Sewer Services Solely to the Mayacama Golf Club Located Within the County of Sonoma.	Application 01-11-034 (Filed November 8, 2001)

O P I N I O N

1. Summary

Mayacama Golf Club, LLC (Applicant or Mayacama) requests a certificate of public convenience and necessity (CPCN) authorizing it to provide public utility sewer services solely to the private Mayacama Golf Club located in Sonoma County. The application is unopposed and is approved.

2. Description of the Request

Mayacama is incorporated under the laws of the State of Delaware and is doing business under the same name in California. It currently has two partners, the Cordillera Investors and the Wilhelm Investors, who agreed to merge their partnership effective December 31, 1999.

Pursuant to Pub. Util. Code § 1001, Mayacama in this application seeks certification from the Commission to provide sewer service to approximately 675 acres of real estate located between the City of Santa Rosa and the Town of Windsor in Sonoma County.

3. Background

The development to be served is a 675-acre parcel (known as the Mayacama Project) that includes a private 18-hole "Jack Nicklaus Signature" golf course, clubhouse with restaurant, 50 short-term residential units (casitas), and 31 single-family residential subdivision units (cottages). The Mayacama Project is located between the City of Santa Rosa and the City of Healdsburg. Potable water is supplied to Mayacama by the City of Windsor.

Mayacama entered into a contract with the Sonoma County Water Agency (SCWA) for operation and maintenance of the sewer system (effective March 14, 2001). Under this agreement, SCWA will assign qualified and licensed personnel to perform all operation and maintenance activities associated with the system. The initial yearly management fee is $50,000 for the first three years of the agreement. After the first three years, the yearly management fee will increase to $100,0000. In response, SCWA has entered into an agreement with Russian River Utility (RRU) for operation and maintenance of the facilities. Under this agreement, RRU will be paid on a fee-per-use basis. This agreement was effective from August 8, 2001 to June 3, 2002, and is to be renewed on a yearly basis.

Original planning for the Mayacama Project's antecedents included a 100-lot residential subdivision, equestrian center, saddle club, and a conference center. The project originally encompassed a 2,000-acre parcel of land. In 1994, the project was amended to substitute a golf course and accommodation units for the equestrian center, saddle club, and conference center.

From January 1995 until June 1998, the project was the subject of litigation at both Superior and Appellate Court levels. In 1998 another investor (Forsythe Pacific Investments, Inc., a subsidiary of Wilhelm Family Limited Partnership)

purchased the project. In March 1999 another Use Permit amendment was requested which included, among other things, greater clustering of lots and auto-free circulation. The Sonoma County Board of Supervisors (Board) approved this amendment in October 1999. At that time, the Board adopted a Mitigated Negative Declaration (MND) and mitigation monitoring program. Also, in late 1999, Forsythe Pacific Investments, Inc. was dissolved, and the Wilhelm Family Limited Partnership exchanged the 675-acre parcel for 50% ownership in Mayacama.

Applicant provided exhibits showing the design details of the wastewater treatment facility as well as the engineering consultant's workpapers. As noted above, SCWA operates the treatment plant through RRU, whose personnel perform all operation and maintenance activities associated with the plant. The wastewater treatment plant is designed to meet California (Title 22) standards for disinfected tertiary treated recycled water, which will be used to irrigate approximately 11.4 acres of the golf course. Process units include an aerated pond, a micro-filtration system, and a sodium hypochlorite disinfection system. There is at least one scheduled weekly visit for on-site operations. In addition, during operation of the micro-filter and disinfection system, daily visits are made to take samples for effluent total coliform tests. Alarms are relayed to SCWA via autodialer and phone line to a continuously monitored location. Alarms are also relayed to the Mayacama Golf Club Office, which will be staffed at all hours.

Water Division in its report notes that two of the 31 single-family residences (cottages) should be complete by year-end 2003; three of the short-time "casitas" have been completed (with 2004 slated as a build-out date); the clubhouse and the dining facility are in the framing stage; and the

infrastructure for the water and the sewer system is in place. Full build-out is expected sometime in 2006.

4. Procedural History

Mayacama filed its application on November 8, 2001. Pursuant to request by the assigned Administrative Law Judge (ALJ), Mayacama provided additional data to enable the Commission to determine a proper revenue requirement and rate design for the proposed sewer system.

On July 1, 2002, the Water Division gave notice of its intent to participate. The Water Division stated that it would be useful to the Commission to have an additional perspective, specifically to assist the Commission in determining and developing just and reasonable rates. We ruled on August 8, 2002 that the Water Division could participate. Water Division, through Utilities Engineer Leslie Tench, provided a report to the assigned ALJ and to the parties of record on December 20, 2002. That report contains additional background, a summary of earnings and revenue requirement, recommended rates, and a summary of the Water Division field investigation. Mayacama did not contest the Water Division's conclusions, estimates, or rate design recommendations.

5. Financial Ability and Revenue Requirement

Mayacama provided as Exhibit F to the application its balance sheet as of December 31, 2000 and its income statement from inception on June 17, 1999 through December 31, 2000. Mayacama's assets at December 31, 2000 are approximately $50 million and are adequate for purposes of the proposed public utility sewer services. Mayacama initially did not provide a revenue requirement or a rate design as required under Rule 18(h) of the Commission's Rules of Practice and Procedure.

On June 4, 2002, Mayacama submitted a revised summary of earnings, revenue requirement and rate design. The summary of earnings, corrected by the Water Division for numerous mathematical errors, appears below:

Applicant's Estimated Summary of Earning

Mayacama June 4, 2002 Submittal	(in 2002 $'s)				
	2002	2003	2004	2005	2006
OPERATING REVENUES					
Cottage Revenues	57,288	35,520	36,264	37,032	37,812
Casitas Revenue	47,568	29,496	30,120	30,744	31,404
Golf Club Facilities Revenues	45,024	27,924	28,500	29,100	29,724
TOTAL REVENUES	149,880	92,940	94,884	96,876	98,940
OPERATING EXPENSES					
Contract Work - Lab	9,500	9,785	10,050	10,380	10,690
Contract Work - Other	74,000	24,000	24,000	24,000	24,000
Other Service/Rent	1,200	1,236	1,273	1,311	1,350
Other Supplies	1,000	1,030	1,060	1,092	1,125
Admin. & General	12,500	12,875	13,260	13,660	14,068
General Expenses Parts/Supplies	1,200	1,236	1,273	1,311	1,350
Utilities	17,500	18,025	18,565	19,122	19,696
Chemical Costs	15,500	15,965	16,443	16,937	17,445
Sludge Disposal	4,500	4,635	4,774	4,912	5,064
SUBTOTAL	136,900	88,787	90,698	92,725	94,788
Depreciation Expense	0	0	0	0	0
Taxes Other Than Income Taxes	0	0	0	0	0
Income Taxes & Franchise Fee	0	0	0	0	0
TOTAL DEDUCTIONS	136,900	88,787	90,698	92,725	94,788
NET REVENUE	12,980	4,153	4,186	4,151	4,152
RATE BASE					
Average Plant	0	0	0	0	0
Average Accumulated Depreciation	0	0	0	0	0
NET PLANT	0	0	0	0	0
RATE BASE	0	0	0	0	0
RETURN ON MARGIN[1]	9.5%	4.7%	4.6%	4.5%	4.4%

[1] Due to the fact that the developer contributed the sewer plant, there is no rate base upon which to earn a return. Applicant shows a return on margin (net revenue / total

Footnote continued on next page

The following shows Water Division's Summary of Earnings, which is based on more recent data and more in-depth analysis as described in its report:

Water Division's Estimated Summary of Earnings

	Staff Estimates				Mayacama
	2003	2004	2005	2006	2006
OPERATING REVENUES					
Cottage Revenues	6,501	13,031	26,160	41,350	57,288
Casitas Revenue	8,866	14,810	20,811	30,318	47,568
Golf Club Facilities Revenues	24,087	26,824	26,924	27,457	45,036
TOTAL REVENUES	39,454	54,665	73,895	99,125	149,892
OPERATING EXPENSES					
Purchased Power	8,510	11,745	15,795	21,981	18,373
Other Volume Related Expenses	8,199	11,528	15,742	20,997	20,997
Employee Labor	0	0	0	0	0
Materials	902	1,268	1,732	2,310	2,310
Contract Work - General Expenses	9,800	13,548	18,245	24,000	74,000
Contract Work - Water Testing	3,879	5,363	7,222	9,500	9,500
Transportation Expenses	0	0	0	0	0
Other Plant Maintenance Expense	0	0	0	0	0
Office Salaries	0	0	0	0	0
Management Salaries	0	0	0	0	0
Employee Pensions and Benefits	0	0	0	0	0
Uncollectible Accounts Expense	0	0	0	0	0
Office Services and Rentals	0	0	0	0	0
Office Supplies and Expenses	0	0	0	0	0
Professional Services	0	0	0	0	0
Insurance	0	0	0	0	0
Regulatory Commission Expense	0	0	0	0	0
General Expenses	0	0	0	0	1,260
SUBTOTAL	31,290	43,450	58,736	78,787	126,439
Depreciation Expense	0	0	0	0	0
Taxes Other Than Income Taxes	0	0	0	0	0
Income Taxes & Franchise Fee	1,905	2,525	3,413	4,579	0
TOTAL DEDUCTIONS	33,195	45,975	62,149	83,366	126,439
NET REVENUE	6,259	8,690	11,746	15,759	23,453
RATE BASE					

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expenses) ranging from 9.5% the first year to 4.4% in 2006. Water Division recommends a 20% return on margin.

Average Plant	0	0	0	0	0
Average Accumulated Depreciation	0	0	0	0	0
NET PLANT	0	0	0	0	0
Contributions	0	0	0	0	0
RATE BASE	0	0	0	0	0
RETURN ON MARGIN	20%	20%	20%	20%	19%

6. California Environmental Quality Act (CEQA)

6.1 Procedural Background

The California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*, hereafter CEQA) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to "inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities." (Title 14 of the California Code of Regulations, hereinafter, "CEQA Guidelines," Section 15002.)

Since the proposed project is subject to CEQA and the Commission must issue a discretionary decision without which the project cannot proceed (*i.e.*, the Commission must act on the application before it for a CPCN), this Commission must act as either a Lead or a Responsible Agency under CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guidelines Section 15051 (b)).

Here, the County of Sonoma (County) is the Lead Agency for the project under CEQA, and the Commission is a Responsible Agency. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, the Commission must consider the Lead Agency's environmental documents and findings before acting upon or approving the project (CEQA guidelines

15050(b)). The specific activities that must be conducted by a Responsible Agency are contained in CEQA Guidelines Section 15096.

The project before the Commission is Mayacama's application for a CPCN to own and operate certain onsite wastewater treatment facilities serving the entire Mayacama Project. At an earlier stage the project was known as Shiloh Meadow (Meadow) and before that as the Shiloh Ranch (Ranch). At an earlier stage the project known as Meadow proposed to substitute a golf course and accessory uses for the equestrian and conference center originally envisioned for Ranch.

Although Ranch had been approved and an Environmental Impact Report (EIR) certified by the Board, Meadow was subject to further environmental review through the preparation of an additional draft and final EIR. The Meadow EIR concluded that the project would not result in any significant unmitigated impacts, and the Board certified that EIR in Board Resolution No. 94-1823 on December 20, 1994. Upon challenge, the adequacy of the Meadow EIR was affirmed by both the Superior Court and the District Court of Appeal. The Board certification of the Meadow EIR stands and was re-affirmed in Board Resolution No. 98-1123 on August 25, 1998.

The Meadow developer subsequently requested a number of revisions which, on the whole, reduced the potential environmental impacts of the project, thereby improving the project as originally proposed and approved. The revised project reduces the amount of roadway and grading associated with the project; clusters the residential units in an environmentally superior manner; restricts the size of structures that can be built in connection with the project; reduces off-site views of structures associated with the revised project; and overall improves the relationship of the revised project and the valley in which it is to be located.

These revisions to Meadow as proposed and previously reviewed were subject to additional environmental review pursuant to CEQA. This review was conducted by the Permit and Resource Management Department (PRMD) of Sonoma County. The Meadow EIR was used in connection with, and as the foundation for, the additional review. The latest revision to the project included the 280 mitigation measures and conditions already developed in connection with the approval of the original project, including mitigation monitoring and compliance requirements. The PRMD identified and recommended the addition of several new mitigation measures identified in PRMD's Initial Study. PRMD concluded that with the additional mitigation measures, all potentially significant environmental effects of the revised project would be mitigated to a level of insignificance. Thus, PRMD prepared Mitigated Negative Declaration (MND) and circulated it for public comment and agency consultation pursuant to CEQA. On balance, the revised project appears to offer environmental sensitivity beyond that of the original Shiloh Meadow Project, which was determined to result in no unmitigated significant effect. The Board subsequently reviewed and, after public hearings, adopted the MND in Board Resolution No. 99-1374 on October 19, 1999.

6.2 Project Alternatives and Objectives

The environmental review and analysis of the proposed project included a number of alternatives including: No-Project; Residential Development-Only; Residential Development with Public Golf Course; Reclaimed Wastewater; Conference Center/Saddle Club/Equestrian Center; and Vineyard. The Board determined in Board Resolution No. 94-1823 that the various alternatives failed to meet the project objectives and/or provide the same degree of public benefits as the proposed project, and in the case of the

No-Project alternative would potentially result in greater impacts should there be a return to historical levels of heavy grazing practices on the subject project land area. We concur with the Board's conclusion and adopt its findings.

6.3 Environmental Impacts

The Meadow EIR and MND identified a number of potentially significant environmental impacts that the project could cause. All of these impacts will be fully avoided through the adoption of feasible mitigation measures. With the incorporated mitigation, no environmental impacts associated with the project remain significant or unavoidable. In considering the EIR and MND for the project, the Board made the following findings for specific resource areas.

The EIR found that no significant impacts would occur with respect to:

- Agricultural Resources
- Mineral Resources
- Recreation

The EIR found that the project will result in significant environmental effects with respect to the following issues or resources that can be reduced to less than significant levels and / or avoided with the implementation of adopted mitigation measures:

- Aesthetic and Visual Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous materials
- Hydrology and Water Quality
- Land Use and Planning

- Noise
- Population and Housing
- Public Facilities and Services
- Transportation and Circulation (Traffic)
- Utilities and Service Systems

With reference to the above impacts, and as authorized by the Public Resources Code Sections 21000 *et seq.* and Title 14, California Code of Regulations Sections 15092 and 15096(f), we concur with and adopt the Board's findings and conclusion that there is no potential for any adverse impact upon agricultural resources, mineral resources, or recreational resources. As to the significant adverse impacts upon aesthetics and visual resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public facilities and services, transportation and circulation, and utilities and service systems, we concur with and adopt the Board's findings and conclusions that the project impacts can be reduced to less than significant levels with the implementation of the adopted mitigation measures.

7. Rate Design

At the request of the assigned ALJ, Applicant provided a cost allocation, a revenue requirement, and a rate design. These submittals still did not remedy all the defects in the application. Thus, the rate design we adopt necessarily relies on analysis and proposals by the Water Division. Applicant does not object to these proposals.

The Water Division provided the following rate design based on its estimated summaries of earnings:

	Per Month			
	2003	**2004**	**2005**	**2006**
Cottage Units	$108.35	$108.59	$109.00	$111.16
Casitas	49.25	49.37	49.55	50.53
Golf Club	2,007.28	2,235.34	2,243.69	2,288.08

The average annual sewer bill in 2003 for one of the 31 single-family cottage units is $1,300.20; for one of the 50 short-term casitas it is $591.00.

8. Discussion

The requested authority should be granted. Public convenience and necessity are served by permitting Mayacama to provide sewer service and recycled / reclaimed water to this developing golf course and subdivision. These services have been tested and are capable of operating in full compliance with applicable regulations. Continued provision of these services pursuant to Commission regulation and oversight will help ensure that such services will meet high standards of quality at reasonable rates.

Applicant has shown that the only other provider of sewer service, the Town of Windsor, is either unable or unwilling to provide sewer service. Applicant has a suitable plan and also has the financial resources necessary to build the sewer system and to operate it.

The Board issued an EIR and MND for the whole subdivision, golf club and related facilities, the 31 residences, and the 50 short-stay accommodation units, and for the construction of the sewer system. The Board found that the formation of the Mayacama utility will not result in any potentially significant environmental impacts that cannot be mitigated. We examined these documents and see no reason to dispute their conclusions. (*See* Section 6 above.)

Mayacama initially provided no proposed rates for its proposed sewer service. At the assigned ALJ's request, it subsequently provided illustrative examples based on average water usage, an indicator to determine the sewage plant capacity.

Water Division's participation through the report of Ms. Tench provides the proper ratemaking format and summary of earnings necessary to set just and reasonable rates for Mayacama's customers. We have reviewed Water Division workpapers and concur in the rates generated from them. We will adopt Water Division's proposed rates as well as its summaries of earnings.

In Resolution ALJ 176-3076 dated November 29, 2001, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearing would not be necessary. Since there are no protests and since Applicant has submitted additional information to us and to the Water Division to complete the record, we affirm that hearings are not required. The application is granted, subject to the terms and conditions set forth below.

9. Comments on the Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

10. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner, and Dean J. Evans is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of this application appeared in the Commission's Daily Calendar of November 28, 2001.

2. Applicant's service area would include about 675 acres of golf course and subdivided land near the Town of Windsor in Sonoma County.

3. Applicant's sewer system will provide a maximum of about 22,500 gallons per day of recycled water that will be used to irrigate a large portion of the golf course.

4. The County completed the environmental review of the sewer system and the golf course and subdivision within the service area.

5. Applicant is contributing the cost of the plant necessary for the operation of the sewer system and resulting recycled water.

6. No other sewer service provider is willing to provide sewer service to Mayacama.

7. The 2003 average annual sewer bill for one of the 31 cottages or single-family residences will be $1,300.20; for one of the 50 short-term casitas, it is $591.

8. Applicant has sufficient financial resources to operate the utility.

9. The County is the Lead Agency for the proposed project pursuant to CEQA.

10. The County prepared an EIR and subsequent MND which found that the proposed project, the mitigation measures applicable to the project, and the mitigation monitoring protocols, eliminate and/or reduce the potential environmental impacts to a less than significant level.

11. The Board certified the Meadow EIR on December 20, 1994, pursuant to Board Resolution No. 94-1823.

12. The adequacy of the Meadow EIR was affirmed by both the Superior Court and the District Court of Appeal; the Board certification of the Shiloh Meadow EIR stands and was re-affirmed by the Board in Board Resolution No. 98-1123 on August 25, 1998. The Board adopted MND,

mitigation measures, and mitigation monitoring program on October 19, 1999, pursuant to Board Resolution No. 99-1374.

13. Subsequent revisions to the Shiloh Meadow Project improved the environmental sensitivity of the project. The revisions included 280 mitigation measures and conditions developed in connection with the approval of the original Shiloh Meadow Project, additional mitigation measures developed by the County pursuant to the MND, and mitigation monitoring and compliance requirements designed to yield no unmitigated significant environmental effects of the project.

14. The proposed project will meet all of the stated project objectives.

15. The Final EIR found that no significant impacts will occur with respect to Agricultural Resources; Mineral Resources; and Recreational Resources. The project will result in significant environmental effects with respect to the following issues or resources that can be reduced to less than significant levels and/or avoided with the implementation of mitigation measures: Aesthetics and Visual Resources; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Hazards and Hazardous materials; Hydrology and Water Quality; Land Use and Planning; Noise; Population and Housing; Public Facilities and Services; Transportation and Circulation (Traffic); and Utilities and Service Systems.

16. The sewer and recycled water system are operable and are professionally managed.

17. Applicant's utility operations are financially viable.

18. Rates proposed by the Water Division will cover operating expenses and will provide an operating margin of 20%.

Conclusions of Law

1. The Shiloh Meadow Project EIR and subsequent MND were prepared pursuant to CEQA and are adequate for this Commission's decision making purposes as a Responsible Agency for the project under CEQA.

2. The Commission has considered the Shiloh Meadow Project EIR and subsequent MND in its decision making process in accordance with CEQA Guidelines Section 15986(f).

3. Pursuant to Section 15096(g)(1) of the CEQA Guidelines, the Commission should adopt, as conditions of project approval, the mitigation measures identified in the Shiloh Meadow Project EIR and subsequent MND.

4. Mayacama has the financial resources to operate this sewer and recycled water system.

5. Water Division's proposed rates and summaries of earnings should be adopted.

6. Applicant should file tariff sheets with the Water Division pursuant to General Order 96-A. The tariff sheets should contain tariff rules, a service area map, and applicable sewer rates consistent with the discussion in the foregoing opinion.

7. This is a ratesetting proceeding in which no evidentiary hearing is needed.

8. Today's Order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Mayacama Golf Club, LLC (Applicant) is granted a certificate of public convenience and necessity to construct and operate a public utility sewer system

in Sonoma County in an area located between the City of Santa Rosa and the Town of Windsor.

2. The mitigation measures outlined in the Shiloh Meadow project Environmental Impact Report and subsequent Mitigated Negative Declaration and adopted by the Sonoma County Board of Supervisors are hereby made conditions of project approval.

3. Applicant shall file within 30 days of the effective date of this order the applicable sewer rates, together with tariff rules and service area map acceptable to the Water Division of the Commission and in accordance with the requirements of General Order 96-A. Such rates, tariff rules and service area map shall become effective on five day's notice to the Commission and to the public after filing as provided herein.

4. The authority granted herein shall terminate if not exercised on or before 12 months from the effective date of this order.

5. This proceeding is closed.

This order is effective today.

Dated August 21, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners