MEMORANDUM

TO: James E. Riley, Assistant County Manager
FROM: George A. Brinsko, Director
DATE: February 5, 1985
RE: Briefing on Effluent Ownership and Effluent Use

BACKGROUND

The ownership and reuse of effluent has been an outstanding issue since the 1979 signing of the City-County IGA. The issue of effluent has recently come up again in the PAG 208 Update.

PROVISIONS OF THE IGA

The 1979 Intergovernmental Agreement between Pima County and the City of Tucson transferring ownership of all sewerage facilities to Pima County contained key provisions related to effluent. These provisions included both the metropolitan area and outlying areas and are as follows:

Metropolitan Area:

"County agrees to relinquish, quitclaim, and transfer to the City, all of County’s interest, estate, right, title, claim or lien in effluent which is discharged from metropolitan treatment facilities. The term 'metropolitan' means the area which is or maybe served by the Roger Road, Ina Road or Randolph Park Treatment Plants, or by any additional collection and treatment facilities hereafter constructed which are physically integrated into the existing metropolitan sewerage system. The City shall have unilateral control, without limitation, over the use and disposition of all such effluent discharged from any and all treatment facilities so located."

"Notwithstanding Article III D, County shall be entitled to take up to ten (10) percent of the effluent discharged from metropolitan treatment facilities, which City owns or controls, for use only on County parks, golf courses, and recreational facilities.
Outlying Areas

"City and County agree that the City shall have unilateral control, without limitation, over the use and disposition of all effluent discharged from County treatment plants located outside of the Metropolitan Area."

CITY OF TUCSON'S LEGAL POSITION

It is PCWMD's understanding that the City of Tucson's position on ownership of effluent is as follows: That where the treated and reclaimed water is produced by a County-owned facility, the City would assert its ownership right to that effluent in accordance with the 1979 IGA. Where the treated and reclaimed water is produced by a public agency or private entity other than the County, the City would assert its ownership right to that effluent to that portion which is derived from water which originates with Tucson Water. In addition, the portion of the treated and reclaimed water produced at a County facility, the City would relinquish, quit claim, or transfer that portion which is derived from water which originates with another supplier.

PROBLEMS CREATED BY THE IGA AND THE CITY'S LEGAL POSITION

Since the inception of the IGA, public concern over the rapid depletion of our valuable groundwater has promoted greater interest in effluent reuse. The City of Tucson has developed an extensive metropolitan effluent reuse plan and construction of portions of the reuse system is currently underway. However, effluent produced at the County's outlying facilities is generally not being utilized. This basically stems from the inability of the County to encourage effluent reuse under the terms of the IGA, and the fact the effluent reuse in outlying areas is apparently a low priority with the City of Tucson. Further problems created by the provisions of the IGA include:

- Difficulty in long range sewer facilities planning for an area.
- Need for more frequent plant expansion, in certain cases. For example, reuse of effluent from the Green Valley WWTF would delay the need for construction of additional percolation ponds.
- Encouragement of private WWTF's as a means of developers gaining control over effluent. Proliferation of private WWTPs may have the following negative impacts:
  - Difficulty in sewerage adjacent privately owned properties;
  - Possible problems with reliability, industrial loadings, and sludge disposal;
  - Potential degradation of the groundwater; and
  - Invalidation of regional plans

Finally, the City's legal position, that whoever pumps the water owns it at the treatment plant, effectively precludes the City from generating revenues from the sale of effluent generated from water owned by others. According to the IGA, one-half of these revenues belong to Pima County. It is the position
of Wastewater Management that effluent has an intrinsic value, just as groundwater does. To the extent that the generation of revenue from the sale of effluent is foregone by the City, sewer users must absorb additional costs.

RECOMMENDATION

It is recommended that the Board of Supervisors seek clarification of the term "control" as utilized in the IGA for the outlying areas.

It is recommended that clarification be sought with the City of Tucson which would allow Pima County to establish procedures for the disposition of effluent generated at the outlying facilities. It is proposed that upon commitment by a user for purchase of effluent, the City of Tucson would be allowed a 30-day period to review and comment on the proposed agreement.

I would appreciate the opportunity to further explore this issue with you.

George A. Brinsko
Director

GAB:pb