

By Linda Williams Posted 11/14/2014

Brooktrails Township filed a new lawsuit this week against the city of Willits in Mendocino County Superior Court. The lawsuit claims that when the city designed its new sewer plant, it failed to include sufficient capacity to handle Brooktrails contracted sewage treatment requirements.

This filing is in addition to the ongoing lawsuit which has been pending since 2010 and is not scheduled for trial until April 2015 in Sonoma County Superior Court.

Brooktrails and Willits signed the first sewage handling contract in 1967. Through the years there have been a number of amendments to the original. In 1982, when Willits had to build a new sewer plant with increased capacity, the two parties agreed to split the "incremental" capacity. Brooktrails contends in the new lawsuit, that this gave them "exclusive use" to 490,000 gallons per day of sewerage.

The incremental Brooktrails capacity was expected to be set aside to provide sewerage as new homes were built in the township. The contract recognized that Brooktrails needed to pay a higher percentage of future capital costs needed to sustain this capacity, rather have just its share of based on the quantity it used in any one year.

Brooktrails payments to the city for its share of sewage treatment costs are based on the actual sewage quantity it generates. This quantity is then divided by the total sewage plant flows to calculate the Brooktrails share. Brooktrails is then obligated to pay that percent of the city's costs to operate the plant.

The new \$25 million Willits sewer plant completed in 2012 was designed with a lower nameplate dry weather capacity than the plant it replaced. Brooktrails subtracted its "exclusive use" flows from the new plant limit and calculated the maximum sewage the city could use without cutting into the Brooktrails reserve. In 2012, Brooktrails contends, the city "usurped" about 20,000 gallons per day of Brooktrails' reserve capacity.

Willits City Attorney Jim Lance would not confirm the filing of the lawsuit at the Nov. 12 Willits City Council meeting. The city amended its Nov. 12 agenda late Monday to add discussions about a new case of possible litigation.

Adding fuel to the already hot conflict between Willits and Brooktrails, was Willits confirmation at the Nov. 12 council meeting that its flow meter measuring the total flow of sewage into the new plant was built wrong.

Brooktrails advised the city in July 2013 it considered the new meter to be inaccurate. The city took no action. In October 2013 Brooktrails had its contractor inspect the meter.

In April 2014, Brooktrails provided the city with copies of the inspection showing the meter had a number of installation flaws, according to Lance.

The city took no action.

In July 2014, after the city sent Brooktrails a bill for payment (based on the faulty meter) Brooktrails requested a copy of the calibration records for the meter in question.

Willits contacted a meter calibration firm which advised the city there were problems it had found in October 2013. The firm, MCC Control Systems, confirmed the problem areas in August 2014. One problem, a programming error, was corrected in September 2014. The other involving the improper installation of the meter, was not discovered during the original installation by Speiss Construction Company in 2009.

Lance suggested the city contact Speiss to have the problem corrected.

Until the installation error is corrected the city expects to use the meter leaving the plant to determine flow rates through the plant.