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Riverside County:

Although the Ortega Trail Recreation and Park District Seems to Have Complied With the Law in Forming Two Assessment Districts, the County Needs to Determine if Assessments Collected After July 1, 1997, Were Legal

December 2002
2002-106

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CALIFORNIA STATE AUDITOR

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December 4, 2002 2002-106

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capital
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning our review of the Ortega Trail Recreation and Park District (park district). This report concludes that the park district complied with the law when it formed its two assessment districts in the early 1990s. However, the park district may have acted inappropriately by not seeking voter approval to continue levying one of the assessments following the passage of Proposition 218 (proposition) in 1996, which required voter approval of certain existing or new assessments. Consequently, questions remain regarding whether the park district appropriately continued to collect the assessment and, if not, what should be done with the roughly $300,000 it collected after the proposition went into effect.

Furthermore, our review of its audited financial statements showed that the park district appeared to have used its assessments and other revenues appropriately to pay for the costs of its operations, capital improvements, and debt. In addition, the park district appropriately used the majority of the $157,600 in Quimby Act fees it collected, and the land and improvements valued at more than $596,000 it accepted appear to comply with the requirements of the Quimby Act. Finally, when the park district was dissolved in February 2000, Riverside County (county), by law, became responsible for winding up the affairs of the park district and took custody of the park district's assets and liabilities. Currently, the county is using the remaining park district assets, which primarily consist of land and cash, to pay the park district's debts.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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SUMMARY

Audit Highlights . . .

Our review of the Ortega Trail Recreation and Park District (park district) revealed the following:

- ☑ *The park district appears to have complied with the law when it established two benefit assessment districts.*
- ☑ *Following the passage of Proposition 218, the park district may have acted inappropriately by not seeking voter approval to continue the Wildomar assessment.*
- ☑ *Based on its audited financial statements, the park district appears to have used its assessments and other revenues appropriately.*
- ☑ *The park district appears to have acted appropriately when it accepted land and improvements in lieu of Quimby Act fees.*

Finally, the park district was dissolved in February 2000, and Riverside County (county) legally became responsible for winding up the affairs of the park district. As such, the county is using park district assets to pay remaining park district debts and might use them to fund future park needs.

RESULTS IN BRIEF

Located in Riverside County (county), the Ortega Trail Recreation and Park District (park district) was formed as an independent special district in 1948 under the name of the Lake Elsinore Recreation Park and Parkway District. Its purpose was to bring Lake Elsinore under public ownership, which it did in the 1950s, to manage the lake, and ultimately to develop recreational facilities around the lake. To fund the purchase, development, and operation of new and existing parks, the park district formed two assessment districts—the Ortega Trail Recreation and Park District Benefit Assessment District (Ortega Trail assessment district) and the Wildomar Benefit Assessment District (Wildomar assessment district)—in the early 1990s. However, following the passage of Proposition 218 (proposition) in 1996, which required voter approval of new and certain exiting assessments, the park district discontinued the Ortega Trail assessment. When voters failed to approve a special tax to replace the assessment in 1999, the park district ceased operations and filed for dissolution. In 2000 the county became the successor agency to settle the park district's affairs, as required by law.

Since the early 1990s, there have been questions about whether the park district legally formed its two assessment districts and whether it appropriately spent the assessments it collected. More recently, questions have arisen about the disposition of the park district's assets. The purpose of this audit is to address these questions.

The park district appears to have complied with the law when it established the two assessment districts. Changes in park district boundaries in 1991—the detachment of the city of Lake Elsinore that caused the loss of 59 percent of its property taxes and the annexation of the Wildomar area—prompted the park district to seek other revenues. The park district formed the Wildomar assessment district to cover the addition of the Wildomar area and later formed the Ortega Trail assessment district to assess all property in the park district. Through fiscal year 1996–97, the park district adopted resolutions and, according to the resolutions, appropriately obtained engineers' reports and held public hearings—key procedures required by statute to form an assessment district and to renew an assessment.

However, the park district may have acted inappropriately when it did not seek voter approval of the Wildomar assessment following the passage of the proposition in 1996. With some exceptions, such as when assessments are used to repay bonded indebtedness, the proposition requires that voters approve certain existing, new, or increased assessments. In response to the proposition, the park district discontinued levying its Ortega Trail assessment. However, it continued collecting the Wildomar assessment, believing that the assessment was exempt from the requirements of the proposition because the park district primarily used it to repay an outstanding debt. Unfortunately, the park district either did not obtain or did not retain a formal legal opinion substantiating its belief. Consequently, questions remain regarding whether the Wildomar assessment was exempt and, if not, what should be done with the roughly $300,000 in Wildomar assessments collected after July 1, 1997, when the proposition went into effect.

Although the park district did not seek voter approval of the Wildomar assessment when the proposition became effective in 1997, concerned residents obtained the necessary signatures to place it on the ballot. In March 2000—more than three years after the proposition passed—Wildomar area residents voted to discontinue this assessment.

Our review of its audited financial statements showed that the park district appeared to have used its assessments and other revenues appropriately to pay the costs of its operations and debts through fiscal year 1995–96. However, we could not determine how the park district specifically used its revenues from fiscal year 1996–97 until its closure in February 2000 because it did not prepare complete financial statements, nor could we locate sufficient detailed records. We also found that the park district appropriately used the majority of the $157,600 in Quimby Act fees it collected from developers to fund parks, and the land and improvements valued at more than $596,000 it accepted appear to comply with the requirements of the Quimby Act.

When the park district was dissolved in February 2000, the county, by law, became responsible for winding up its affairs and took custody of its assets and liabilities. The county board of supervisors directed the county to use park district assets, not county assets, to pay the district's debts. Currently, the county is taking steps to determine whether residents of the park district are interested in using the remaining assets, which primarily consist of land and cash, for park purposes in the future.

RECOMMENDATIONS

To determine whether the Wildomar assessment, which was primarily used to repay an outstanding debt, fell within the Proposition 218 exemption for bonded indebtedness from fiscal years 1997–98 through 1999–2000, the county should obtain a formal written legal opinion. If the Wildomar assessment was not exempt, the legal opinion should advise the county on an appropriate course of action regarding the assessments collected after the proposition became effective.

AGENCY COMMENTS

The county concurs with our conclusions and recommendations and further states that it intends to request authorization from its board of supervisors to obtain a legal opinion addressing the collection of assessments within the Wildomar assessment district. ■

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INTRODUCTION

BACKGROUND

In 1948, the Ortega Trail Recreation and Park District (park district), under the original name of Lake Elsinore Recreation Park and Parkway District, was formed as an independent special district in Riverside County (county). The purpose of the park district was to bring Lake Elsinore under public ownership, which it did in the 1950s, and to manage the lake. Ultimately, the focus of the park district changed from lake management to developing recreational opportunities and facilities available to the community around the lake. The park district was located 73 miles southeast of Los Angeles and 74 miles north of San Diego. A board of directors, which consisted of five members elected at large who served four-year staggered terms, governed the park district. Although the county had no oversight authority or responsibility for the park district, the park district could direct the county to collect assessments it levied.

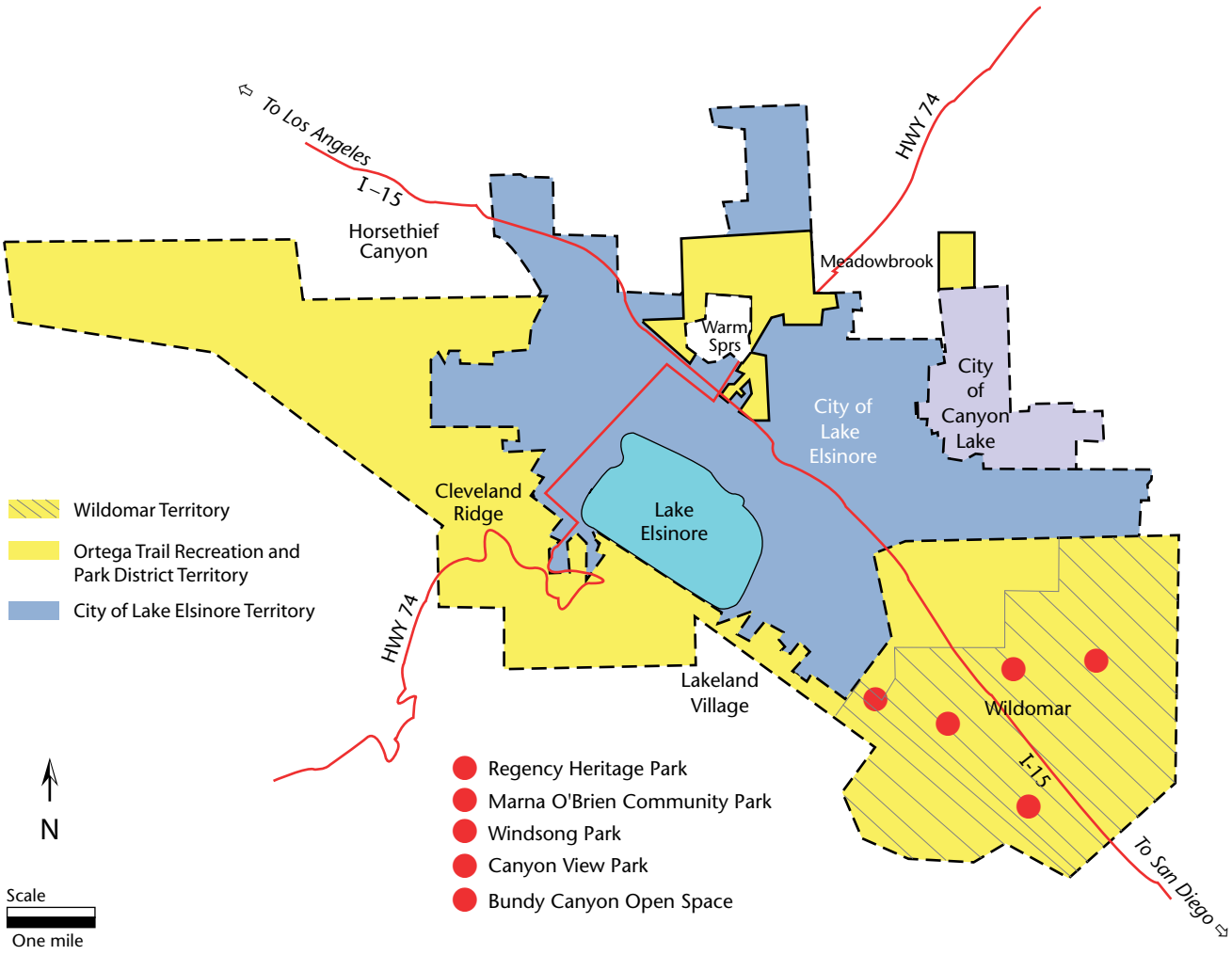
In July 1987, the county board of supervisors (supervisors) authorized the park district to use the powers of the State's Quimby Act. The Quimby Act requires developers to provide either land or fees to develop new parks or rehabilitate existing parks within the park district. The supervisors granted this authority to the park district and required by ordinance that it submit a Community Park and Recreation Plan (master plan) within one year. The park district met this requirement, and the supervisors approved the master plan in September 1988.

During late 1989 and early 1990, the Wildomar area adjacent to the park district began to develop and show a need for parks and recreation. Consequently, the park district's board of directors (board) proposed annexing the Wildomar area. In 1991, the Local Agency Formation Commission (LAFCO) certified both the annexation of the Wildomar area and the detachment of the city of Lake Elsinore from the park district. With the authority to approve or disapprove proposals for the formation of cities and special districts and for other changes in jurisdiction or organization of local governmental agencies, the LAFCO is responsible for coordinating logical and timely changes in local governmental boundaries. As shown in Figure 1 on the following page, the annexation of the Wildomar area and the detachment of the city of

Lake Elsinore resulted in a significant change in the park district's physical boundaries. In addition, according to the LAFCO analysis, the detachment eliminated 59 percent of the park district's primary source of revenue—the portion of property taxes related to the properties in the city of Lake Elsinore.

FIGURE 1

Ortega Trail Recreation and Park District



Source: Local Agency Formation Commission, December 1999.

TWO ASSESSMENT DISTRICTS

The LAFCO approved the annexation of the Wildomar area, with the condition that the park district establish a benefit assessment district for that area because the Wildomar area did not generate property taxes for park district use. In general, a benefit assessment district can be formed to assess property owners only for projects or services that directly benefit their properties. Therefore, in November 1990, under the Landscaping and Lighting Act of 1972, the park district's board approved a resolution to form the Wildomar Benefit Assessment District (Wildomar assessment district). Property owners in the Wildomar area were levied a single-family residential parcel rate (basic assessment rate) of slightly more than $20 per year starting in fiscal year 1991–92. According to the park district, it planned to primarily use the Wildomar assessment revenues to purchase and develop a community park—first called Wildomar Community Park and later renamed Marna O'Brien Community Park. The park district defined a community park as one that serves the needs of the entire park district. Ultimately, Marna O'Brien Community Park became the park district's administrative headquarters.

To obtain the funds it needed to purchase Marna O'Brien Community Park, the park district's board, in conjunction with the California Special District Association and its finance corporation, agreed to participate in a lease financing program. The finance corporation issued certificates of participation (certificates), a financing technique that provides capital to governmental entities such as special districts to purchase equipment and finance construction projects, through a trust agreement with a bank. The certificates provide long-term financing through either a lease with an option to purchase or a conditional sales agreement. The park district primarily used the proceeds from the certificates originally issued in 1992 to purchase the property for Marna O'Brien Community Park and to add recreational improvements to the park. The park district intended to use the funds it received from the Wildomar assessment to make the payments on the certificates for the next 20 years.

Furthermore, the park district lost a significant amount of its revenues because of the detachment of the city of Lake Elsinore. To ensure that it had funds for land acquisition, construction, operation, maintenance, and servicing of improvements, the park district formed a second benefit assessment district—the Ortega Trail Recreation and Park District Benefit Assessment District (Ortega Trail assessment district)—in August 1992. Starting in fiscal year 1992–93, all property owners within the

park district's territory were levied a basic assessment rate of $39 per year. Thus, the property owners in the Wildomar area were levied two assessments totaling nearly $60 per year. In fiscal year 1995–96, the park district raised the basic assessment rate of the Ortega Trail assessment to three rates depending on the benefit the property was determined to receive. The rates were $53, $62, and $71 per year, although these rates decreased in fiscal year 1996–97, the last year the assessment was collected, to $44, $58, and $66 per year.

PROPOSITION 218

In 1996, California voters passed Proposition 218 (proposition), which amended the state constitution to require voters to approve all existing, new, and increased assessments. Additionally, the proposition required that any past assessments, if not specifically exempt, were to be placed on a ballot and receive voter approval by July 1, 1997. After the proposition passed, the park district discontinued levying the Ortega Trail assessment. In June 1999, attempting to replace the lost assessment revenue with a special tax to be used only for maintenance and operations, the park district placed on the ballot Measure E, a referendum that would allow it to charge $25 per year per parcel of land within the district; however, Measure E failed.

Meanwhile, the park district did not place the Wildomar assessment on the ballot for a vote because it believed that this particular assessment fell under an exemption defined in the proposition—the exemption for assessment proceeds that are exclusively used to repay bonded indebtedness. Therefore, contrary to the way it handled the Ortega Trail assessment, the park district continued to collect the Wildomar assessment each year through fiscal year 1999–2000. In March 2000, however, concerned residents of the Wildomar area collected enough signatures to place the assessment on the ballot as Measure B. Like Measure E, Measure B failed, and the Wildomar assessment was discontinued.

DISSOLUTION OF THE PARK DISTRICT

According to a resolution of its board, with the loss of the Ortega Trail assessment, the park district lacked the resources to continue operating its parks. Thus, the park district closed its parks and ceased funding for all but basic administrative

needs in July 1999. In that same month, the park district applied to the LAFCO for dissolution. On December 9, 1999, the LAFCO approved the park district's application for dissolution. Then, after holding the required public hearing, the county approved the dissolution of the park district on February 15, 2000. The county became the successor agency for the dissolved park district, as required by the government code. Therefore, the county took on the responsibility of settling any unfinished park district business and assumed all assets and liabilities of the former park district. Appendix A provides a chronology of key events in the life of the park district.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits examine the activities and spending of the park district. Specifically, we were asked to determine if the formation of the park district's assessment districts complied with the law. In addition, we were asked to determine, to the extent possible, how the park district spent the assessments it collected from property owners within its territory as well as the Quimby Act fees it collected and whether the associated activities complied with the law. The audit committee also requested that we determine the disposition of the park district's assets upon its dissolution.

To determine which laws governed the park district, its assessment districts, Quimby Act fees, and related activities, we researched state statutes and interviewed county staff, the park district's former board members, and its former legal counsel. To evaluate the park district's formation of its assessment districts and its annual renewal of the related assessments and to determine if the park district complied with the requirements of the proposition, we reviewed park district board resolutions, county assessment collection records, and county election records.

To determine how the park district spent its assessments and Quimby Act fees and whether the park district's use of these revenues complied with the law, we reviewed the park district's audited financial statements from fiscal years 1988–89 through 1996–97. Except for its fiscal year 1996–97 financial statements, the park district's auditors concluded that the financial statements fairly and accurately presented its financial position and financial activity. Further, when the park district's auditors

attempted to review the fiscal year 1996–97 financial statements, they concluded that the records could not be audited. In addition, according to the county, it could not locate the park district's financial statements for fiscal years 1997–98 and 1998–99, nor could we find enough documentation to determine the specifics of its financial activity for that time period. When we attempted to review the park district's records for the last several years, we found them to be in a state of disarray. Thus, we were unable to review the detailed financial transactions to support the amounts in the audited financial statements and for the period when the park district did not prepare complete financial statements—from fiscal year 1996–97 through February 2000, when it was dissolved. Finally, because the park district has been closed for more than two years, we were unable to interview staff regarding its activities or its use of the assessments.

To further assess whether the park district's activities complied with the Quimby Act, we reviewed its annual Quimby Act reports, its master plan, agreements with developers for Quimby Act fees, the park district's bank records for the Quimby Act fees, the legal settlement for one of its Quimby Act land dedications, and county records and board minutes.

Finally, to determine if the county had received or was aware of all of the fixed assets that should be transferred to it after the park district's dissolution in February 2000, we performed a title search at the county assessor's office and compared the results of our search with the park district's audited financial statements, a closeout audit of its assets and liabilities in February 2000, the auditor's working papers for the fiscal year 1996–97 financial statements, and documents from the park district that identified its fixed assets. We also reviewed an October 2001 appraisal of three of the park district's properties to help determine if its assets were sufficient to cover its liabilities. ■

AUDIT RESULTS

THE ORTEGA TRAIL RECREATION AND PARK DISTRICT PROPERLY FORMED TWO ASSESSMENT DISTRICTS, BUT THE PROPRIETY OF ONE ASSESSMENT BECAME QUESTIONABLE AFTER PASSAGE OF PROPOSITION 218

The Ortega Trail Recreation and Park District (park district), located in Riverside County (county), complied with the law when it formed its two assessment districts—the Wildomar Benefit Assessment District (Wildomar assessment district) and the Ortega Trail Recreation and Park District Benefit Assessment District (Ortega Trail assessment district). Additionally, after voters passed Proposition 218 (proposition), the park district appropriately ceased collecting the Ortega Trail assessment but continued levying the Wildomar assessment, believing that it met an exemption outlined in the proposition. However, questions remain as to whether the Wildomar assessment actually met the exemption and whether it was appropriate for the park district to continue to collect the assessment for an additional three years after the proposition became effective.

The Park District Appears to Have Complied With the Law Governing the Formation of Its Assessment Districts and for Most of the Annual Renewals

Based on a review of its resolutions and the engineers' reports for its assessment districts, it appears that the park district complied with the law when it formed its two assessment districts. However, we could not determine whether four of the annual renewals that increased the assessments met the law outlining the rights of property owners to contest increases. Before July 1, 1997, a public agency was required to perform certain procedures, as outlined in the Landscaping and Lighting Act of 1972, to legally form its assessment districts and annually renew the assessments. To draw our conclusion regarding the park district's compliance with the law, we analyzed the three procedures we considered most critical: preparing the engineer's report, conducting the public hearing, and adopting the resolutions of the park district's board of directors (board) to form the assessment districts and to annually renew the assessments.

The engineer's report is a significant document because it includes the boundaries of the assessment district, the planned uses of the assessments, and the basis for the amount each property owner will be assessed. The public hearing requirement is equally important because it allows the public to be informed, to comment on, and to protest the formation of an assessment district or the annual renewal of the assessment. Before 1993 the law allowed the board, with a four-fifths vote, to overrule any public protest to the formation of an assessment district; however, beginning in 1993, the park district was required by law to abandon the formation of an assessment district if it received a majority protest. A majority protest exists if the park district receives written protest from the property owners who own more than 50 percent of the property in the assessment district. Also in 1993, the law extended this same requirement to any annual increase in an assessment. Finally, the board resolution ordering the formation of the assessment district is the document that directs the county's auditor-controller to collect the assessments for the park district.

Procedures a Public Agency Must Follow to Form an Assessment District and Annually Renew the Assessment

1. Pass a board resolution initiating proceedings to form an assessment district or to propose new or substantial changes in improvements.
2. Prepare the engineer's report, which includes boundaries, uses of the assessments, and the amount assessed for each type of property.
3. Pass a resolution of intent to form an assessment district or annually renew the assessment.
4. Post and mail notices of public hearings 10 days before the hearings are held.
5. Conduct a public hearing to allow all interested parties the opportunity to "hear and to be heard."
6. Adopt a resolution by the board of directors ordering the formation of the assessment district, new or changed improvements, or the annual renewal of the assessment.

Our review of the procedures followed by the park district found that the board adopted resolutions, as required, approving the formation of the assessment districts and annually renewing the assessments. These same resolutions also directed the county to collect the assessments imposed by the park district. Additionally, the resolutions indicated that the park district held a public hearing and referred to the required assessment district's engineer's report. We reviewed 5 of the 14 engineers' reports the park district was required to prepare for the years it levied the assessments. Each report contained all the elements required by law. Although we were unable to locate the remaining 9 engineers' reports, the board's resolutions indicated that the park district had prepared them.

As allowed by law until 1993, the resolution approving the formation of the Wildomar assessment district also indicated that the board overruled any protest to its formation. Additionally, the resolution approving the formation of the Ortega Trail assessment district indicated that the number of protests was below the limit established in law that requires the park district to abandon the formation of an assessment

district; thus, it moved forward and approved the formation of the second assessment district. The law also required the park district to consider whether it received a majority protest from property owners for four increases in its assessments between 1993 and 1996. Specifically, the park district increased the single-family residential parcel rate (basic assessment rate) for its Wildomar assessment a total of $1.34 during the three years between fiscal years 1993–94 and 1995–96 from $20.86 to $22.20 per year. It also increased the basic assessment rate for its Ortega Trail assessment in fiscal year 1995–96 from a single rate of $35 per year to three separate annual rates of $53, $62, and $71, depending on the benefit the property was determined to receive from the park district. Therefore, the basic assessment rate for some property owners increased $18 per year, from $35 to $53, while others increased as much as $36 per year, from $35 to $71.

Although the resolutions for these four annual assessment renewals indicate that the park district considered all oral and written statements, protests, and communications made or filed by interested persons, they did not indicate whether the amount of protest was above or below the limit established in law. They simply stated that all oral and written protests and objections to the levy and collection of the assessments for each fiscal year were overruled by the board. Because we do not have information related to the significance of the protests, if any, we cannot conclude whether the park district appropriately increased the assessments for these four years. It appears that the park district's formation of the assessment districts and, for the most part, the annual renewals of the assessments and their collection complied with the law. However, we are unable to determine if the four increases met the majority protest requirements outlined in law.

Believing the Wildomar Assessment Was Exempt From the Requirements of Proposition 218, the Park District Did Not Seek Voter Approval

The park district appropriately discontinued levying its Ortega Trail assessment after fiscal year 1996–97, following the passage of Proposition 218 in 1996.

The park district appropriately discontinued levying its Ortega Trail assessment after fiscal year 1996–97, following the passage of the proposition in 1996. To replace this assessment, the park district sought the required voter approval of park district residents to establish a special tax, but the effort failed. Because the park district believed that its Wildomar assessment was exempt from the proposition, it continued to collect the assessment after the proposition passed until residents were successful in placing the issue on the ballot in March 2000.

Residents voted to discontinue the assessment, but questions remain as to whether the park district appropriately continued to collect about $300,000 in assessments for the three years after the proposition passed.

In 1996, California voters passed Proposition 218, which requires voter approval of certain existing, new, or increased assessments. The proposition continues to require public agencies to perform procedures similar to those set forth in the Landscape and Lighting Act of 1972 when forming an assessment district or increasing an assessment. Unlike that act, however, the proposition requires voter approval for certain existing or new assessments or any increase to an assessment instead of simply requiring a final board resolution. As a result, beginning July 1, 1997, unless an assessment meets exemptions identified in the proposition, public agencies are required to subject the assessments previously approved by a board to a vote of its residents. An exempted assessment is one in which the proceeds are used exclusively to repay bonded indebtedness or any assessment that was previously approved by a majority of voters in an election on the issue of the assessment.

As required by the proposition, after fiscal year 1996–97, the park district discontinued collecting the Ortega Trail assessment because the park district did not believe the assessment met any of the exemptions included in the proposition. It attempted to reestablish the Ortega Trail assessment as a special tax by obtaining voter approval. In June 1999, the park district placed Measure E before the voters, proposing a special tax of $25 per year per parcel for all property owners in the park district's territory. However, the voters did not pass Measure E, and the park district was forced to close its parks and cease funding for all but basic administrative needs in July 1999.

Believing the Wildomar assessment met the proposition's exemption for assessments exclusively used to repay bonded indebtedness, the park district continued collecting it without seeking voter approval.

Unlike the Ortega Trail assessment, the Wildomar assessment was not discontinued and did not go before voters for approval. The park district continued to charge property owners for the Wildomar assessment each year through fiscal year 1999–2000. Because it had been primarily using the assessment to repay a debt, the park district believed the assessment met the proposition's exemption for assessment proceeds exclusively used to repay bonded indebtedness. Traditionally, local bonded indebtedness is secured by a pledge of taxes or some other revenue source such as assessments. Thus, under the proposition, any assessment used to secure bonds issued to finance capital improvements would fall within the exemption for bonded

indebtedness. The park district, however, did not use traditional bonds to finance the property acquisition and improvements at Marna O'Brien Community Park; it used a financing mechanism known as certificates of participation (certificates). Certificates are essentially a lease-purchase arrangement that is similar to a loan. In this case, a bank provided the park district with the funds to purchase the property for Marna O'Brien Community Park and make improvements to the property while maintaining a leasehold interest in the site. A bank functioning as the trustee then issued certificates to individual investors who contributed to the property acquisition fund to reimburse the bank, or lessor. The park district used the Wildomar assessment to make lease payments to the trustee. Each certificate holder has an undivided interest in a percentage of the park district's lease payments. Upon retirement of the certificates, the trustee would have released its leasehold interest in the property to the park district, but since the park district has dissolved, the trustee will release its interest to the county.

The park district used the Wildomar assessment to make lease payments on Marna O'Brien Community Park.

However, a group of concerned residents objected to the continuation of the Wildomar assessment. Moreover, the Howard Jarvis Taxpayers Association, which drafted the proposition, stated in an annotated version of the proposition issued in January 1997 that certificates and other creative debt instruments were not exempt from the proposition.

Although in many instances statutes treat certificates as bonded indebtedness for the purposes of particular programs, the proposition and the enabling legislation are silent on the issue of whether the term *bonded indebtedness* was intended to include certificates, and there is no reported opinion of the California courts on the issue. Our legal counsel advised us that, in determining whether or not the assessments made by the park district were exempt from the proposition, counsel for the park district should have considered whether the assessments were pledged as the revenue source to repay the certificates and any potential impairment of obligation of the contract between the holders of the certificates and the park district. After reviewing the financing document for the certificates, which were originally issued in 1992, our legal counsel noted several instances of language indicating that the certificates do not constitute a debt or pledge of the district and disclosing the fact that the proposition, which was on an upcoming ballot, could change requirements relating to assessments. However, other language within the financing document states that the park district will be making a specific pledge of certain

The park district either did not obtain or did not retain an opinion from its legal counsel to support its determination that the Wildomar assessment was exempt from Proposition 218.

assessment revenues for repayment of the certificates. Given the complicated legal issues involved and the objections of the concerned residents, we expected to find a written opinion from an attorney that specializes in bonds supporting the park district's determination that the certificates were exempt from the proposition. However, the park district either did not obtain or did not retain such an opinion, so we were not able to determine the validity of the park district's reasoning.

As discussed previously, because the park district no longer exists, the county is now responsible for certificate repayments. After the voters refused to approve continuance of the Wildomar assessment with Measure B at the March 2000 election, the county continued to repay the certificates using the park district's property tax revenues. Nonetheless, from July 1, 1997, the date by which the proposition required nonexempt assessments to receive voter approval, until March 2000, the park district continued to levy the Wildomar assessment. In total, between fiscal years 1997–98 and 1999–2000, the park district collected roughly $300,000 from these assessments. The assessments are valid only if the certificates are "bonded indebtedness" and therefore exempt from the proposition. For example, if the assessments were challenged in court and the court found them invalid, the court could require that the revenues from the assessments be repaid to the property owners. Therefore, we believe it is important that the county obtain a formal written legal opinion to clarify whether or not the assessments used to repay the certificates fell within the proposition's exemption for bonded indebtedness.

THE PARK DISTRICT'S AUDITED FINANCIAL STATEMENTS AND OTHER REPORTS INDICATE THAT IT USED ITS ASSESSMENTS AND FEES APPROPRIATELY

Its financial statements show that the park district used revenues from its assessments and other sources such as property taxes appropriately to pay for the costs of its operations, capital improvements, and debt. However, we could not specifically determine how the park district used its revenues for the period from fiscal year 1996–97 until its closure in February 2000 because it did not prepare complete financial statements, nor could we locate sufficient detailed records. Additionally, the park district appears to have used its Quimby Act fees, collected from developers that built within park district boundaries, appropriately to pay for land and improvements at Marna O'Brien Community Park.

Two Assessments Ultimately Funded the Majority of the Park District's Operations and Debt

In fiscal year 1995–96, the park district received about $734,000 in special assessment revenues, representing more than 68 percent of its total revenues.

According to its audited financial statements, the park district appears to have used its assessments and other revenues appropriately to pay for the cost of its operations and debts through fiscal year 1995–96. Between fiscal years 1991–92 and 1995–96, the amount of revenue the park district received from assessments grew dramatically. In fact, based on its audited financial statements, by fiscal year 1995–96, the park district's assessments had become the largest portion of its revenues. For example, in fiscal year 1991–92, the park district received almost $74,000 in special assessment revenue, which represents only 12 percent of its total revenues. In fiscal year 1995–96, however, it received more than $734,000 in special assessment revenues, which represents 68 percent of its total revenues. Appendix B summarizes the park district's audited financial statements.

State law allows a park district to spend its revenues to acquire property; to employ and pay persons who are necessary and adequately trained to maintain and operate the property, including improvements and facilities; and to operate recreational programs. Additionally, the law states that assessments can be used only for expenses authorized by the park district in its engineers' reports. The authorized expenses include the following:

- Improvements: one or a combination of, among other things, landscaping, statuary, fountains, facilities, playground equipment, grading, clearing, removal of debris, curbs, gutters, walls, sidewalks, paving, water, irrigation, drainage, or electrical facilities.

- Incidental expenses: preparing reports, costs of notices, payments to the county for collecting assessments, compensation of any engineer or attorney employed to provide services related to these incidental expenses, or any other expense incidental to the construction or installation of the improvements or to the maintenance and servicing of the improvements.

- Maintenance: furnishing services or materials for the ordinary and usual maintenance, operation, or servicing of any improvement.

- Property: acquiring land for a park, recreational, or open space purposes.

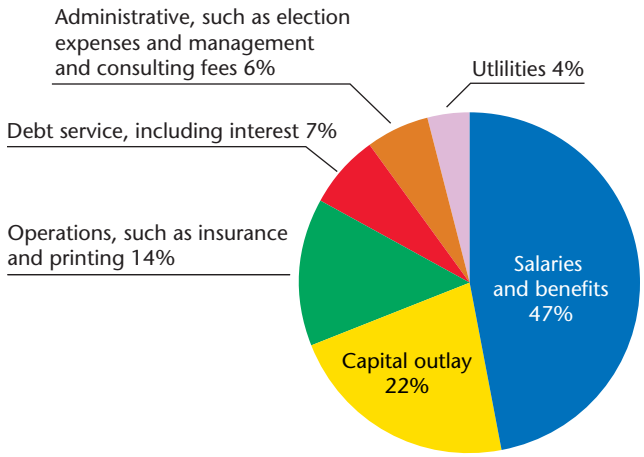
In addition, the law requires the park district to annually identify and approve in an engineer's report the use of its assessment revenues. The engineers' reports we reviewed

included assessment uses such as land acquisition, design and construction of park and recreation facilities, and park operation and maintenance.

According to the park district's audited financial statements for fiscal year 1995–96—the last fiscal year the auditors could verify that the reported financial transactions were accurate and complete—the park district spent its assessments, combined with its other revenues, in six categories, as shown in Figure 2.

FIGURE 2

Ortega Trail Recreation and Park District Expenditures in Fiscal Year 1995–96



Source: Fiscal year 1995–96 financial statements.

Based on our review comparing the expenditures allowed by law with the expenditures from the park district's audited financial statements, it appears that the park district's use of its assessments conformed with the law. However, as previously discussed, we were unable to review the detailed financial transactions to support the amounts in the audited financial statements through fiscal year 1995–96. Further, with only limited information available from fiscal year 1988–89 through February 2000 when the park district was dissolved, we cannot conclude whether specific transactions and activities complied with the law.

Quimby Act Fees Funded Park District Land Purchase and Improvements at One Park

According to its annual Quimby Act reports and bank statements, the park district primarily used the fees it collected from developers related to the Quimby Act to pay for land and improvements at Marna O'Brien Community Park, located in the Wildomar area. A county ordinance requires all public agencies that receive land dedications or fees related to the Quimby Act to prepare a report of its Quimby Act activities annually. The annual report should generally include the following:

- The land dedications and fees received, referred to as Quimby Act fees; the balance of the account; and the facilities purchased, leased, or constructed during the year.
- Documentation in support of and justification for the land dedications, fee payments, fee expenditures, and any change in the fee account balance.
- The most recent audit of the agency, the date and results of the annual public hearing held to consider changes to the Community Park and Recreation Plan (master plan), information describing any changes in boundaries, service area, plan goals, policies, and standards as well as any changes in park and recreation facility inventory.
- A schedule of how, when, and where the park district intends to use the land dedicated to it and the fees it received, including the anticipated starting dates for the development of the park and recreation facilities.

The park district appropriately used approximately $125,000 of the more than $157,600 of Quimby Act fees and interest it collected for 2 acres of land and improvements at Marna O'Brien Community Park.

According to the park district's Quimby Act reports and other source documents, between fiscal year 1990–91 and February 2000, the park district collected Quimby Act fees and interest totaling more than $157,600. Of that amount, the park district used approximately $125,000 to add an additional 2 acres to the original 7 acres purchased with funds from the certificates and to pay for improvements at Marna O'Brien Community Park.

Under the Quimby Act, fees it generates can be used only to develop new or rehabilitate existing neighborhood or community park or recreational facilities to "serve" the subdivision. However, the fees must be committed within five years after their payment or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. Otherwise, the fees must be distributed to the property owners of the subdivision

where they were collected. Although Marna O'Brien Community Park may not have been located in any of the subdivisions where the Quimby Act fees were actually collected, it was the park district's largest community park, and it ultimately served the park district as its administrative headquarters. According to the park district's engineer's report describing its plans for the community park, Marna O'Brien Community Park would significantly enhance the services of the park district and expand essential programs for community functions. Therefore, because a community park is one that serves the needs of the entire park district and Marna O'Brien Community Park served the subdivisions where the Quimby Act fees were collected, the park district's use of the fees to purchase 2 additional acres and develop the new park appears to comply with the law.

After paying for the land and improvements at Marna O'Brien Community Park, the park district should have had at least $32,600 of Quimby Act fees and interest remaining. However, a little less than $20,600 was ultimately transferred to the county. Because we were unable to obtain supporting documents of the park district's detailed financial transactions and activities as we described earlier, we could not determine how the park district used at least $12,000, or approximately 8 percent, of the Quimby Act fees it collected. Nevertheless, nothing came to our attention that would indicate the park district had used its Quimby Act fees inappropriately.

BY ACCEPTING LAND AND IMPROVEMENTS IN LIEU OF QUIMBY ACT FEES, THE PARK DISTRICT APPEARS TO HAVE ACTED APPROPRIATELY

In total, the park district accepted land and improvements valued at more than $596,000 in lieu of Quimby Act fees.

As allowed by the Quimby Act, the park district accepted the property for Windsong Park, Regency Heritage Park, and Bundy Canyon Open Space instead of collecting Quimby Act fees. The park district also accepted improvements to Windsong Park, Regency Heritage Park, and Canyon View Park rather than collecting Quimby Act fees from the developers of various subdivisions where these parks are located. In total, the park district accepted land and improvements valued at more than $596,000, according to its annual Quimby Act reports.

Specifically, according to documents the park district submitted to the county, it accepted a developer's land dedication of 2.6 acres and named the property Windsong Park in August 1991. This flat parcel of land is located in a residential development with

a small portion of the back of the property in the 100-year flood zone. According to these same documents, the developer also improved the property by adding landscaping, irrigation, benches, and other items. The park district also reported to the county that it accepted Regency Heritage Park from a developer as a second land dedication in October 1992. Although the park district accepted a total of 5.8 acres, approximately 2.5 acres contained a drainage channel. However, according to minutes from the county board of supervisors (supervisors), the park district's chief administrator stated that the developer was only required to provide 1.8 acres to the park district to satisfy Quimby Act requirements. The park district reported that the developer also improved Regency Heritage Park property by adding a park sign, an access road, fencing, landscaping, an irrigation system, barbecues, a basketball court, and other items.

In August 1993, the park district agreed to accept title to 3.5 acres called Bundy Canyon Open Space and improvements to Canyon View property in lieu of Quimby Act fees as part of a legal settlement.

Finally, the park district reported to the county that it accepted the title to 3.5 acres called Bundy Canyon Open Space and improvements to the Canyon View property instead of receiving Quimby Act fees in August 1993. The park district agreed to accept this land and improvements as part of the settlement to a lawsuit it filed against a developer. The park district filed the lawsuit because it claimed that the developer had originally agreed to dedicate the Canyon View property to the park district but then conveyed the property to the county's flood control district instead. Also, as part of the settlement, the park district was required to enter a joint use agreement with the county flood control district, which now owned the Canyon View property. The agreement allowed the park district to operate a park on the Canyon View property as long as the park did not conflict with the flood control district's use of the property. In addition, the developer was required to add improvements to the Canyon View property, such as landscaping, play equipment, a basketball court, and lighting. However, park district residents raised concerns that these two parks did not meet the requirements of the Quimby Act. Residents believed that the slope of the Canyon View and Bundy Canyon properties exceeded slope limits established by the Quimby Act. In addition, the park district did not hold title to the Canyon View property, which park district residents believed was required by the Quimby Act.

The Quimby Act itself does not impose slope requirements, nor does it address the transfer of title of land dedicated for park and recreational purposes. Although it does not address those issues, before 1994 the county ordinance that implemented the

Quimby Act did require that land dedications transfer title to the park district and a slope of less than 10 percent to be allowed as Quimby Act land dedications. However, the park district's actions related to Canyon View Park and Bundy Canyon Open Space were directed by the settlement of a lawsuit. In fact, according to board minutes, correspondence from legal counsel indicated that the park district had no choice under the terms of the settlement agreement but to accept the park after improvements to it were completed.

Contrary to the beliefs of park district residents, the Quimby Act does not address whether land located in a flood zone is acceptable in place of collecting fees.

Park district residents also believed that these parks did not comply with the Quimby Act because the parks were either partially or completely in a flood zone. However, the Quimby Act does not address whether land located in a flood zone is acceptable in place of collecting fees. Further, park district residents questioned whether the park district could accept any Quimby Act land dedications because these parks were located in the Wildomar area, which residents believed was not specifically discussed in the park district's 1988 master plan. It was the residents' understanding that the master plan did not comply with the Quimby Act because the park district did not update it to reflect the significant boundary changes caused by the annexation of the Wildomar area and the detachment of the city of Lake Elsinore in 1991. Contrary to this belief, however, the Quimby Act does not state when a master plan or schedule of planned Quimby Act activities should be updated. On the other hand, the Quimby Act does state that a public agency should develop a schedule specifying how, when, and where Quimby Act assets will be used, and the park district's 1988 master plan generally did include this type of information. Additionally, the Wildomar area did appear in the 1988 master plan as a future area of service.

Nonetheless, because of the concerns raised by the residents of the park district, the county indicated that it needed to review and update the procedures included in its ordinance related to the Quimby Act. In 1994, the county amended its ordinance to require that land accepted under the Quimby Act must not have a slope greater than 5 percent, half the original requirement of 10 percent. The county also added language allowing park districts to accept land with drainage areas or water bodies only if the areas are suitable for active recreation and if the park district's master plan specifically allows the proposed type of recreational use to be located within such areas. Further, in 1996, the county added the requirement that a park district must amend its master plan within one year after incurring

a significant boundary change and that county approval is required for an amendment to be effective. This addition to the county ordinance also gave the county the power to revoke, suspend, or modify a park district's authority under the Quimby Act if the park district failed to follow the provisions of its master plan. Eventually, the park district revised its master plan, and the supervisors approved it in 1997.

Although one park, Canyon View, may not have met the requirements of the county ordinance, the park district was required to accept access to the property for park purposes as part of a legal settlement with a developer. Furthermore, the other land and improvements the park district accepted between 1991 and 1993 in lieu of fees appear to comply with Quimby Act requirements.

REMAINING PARK DISTRICT ASSETS ARE GOING TOWARD PAYING ITS DEBTS AND POSSIBLY FUNDING FUTURE PARK NEEDS

According to a closeout audit, the park district had fixed assets of $833,000 and cash of $305,142 for transfer to the county.

After the park district was dissolved in February 2000, the county became the successor agency responsible for winding up park district affairs, in accordance with the law. The closeout audit estimated that the park district had fixed assets of $833,000 and cash of $305,142 for transfer to the county. However, according to the closeout financial statements, the fixed asset values were based on estimates by park district management because the park district did not maintain historical cost records for fixed assets.

Since assuming the assets and liabilities of the park district in February 2000, the county states that it has not developed a formal, written plan, nor have the supervisors passed any resolutions specifying how the county can best settle the park district's unfinished business. However, the county also stated that the supervisors have given it some informal guidelines regarding, among other things, preventing vandalism or destruction of park district property and continuing payments for the outstanding certificates using only the park district's property taxes and other assets. According to the county, the supervisors also stated that the park district's annual property taxes may be used for other county purposes but only after the certificates are extinguished, either through full payment or by default. Although the final payment for the certificates is not due until August 2012, if the park district's annual revenues and expenses during the past three years are representative of the future, the county should be able to pay the certificates'

annual payments until they are paid in full without using any of the park district's fixed assets or county funds. As shown in the Table, during each of the last three fiscal years, the county collected sufficient revenues to pay the certificates' annual payments. In fact, in the two most recent years, the property tax revenue alone has been sufficient to cover these payments.

TABLE

Summary of the Ortega Trail Recreation and Park District's Annual Revenues and Expenditures After Dissolution

	Expenditures			Revenues			
Fiscal Years	Certificates of Participation Payments*	Other Expenditures†	Totals	Property Taxes	Other Revenues‡	Totals	Surplus
1999–2000	$78,823	$46,965	$125,788	$26,306	$134,986	$161,292	$35,503
2000–01	75,621	10,232	85,853	84,815	18,209	103,024	17,171
2001–02	79,171	17,313	96,484	88,317	17,701	106,018	9,534

Sources: Riverside County financial records and trustee bank records for the certificates of participation.

* Payments for the certificates of participation are what appear in their financing documents minus interest earned on the reserve account held by the trustee.

† Other expenditures include items such as telephone services and electricity needed to maintain security systems.

‡ Other revenues include, among other things, investment interest.

The county has also continued to collect Quimby Act fees from developers in the former park district. Quimby Act fees collected from developers after the county assumed control of the park district in February 2000 and those that were transferred to the county when the park district dissolved are placed in a separate county account and are not included with the park district's other assets. Moreover, since assuming control over park district affairs, the county states it has set aside the Quimby Act assets, both land and fees, for future use. Finally, according to the county, it is basing its current collection of Quimby Act fees on the park district's 1997 master plan; however, it is currently developing new master plans for park district residents.

As of June 30, 2002—more than two years after the county assumed control—the park district's liquid assets have increased to more than $439,000, including $124,000 in Quimby Act fees. However, the value of its fixed assets has declined. An October 2001 appraisal of three of its properties—Windsong Park, Regency Heritage

Park, and Marna O'Brien Community Park—revealed that their combined value had fallen by $213,000. As of August 2002, the park district still held title to these three properties and the Bundy Canyon Open Space, which are described in Appendix C.

The county has also taken steps to determine whether residents in the park district's territory are interested in using park district assets for park purposes in the future. In October 2000, to plan for community parks and to use the Quimby Act fees to help pay for them, the county formed Benefit Zone A, which generally has the same boundaries as the park district. The supervisors empowered the benefit zone on October 17, 2000, to receive land dedications and fees for park and recreational facilities under the Quimby Act. Also in October 2000, the county mailed a survey to all property owners in the former park district territory to determine if residents wanted parks and, if they did, what kind of parks, what type of recreation facilities and services, and where the parks and facilities should be located.

In October 2000, Riverside County mailed a survey to all property owners in the former park district territory to determine if residents wanted parks.

According to the county, the results of the survey indicated that property owners who responded believe there is a need for park and recreation services in their community, and the Wildomar area had the highest rate of response to the survey. Therefore, the county states that it formed a subzone within Benefit Zone A in May 2002 for the Wildomar area. The purpose of the zone and subzone is to better address the desires of the residents within each zone when developing park plans, which are needed to collect Quimby Act fees. The county believes that it is important to prepare the park plans required for the collection of Quimby fees because the fees could be used to mitigate the development cost of parks and recreation services.

Currently, according to the county, it is supporting the Wildomar Municipal Advisory Committee in sponsoring town hall meetings. These meetings are held to share with property owners ideas for different types of parks, including models of parks prepared by consultants. The county further indicated that it will use the town hall meetings to gauge the property owners' willingness to pay a special tax on their properties to support the operating costs of parks in the area. If the meetings show a high probability that property owners will approve a special tax, the county will place a special tax on the ballot. Finally, once a means for funding the operations and maintenance costs is found, the county also stated that it plans to use the Quimby Act assets it has set aside to purchase and improve parks in the area.

RECOMMENDATIONS

To determine whether the Wildomar assessment, which was primarily used to repay the certificates, fell within the Proposition 218 exemption for bonded indebtedness from fiscal years 1997–98 through 1999–2000, the county should obtain a formal written legal opinion. Additionally, if the Wildomar assessment is not exempt, the legal opinion should advise the county on an appropriate course of action to take concerning the assessments collected after the proposition became effective.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

Date: December 4, 2002

Staff: Denise L. Vose, CPA, Audit Principal
Michael Tilden, CPA
Jerry A. Lewis
Sang Park

APPENDIX A

Chronology of Key Events in the Life of the Ortega Trail Recreation and Park District

Table A.1, on the following page, presents a chronology of key events in the life of the Ortega Trail Recreation and Park District, starting with its formation in 1948 through its dissolution 52 years later.

TABLE A.1

Chronology of Key Events in the Life of the Ortega Trail Recreation and Park District

Dec 1948	The Ortega Trail Recreation and Park District (park district), under the original name of Lake Elsinore Recreation Park and Parkway District, is formed to bring Lake Elsinore under public ownership, if possible, and, ultimately, under public management.
May 1955	The park district purchased Lake Elsinore's lakebed from the Elsinore Naval and Military Academy.
Oct 1957	The park district transfers the lakebed and certain lakefront property to the State for development as a state park.
1968	The park district enters into an agreement with the city of Lake Elsinore and Elsinore Union High School District to provide joint community recreation programs.
July 1987	The Riverside County (county) board of supervisors (supervisors) grants the park district Quimby Act authority. At that point, the park district has one year to prepare and submit to the supervisors for approval a Community Parks and Recreation Plan (master plan).
Sept 1988	The supervisors approve the park district's master plan.
Aug 1989	The supervisors approve the park district's name change.
Nov 1990	The park district's board of directors (board) approves a resolution to form the Wildomar Benefit Assessment District (Wildomar assessment district), which only includes the boundaries of the Wildomar area.
Jan 1991	The Local Agency Formation Commission (LAFCO) certifies that the park district's annexation of the Wildomar area is complete because the park district met its condition to form an assessment district.
Aug 1991	The park district accepts 2.6 acres and improvements to Windsong Park land, in lieu of $126,481 in fees to satisfy Quimby Act requirements. Of the park's land, 0.5 acres are left undeveloped.
Nov 1991	The LAFCO certifies the city of Lake Elsinore's detachment from the park district is complete.
Aug 1992	The board passes a resolution to form the Ortega Trail Recreation and Park District Benefit Assessment District (Ortega Trail assessment district), which includes the boundaries of the entire park district.
Oct 1992	The park district accepts 5.8 acres and improvements to Regency Heritage Park land, in lieu of $237,133 in fees to satisfy Quimby Act requirements. Only 3.3 acres are usable because the rest of the land contains a drainage channel.
Aug 1993	The park district accepts 3.5 acres at Bundy Canyon plus access rights to land owned by the county's flood control district known as Canyon View and improvements to that property in lieu of $233,067 in fees to settle a lawsuit and to satisfy Quimby Act requirements.
Nov 1996	Proposition 218 (proposition) passes, requiring all existing, new, and increased assessments to be voted on by the public.
July 1997	As required by the proposition, the park district stops collecting its Ortega Trail assessment after fiscal year 1996–97, until it can let the voters decide if the assessments should be reestablished.
Aug 1998	The park district removes most of the improvements to the Canyon View property and relinquishes its access rights to the county's flood control district.
Aug 1998	Residents of the Wildomar area attempt to abolish the Wildomar assessment and the park district by collecting the signatures needed on a petition to place this action on the ballot for a vote. However, the county registrar of voters did not accept the petition because the process to dissolve the park district needs to be conducted under the authority of LAFCO.
June 1999	As required by the proposition, in an attempt to replace the lost assessment revenue from the Ortega Trail assessment with a special tax to be used only for maintenance and operations, the park district places Measure E on the ballot; Measure E fails.
July 1999	The park district closes its parks and ceases funding for all but basic administrative needs, then applies to LAFCO for dissolution because Measure E failed.
Dec 1999	The LAFCO approves the park district's application for dissolution.
Feb 2000	The county holds a public hearing and approves dissolution of the park district.
Feb 2000	The county becomes the successor agency to wind up the affairs of the former park district. As such, it has custody of the park district's assets and liabilities.
Mar 2000	Voters approve Measure B, abolishing the Wildomar assessment.

Sources: Various records and documents from the Local Agency Formation Commission, Riverside County, and the Ortega Trail Recreation and Park District.

APPENDIX B

Summary of the Ortega Trail Recreation and Park District's Audited Financial Statements

Table B.1, on the following page, presents the Ortega Trail Recreation and Park District's audited financial statements from fiscal year 1988–89, three years before receiving its first assessment revenues, through fiscal year 1996–97, when the park district prepared its last financial statements before its dissolution in February 2000.

TABLE B.1

Summary of the Ortega Trail Recreation and Park District's Audited Financial Statements Fiscal Years 1988–89 Through 1996–97

Fiscal Year	1988–89	1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97[§]
Revenue									
Property taxes	$348,004	$419,156	$495,054	$492,813	$ 321,491	$101,217	$129,154	$ 91,696	$ 70,465
Special assessments				73,750	512,024	486,593	417,811	734,094	703,796
Other*	230,022	167,915	182,632	40,924	179,858	150,279	196,559	253,979	281,478
Total Revenues	**578,026**	**587,071**	**677,686**	**607,487**	**1,013,373**	**738,089**	**743,524**	**1,079,769**	**1,055,739**
Expenditures									
Salaries and benefits	247,247	223,597	246,704	227,935	317,470	269,748	364,753	527,088	646,592
Administrative [†]	87,122	64,239	240,960	109,427	103,334	65,950	49,160	65,519	115,832
Operations [‡]	102,603	131,312	154,711	94,980	119,148	98,619	150,205	154,913	125,920
Utilities	13,933	7,321	18,035	14,931	18,609	29,692	33,287	43,144	46,567
Capital outlay	41,461		38,868	601,688	134,417	108,985	260,768	244,945	69,924
Debt service									
Issuance cost				30,993					
Interest and fiscal charges					69,573	68,041	87,240	64,057	24,536
Principal retirement					15,000	20,000	20,000	20,000	
Total Expenditures	**492,366**	**426,469**	**699,278**	**1,079,954**	**777,551**	**661,035**	**965,413**	**1,119,666**	**1,029,371**
Revenues Over (Under) Expenditures	**$ 85,660**	**$160,602**	**($21,592)**	**($472,467)**	**$ 235,822**	**$ 77,054**	**($221,889)**	**($ 39,897)**	**$ 26,368**

Source: Audited financial statements of the Ortega Trail Recreation and Park District.

* "Other" includes revenue sources such as Quimby Act fees, grants, interest income, and park fees.

[†] Examples of administrative expenditures include director's compensation, legal fees, election expenses, and management and consulting fees.

[‡] Examples of operating expenditures include rent, insurance, contractors, maintenance, printing, and program supplies.

[§] Auditors hired by the Ortega Trail Recreation and Park District stated that they could not determine whether the financial statements for fiscal year 1996-97 correctly reflected the park district's financial activities because the books and records were unauditable.

APPENDIX C

Status of the Ortega Trail Recreation and Park District's Remaining Properties

Table C.1 depicts the properties that are still in the Ortega Trail Recreation and Park District's name as of August 8, 2002, and are now the responsibility of Riverside County.

TABLE C.1

The Ortega Trail Recreation and Park District's Remaining Properties as of August 8, 2002

Name and Address	Acquisition Information	Size and Description
Windsong Park 35459 Prairie Road, Wildomar	The park was a Quimby Act land dedication accepted in August 1991.	2.6 acres (2.1 used as park and 0.5 left undeveloped)
Regency Heritage Park 20171 Autumn Oaks Place, Wildomar	The park was a Quimby Act land dedication accepted in October 1992.	5.8 acres (3.3 used as park and 2.5 is a drainage channel)
Bundy Canyon Open Space Bundy Canyon Road, Wildomar	The park was a Quimby Act land dedication accepted in August 1993. The land was received as part of a litigation settlement in connection with Canyon View Park. In 1998, the park district relinquished its access rights to the property used for Canyon View Park.	3.5 acres (no improvements, open space only)
Marna O'Brien Community Park 20505 Palomar Street, Wildomar	The original 7 acres were purchased in March 1992 with certificates of participation and an additional 2 acres were purchased in May 1996 with Quimby Act fees.	9.0 acres (park includes district office, parking lot, maintenance shop, playground, ball fields, etc.)

Sources: Riverside County and Ortega Trail Recreation and Park District documents and records.

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Agency's comments provided as text only.

Executive Office
County of Riverside
Larry Parrish, County Executive Officer
4080 Lemon Street, 4th Floor
Riverside, California 92501

November 19, 2002

Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

We have reviewed the Draft audit of the Ortega Trail Recreation and Park District (District) and, as requested, are providing our comments with regard to the report on the enclosed diskette.

Initially, with respect to the Quimby fees and dedications, it is our understanding that you have determined the District acted in substantial compliance with existing law. While the County has identified procedural problems over the years, we would concur that the District appears to have acted appropriately in its collection and expenditure of the fees.

With regard to the two assessment districts established within the District, we concur that these appear to have been both properly formed and operated. With the exception of the assessment levied within the Wildomar assessment district, there does not appear to be any need for additional review.

You have recommended that the County make a determination as to whether assessments collected subsequent to the passage of Prop 218 are consistent with The Right to Vote on Taxes Act. Specifically, you have suggested the County "obtain a formal written legal opinion" as to whether the Wildomar assessment was in compliance with the Act.

As we discussed yesterday, we will share your findings with the Riverside County Board of Supervisors. Consistent with your recommendation, it is our intent to request authorization to cause a legal opinion to be prepared addressing the collection of assessments within the Wildomar assessment district.

Lastly, we would take this opportunity to comment on the extremely professional and efficient manner in which Jerry Lewis conducted the audit requested by the Joint Legislative Audit Committee. Please let us know if further discussion is needed and feel free to contact us with any questions or concerns you may have.

Sincerely,

(Signed by: Ken Mohr)

Ken Mohr
Assistant County Executive Officer

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press