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To: Chairman Ken Staton, & MVWD Board of Directors  
From: Joseph Davis, General Manager  
Date: July 29, 2020  
Subject: Logandale 20, (KB HOMES)

### Background

At the November 17, 2017 Board of Directors meeting, Staff was instructed to research the Districts obligations to the 2 request's by KB Homes concerning their *Logandale 20 Subdivision project* that was abandoned.

- 1- A refund of the monies paid for water connections
- 2- Can KB Homes keep the water resource commitment to the property?

Section 12.3 of the Districts Water Rights Dedication Ordinance states

*A Developer with a subdivision Development who does not intend to pursue his Development may obtain a return of Dedicated Water Rights, and/or a refund of any payments for the Fair Value of Water Rights and/or payments for the cost of Facilities not otherwise expended by the District, upon filing and having recorded a reversion to acreage map (reversionary map) with the Clark County Recorder, provided such filing is done prior to the lapse of the Developer's building permit for the Development issued by Clark County.*

The answer to the first question is clear, The Developer bought 31 residential meters for \$145,700.00 (\$4700 a meter) and had one meter installed on the property. The developer never pulled a building permit and performed the revision to acreage map with the County recorder's office. The developer is due a refund in the amount of \$141,000.00 for the uninstalled water meters.

The answer to the second question is a bit more complicated to quantify and is answered in three parts.

The development was originally part of 3 parcels and had 3 residential unit exemptions for the project. The District accepted payment from the developer for 8 residential units in the form of monies per the *payment in lieu of dedication of water rights policy* in the amount of \$37,840.00 / \$4730.00 per unit and 4 shares of water stock in the Muddy Valley Irrigation Company equal to 19.8 residential units for a grand total of 30.8 residential units.

First – The map filed with the County Recorder’s office turned the 31 parcel’s to 1 parcel. The parcel has one residential meter currently installed and loses its exemption to the other 2 residential unit exemptions.

Second – The 31 parcel subdivision was recognized by the Nevada State Engineer’s office as having a water allocation from the Arrow canyon permit in the amount of 34.72 acre-feet annually. With the filing of the reversion to acreage of 31 residential lots to 1, the District was credited the water allocation of 34.72 acre-feet annually back to permit 52520. If the developer is allowed to “keep” the water commitment to the project, it will tie up and prevent the District from proving up on the water for an unidentifiable time.

The developer is due a refund of the *Payment in lieu of dedication of water rights*. The refund for 8 residential units for the payment in lieu of water rights would be \$37,840.00

Third – Section 15.10 of the Water Rights dedication Ordinance states

*Persons who have deeded Water Rights Held For Future Development to the District and who wish to have some or all of such rights reconveyed to them by the District without being used by a Development, may request such reconveyance in writing, given such evidence of authorization for the request as may be reasonable requested by the District. However, the District shall retain a portion of the water rights equal to 10% each year of the amount requested for reconveyance.*

The developer is not due a refund of the 4 shares of Muddy Valley Irrigation Stock held by the District for the abandoned project.

**(The District officially posted this item on the February 9, 2017 and March 9, 2017 Board Meeting Agenda for possible action, Representatives from KB Homes failed to show up to discuss the proposed action)**

**Staff was again contacted by KB Homes representatives in June 2020 to inquire about refunding of the moneys spent along with the water shares dedicated to the Logandale 20 project. After researching the District’s archives and conferring with legal counsel, staff was advised to have the item again placed on the agenda for discussion and possible action.**

### **Suggested Motion**

Move to instruct staff to terminate the construction agreement with KB Homes Nevada Inc. and refund \$178,840 for monies paid for 30 meter connections and 8 payment in lieu of dedication of water rights