LLD COMMISSION - SPECIAL MEETING

July 22, 2026 at 2:00 PM

Greenhorn Members Lounge - 711 McCauley Ranch Rd, Angels Camp, CA 95222

AGENDA

To view or participate in the meeting online, please use the following link:

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Meeting ID: 229 834 844 875 | Passcode: Ei2V7x7X
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Or call in (audio only): +1 209-662-6903,,253817460# United States, Stockton
Phone Conference ID: 253 817 460#

In person public attendance will be available with limited seating. Seats are available on a first come, first served basis. Members of the public shall have the right to observe and offer public comment at the appropriate time.

THE LLD COMMISSION appreciates your interest and encourages your participation. The commission meets every first Thursday at 2PM of each month.

The numerical order of the items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Chair or Commission Members. All questions shall be directed to the Chair who, at his/her discretion, will refer to Staff.

Appeals: Any decisions of the LLD Commission may be appealed to the City Council within 10 days of the decision, by submitting a written request and applicable fee to Angels Camp City Hall.

Chair Tom Wrightson | **Vice Chair**

Commissioners Stephen Archer, Peter Hooberman, Ray Romero, Stephen Wilcox, Jim Dinwiddie, Tom Wrightson

City Clerk Haley Bugarin

2:00 PM SPECIAL MEETING

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF THE AGENDA AS POSTED (OR AMENDED)**

4. APPROVAL OF MINUTES

A. No minutes to approve.

5. PUBLIC COMMENT

Any land use item of interest to the public that is within the subject matter jurisdiction of the Commission and is not posted on the Consent or Regular agendas may be addressed during the Public Comment period. California law prohibits the Commission from taking action on any matter which is not posted on the agenda unless it is determined to be an emergency by the Commission. Five minutes per person.

6. LLD COMMISSION BUSINESS

A. **Discussion:** Wetlands Ownership and Responsibility - Stephen Archer, LLD Commissioner

7. COMMITTEE REPORTS

8. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at City Hall 209-736-2181. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II) Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection at City Hall at 200 Monte Verda Street Ste. B, Angels Camp, CA 95222 during normal business hours. The Agenda is also available on line at www.angelscamp.gov.

Evaluation of the Responsibilities for Wetlands, Wildlife Corridors and PCRs Within Greenhorn Creek

Stephen Archer, November 24, 2022

Objective:

There is continued controversy regarding the responsibilities and liabilities for the wetlands, wildlife corridors and Protected Cultural Resources within the Greenhorn Creek Landscaping and Lighting District (LLD) among the US Army Corps of Engineers (USACoE), the Golf Course owner (Greenhorn Creek Resort - GCR, the City of Angels, and the LLD operations (Owners LLD Committee). This has caused unrest in a sector of our community and among these entities in the past and needs to be resolved once and for all. With regards to the wetlands there are two separate topics of responsibility, the preservation, maintenance, and monitoring of areas to be left natural, and how to meet the area requirements agreed including quantity of wetlands and quality of their water.

References:

There is much documentation on this subject including the results of a lawsuit brought by some members of the owner community against the City of Angels as a result of cattail clearing performed by the City using LLD funds, see below. The chronological story based upon my neophyte review of the complex set of documents I have been able to review is as follows:

Wetland Preservation and Compensation Plan (WPCP), Gold Cliff Golf and Country Club (September, 1993)

This plan was submitted to the USACoE by biological consultant Michael Skenfield on behalf of Mr. Stevenot, the Greenhorn Creek developer. It presented a design plan to mitigate the loss of wetlands due to the golf course planned development. Of the total of 11.34 acres initially, 6.83 acres would be preserved, or 4.41 acres lost. 7.67 compensation acres were offered in the plan, all outside the proposed golf course area. I can’t tell how much of this plan was implemented.

One of the stated requirements of the Fish and Wildlife Service was that there would be a 10-to-30-foot buffer between the wetlands and the golf course. This was never implemented.

This document defined the needed temporary fencing around the mitigation areas during their construction.

Bardon Stevenot Letter to USACoE (November 1993)

As an addendum to the above Wetland Preservation and Compensation Plan, Mr. Stevenot wrote, “The downstream area from the existing pipe drain area shall be maintained at a minimum of 3 GPM by the insertion of Angels Creek surface water or by well water produced on site by existing wells.”

City and reclaimed water is used as the water source with chemicals potentially damaging to the wetlands. The cost of this water is currently borne by GHR.

Two wells were dug and utilized prior to 2001 after a fire near Murphys temporarily adversely affected the Angels Creek water flow according to Mike Kristoff, former GHR General Manager One of these wells was situated below the outlet conduit from the large pond on Hole 5 and they pumped water back up that conduit to maintain the water level in that pond. One such well is situated on Peter Hooberman's property.

When the flow of Angels Creek resumed, and since the wells were on private property, these wells were abandoned although not decommissioned.

Development Agreement Between the City of Angels and Mr. Stevenot (1994):

The City entered into a development agreement with Mr. Stevenot (GCR) to develop the Gold Cliff Golf and Country Club community (now Greenhorn Creek) with many construction requirements specified. This agreement was to run with the Project and each parcel thereof. The developer was to act as an agent for all parcel owners.

This agreement was to terminate ten years after the agreement was signed on the basis that the requirements of the project development would have been fulfilled by then. It was terminated in 2004 but never recorded as terminated by the City, I am led to understand.

It allowed preservation and development of open space areas, including wetlands mitigation areas, elderberry habitat, and cultural protection areas. It did not adopt all the recommendations of the 1993 Wetland Preservation and Compensation Plan.

It stated that it would establish a Landscaping, Lighting Maintenance District (LLMD) to pay for landscaping and lighting in the community as well as the maintenance and monitoring of required wetland mitigation areas, elderberry habitat and cultural resources preservation areas. There was no further definition of the word "MAINTENANCE".

USACoE 404 Permit (1995):

In response to The Wetland Preservation and Compensation Plan for the Gold Cliff Golf and Country Club, dated 1993, the USACoE issued a permit to Mr. Stevenot, Greenhorn Creek Developer in 1995 to authorize and specify the building of mitigation for the wetlands in the LLD (lakes) and to specify long term MONITORING OF THE AVOIDANCE, PRESERVATION, AND MITIGATION AREAS IN THE LLD once the mitigation areas were established. These mitigation areas were to have specified buffer areas and were to be monitored and reported to the USACoE and others for a period of 8 years after the mitigation was completed. It was implicit that after 8 years the process would be well established for the future. The term "MAINTENANCE" is only introduced in items 10 and 11, where the permit states that maintenance is on site preservation, mitigation, avoidance, and buffer areas"

This permit also required the formation of a funding mechanism such as a Landscaping and Lighting District to fund the long-term maintenance of the onsite preservation, mitigation, avoidance, and buffer areas and to record restricted deeds in order to maintain these areas in perpetuity.

This permit stipulated the type of fencing around all mitigation, preservation, avoidance, and buffer areas. It is not clear whether this refers only to the construction fencing defined in the WPCP or some long-term fencing needed for preservation and to keep humans out.

The term "Protected Cultural Resource" is not used in either the 404 Permit or the WPCP. Instead, the term "protected area" is used.

<u>Formation of the Greenhorn Creek LLD by the City of Angels (1995)</u>

In response to the USACoE 404 permit requirement, the City of Angels constituted the Greenhorn Creek LLD in 1995.

<u>First City of Angels Engineer's Report for the Greenhorn Creek LLD (1995-1996 Fiscal Year) (Found in Legal Opinion Richard Shanahan, 2013)</u>

Mr. Shanahan, see below, quoted this engineer's report as stating that "the maintenance of the areas (in question) should be nil inasmuch as these areas are to be avoided and left to develop naturally." The engineer only allocated $2,800 for these tasks. It would appear that the intent of the USACoE was that the wetlands, wildlife corridors and PCRs (except PCR2) were to be left untouched and protected by humans to grow naturally. Maintenance of the wetlands would then be the fences, signs, and buffer areas to protect them.

<u>As Built Wetland Mitigation Map by Michael Skenfield (July 1998)</u>

This is the basis for the mitigation that was implemented by the developer. Attachment to the Horizon Report of December 2011, see below.

<u>Declaration of Restrictions for Wetlands, Elderberry Preservation and Mitigation Areas, Streamcourse, Woodlands and Cultural Resource areas in Greenhorn Creek Project (1999) (Found in Legal Opinion Richard Shanahan, 2013)</u>

The developer registered this declaration to preserve these areas as defined in this declaration in perpetuity. It stated that the Assessment District was established to fund these measures in perpetuity to conduct the habitat conservation, maintenance and monitoring detailed in the Corps permit.

<u>Second Wetland Monitoring Report, Greenhorn Creek Project by Michael Skenfield for the USACoE dated August 1999</u>

The author evaluated the wetlands as part of the five-year plan to do so. He reported that "most of the wetland plots are fully stocked (meet the minimum diversity of 4 species and cover of 80%). Plots not stocked merely need more time.

<u>Mitigation Modification Request to Greenhorn Creek by ECORP – Sugnet, Environment Consultants (Sept. 1999)</u>

These consultants recommended 4 sites of further modification, noting that the original compensation wetland habitat construction project was completed in 1997. These modifications to change wetlands depth were intended to relieve mosquito and algae growth issues. I am not sure if these modifications were ever carried out.

<u>Letter Michael Skenfield to Mr. Grant Wilson, Greenhorn Creek (May, 2003)</u>

Mr. Skenfield reminded the Golf Course management that the as built configuration of the wetlands as shown in the As Built Map and First Wetland Monitoring Report dated August 28, 1998 constitutes a legal obligation that Greenhorn Creek has entered into in perpetuity. The lake is primarily a wetland and wildlife habitat. He further states that the U. S. Fish and Wildlife Service has jurisdiction and federal enforcement officers who enforce violations of the USACoE permit requirements.

He further states, "in order for the Greenhorn Creek project to get the necessary approvals and permits it needed to provide mitigation habitat within the project. This agreed upon habitat including wildlife corridors needs to be honorably implemented and respected in order to prevent the necessity of any legal enforcement issues."

USACoE Memo to the LLD Committee Members (September, 2003):

In response to a request by LLD Committee members Jim Greed and Bill Murphy, Andrea Jones of the USACoE stated that it was acceptable to hand trim cattails in the WE-54G, spillway of the lake and the drainage inlet area only for visibility reasons and only for a 30-foot length and during period from August 1 – October 1. There is a map that defines these areas. I don't believe that either the City or the Golf Club Owner were copied on this email chain.

Letter from the USACoE to Mr. Grupe, Golf Course Owner and Greenhorn Creek Developer (GCR) (November 2003)

Nancy Haley, San Joaquin Valley Branch Chief of the USACoE wrote to William Murphy, the Grupe Company about the ten deficiencies that the USACoE found during their September 5 year audit by Andrea Jones. These included,

1. Lack of a 50-foot buffer between the mitigation and preserve areas and streamcourses and developed land. Also, there were no fencing or signage around preserve features to alert the public of the preserve area status.

2. Fencing not installed around the outside edge of the buffer of Wilson Reservoir (the lake) as agreed in the modification response letter of May 27, 2000, which is in violation of requirement agreed in the Biological Report October 26, 1993 which states "Permanent fencing shall be placed around each of the ten mitigation areas and the eight sites where the elderberry bushes are located to prevent unauthorized entry by off-road vehicles, golfers, equestrians or other parties . . ."

3. Concern was expressed about too much leeching of golf course chemicals into the ponds/lake.

This letter was also brought up much later at the August 17, 2012, City Council meeting, agenda item #3, Engineer's Report review, in a memo from Gary Croletto, LLD owner and committee member, who states, "In a letter from the USACoE to the Grupe Company at the Greenhorn Creek Resort on November 3, 2003, they state that the Golf Course is not in compliance with 10 conditions of their permit after the COE site inspection by Andreas Jones. Looking at the letter I find that the USACoE gave the Golf Course three months to provide a remediation plan and six months to complete the plan." The original letter actually required a remediation plan to be completed in one year.

Apparently, the Grupe company either ignored this request or responded negatively. I have no documentation of this.

Subsequent Letter to the City by the USACoE (January 2004)

The USACoE in a letter to the City dated 1/8/2004 because there had presumably been no action by the Golf Course to the above letter, states "As preserve manager, the City of Angels assumed the responsibility to ensure the preserve is managed and maintained in compliance with permit conditions. Failure to manage the preserve could SUBJECT THE ORIGINAL PERMITTEE (THE GOLF COURSE) TO ADMINISTRATIVE PENALTIES OR OTHER ACTIONS." The USACoE recommended that "the LLD of the City of Angels should work with the Grupe Company to generate and implement a remediation plan for the Greenhorn Creek Resort to avoid potential adverse action.

Letter from Mr. Daniel Reidy, Attorney to Mr. Richard Matranga, City Attorney (2004)

I am not sure if the City tried to work with the Grupe Company, but the City Attorney hired Mr. Reidy to evaluate the City's responsibility in this matter.

Mr. Reidy, an expert in land use and environmental law, assessed the legal responsibilities of the LLD at Mr. Matranga's request. He stated that wetlands created from otherwise dry lands are named artificial wetlands. He also pointed out there are "plentiful instances of the Army Corps pursuing enforcement actions against golf courses for violations of the Clean Water Act because they use chemicals for fairway or water feature maintenance which drain into and adversely affect the habitat value of wetlands."

Mr. Reidy stated that during the planning of the community, that the Army Corps declined to accept that the planned wetlands would be equivalent to those which existed before the community development. They "wanted a financial and management mechanism in addition to the original developer's assurances so that the requirements of the 404 permit, (sic, wetlands, wildlife corridors and PCRs) would be protected and maintained on a long-term basis."

Mr. Reidy pointed out that "the lakes and ponds in question have not been identified as areas of work for the District in the District's annual Engineer's Reports since the District was formed in 1995." In order to add this work to the LLD the engineer of work would have to demonstrate in the next Engineer's Report that this work would confer special benefits to ALL the members of the LLD and not just a special benefit to the Golf Course, one of the LLD members.

Mr. Matranga's memo requests that resulted in Mr. Reidy's legal response asked about lakes and ponds vegetation trimming, improving water quality and mosquito abatement. Mr. Reidy responded that "it may be difficult to demonstrate that such services are of special benefit to the property owners of Greenhorn rather to the general public." He also stated that "maintenance of water quality for the purpose of improving the visual appearance of the lakes and ponds would seem to be more properly included within the golf course maintenance program than added to the District's work program." He added, "The only aquatic vegetation management that seems to me to be appropriate for inclusion in the District's work program is maintenance of vegetation areas identified in the Army Corps Section 404 permit.

Again, the scope of the word "maintenance" was not specified.

City of Angels Memorandum to Tim Shearer, City Administrator from Gary Ghio, City Engineer/LLD Engineer re GHC LLD No. 1 Wetlands Maintenance dated February 18, 2005

This letter was referenced by owner Mr. Croletto in his input on August 17, 2012 to City Council. I do not have a copy and do not know the contents of this memo.

There is a gap in my knowledge of the period 2005 and 2011.

<u>Existing Conditions Report, Greenhorn Creek Wetlands Management Project by Horizon Water and Environment for the City of Angels (December 2011)</u>

Horizon states that they were contracted by the City of Angels to develop a plan for short and long term maintenance of the wetlands since there had been a decline in their aesthetic and ecological functions and values due to lack of maintenance, management and sedimentation. Their evaluation showed a current ratio for the wetlands of 1.57 times the area affected by construction compared to the as built value of 1.76 in 1998. That is 1.3 acres of the mitigation wetlands were no longer functioning as waters of the United States. There was some increase in emergent wetlands that would benefit some animal species and hinder others and sedimentation was occurring in some locations.

<u>Notification from the USACoE to the City of Angels to Prepare a Mitigation Restoration and Management Plan (April 2012)</u>

This document is referenced in the Horizon document below (Draft 2012) to require a restoration of the wetlands to their as built 8.081 acre value. I have not seen this document.

<u>Greenhorn Creek Wetlands Management Project, Restoration Mitigation and Management Plan by Horizon Water and Environment for the City of Angels (Draft August 2012)</u>

I don't know if this report was ever finalized or implemented.

Horizon recommended corrective actions but added that payment of an in-lieu fee may be required for wetland area that cannot be reestablished. They discussed the possibility of removal of cattails in the large pond offering that this could be done at the discretion of the City and the Greenhorn Creek community. This last statement contradicted the USACoE requirements to leave the wetlands natural with the exception of the hand trimming defined in September 2003, see above.

The Horizon plan estimated a one-time $102,500 to $185,500 cost for the restoration of the wetlands and a $18,400 to $31,600 annual cost for monitoring and maintenance of the wetlands. Also, subsequent to the restoration, there would need to be an in-lieu payment to the USACoE of between $30,000 and $60,000 based upon a $150,000/acre requirement.

<u>Letter to Michael McHatten City of Angels from Richard Shanahan Regarding Wetlands Mitigation Maintenance and Restoration (April 2013)</u>

Mr. Shanahan was responding to a request from Mr. McHatten to give a legal opinion. He stated that the City should separate the question of responsibility for maintenance and monitoring from the responsibility for restoration and enhancement. In his legal opinion, the city is not accountable for restoration or enhancement of the wetlands. There is no documentation or record of the developer ever transferring responsibility for the wetlands to the City. Nor is there any documentation from the USACoE that legally imposes such a responsibility on the City. Any decision by the City to implement such recommendations in the Horizon Plan of August 2012 would be a business and policy decision.

Further, the City should assume responsibility for the funding and performing the long-term monitoring and maintenance of the Project wetland areas under the 1994 Development Agreement.

Also, he stated that the City is not responsible as permitee for non-compliance with the Section 404 permit.

He further stated that the City could use assessment district revenue to fund the monitoring, maintenance, restoration, and enhancement of the mitigation wetland areas as long as it stayed within the $300 assessment or invoked the Proposition 218 process.

There were $307,000 in the LLD account due to reserves for road maintenance. When the City assumed the road maintenance responsibility in 2010, these funds became surplus such that the City considered using them for the improvements for the wetlands. In Mr. Shanahan's opinion, the City should apply the surplus as a credit against the assessment levy calculation in the next year's Engineer's Report.

He recommended that the City send the USACoE a letter stating that since the responsibility for these wetlands had never been transferred legally from the Developer to the City, that the City had no accountability for restoration, enhancement, or in-lieu penalty fees.

Superior Court of California, Calaveras County Ruling (May 20, 2015)

When the 2013-2014 Engineer's Report recommended using the surplus $307,000 for restoration, enhancements, monitoring and maintenance of the wetlands based on the Horizon recommendations that were likely not finalized, a small segment of the GHC owners objected at City Council meetings. The City accepted the ER on July 2, 2013. When they authorized the expenditures on July 16, 2013, the owners sued the City on August 15, 2013.

The matter was tied up until a court hearing could be held on April 8, 2015. The plaintiffs were owners Steve Difu, Gary Croletto, Carmin Rosato and Craig Turco. The Lawyer for the City was Derek Cole.

The plaintiffs wanted there to be a Prop 218 vote on use of the funds since the assessment was being increased compared to the previous year and/or the surplus funds returned to all the District property owners.

They argued that the wetlands remediation and maintenance cost should be borne by the owner and permit holder of the wetlands, the Greenhorn Creek Golf Course. They wrote that the developer created CC&Rs acknowledging responsibility for maintenance staff for the lakes and ponds within the district that are the wetlands preservation areas. The District's Engineer's Reports from inception in 1995 through 2004 defined only monitoring of these wetlands with a very small $ effort. They referenced the Shanahan opinion that the City was not responsible for wetlands restoration or enhancements unless they chose to assume that responsibility. There was no legal transfer of the 404 permit away from the permittee owner.

They further claimed that the use of the surplus funds for restoration of the wetlands did not benefit all the LLD owners, and gave a windfall to the Golf Course owner, one of the LLD owners.

Mr. Cole for the City countered that in 1999 the community supported an increase in the assessment through the Proposition 218 process bringing the value to $300 annually. In this ER it was stated that the LLD would preserve the special wildlife habitat. The 404 permit and other requirements documents stated that the LLD would fund the maintenance and monitoring of these wetlands, not just monitoring. Further, since the 2013-2014 assessment was being raised from $108.48 to $298.93 but was still less than the previously authorized $300, this was an acceptable level of expenditure not requiring a new Prop 218 vote by the LLD owners. Lastly, they argued that all parcels had been sold, there was no longer a developer, and the Golf Course operator was being assessed a greater value than individual owners.

The petitioners responded that the City received a positive input for using the surplus funds for wetlands restoration by only 14% of the LLD owners. They said that the Streets and Highway Code section 22525 does not include wetland restoration under its list of allowable improvements and reiterated that the surplus funds should be returned to the LLD owners. They claimed that there was an unambiguous Developer – Greenhorn Creek Golf Course – still the 404 permit holder who had allowed the wetlands to degrade in the first place.

The court ruled in the City's favor, stating that the City legally took responsibility for the wetlands remediation and maintenance as a discretionary business and policy decision and that they properly requested community comment before doing so.

Further they stated that the $286.12 assessment was within the authorized $300 assessment and that the properties in the LLD received a special benefit over and above those of the public at large, thereby satisfying the Prop 218 requirement.

Therefore, the plaintiffs' Writ of Mandate was denied.

Legal Brief by Derek Cole, (June 19, 2015)

This brief mostly mirrored the Superior Court Ruling Document, above plus Mr. Cole added that the petitioners' argument that the in-lieu fee to pay off the USACoE for lost acreage should not be borne by the LLD. The court believed that the SCI Engineer's Report demonstrated that all LLD owners benefitted from the improvements because they had access to the wetlands and that the in-lieu fee was necessary as part of the legal remediation since all lost acreage could not be restored.

Letter from Kathleen Norton, USACoE to the City Engineer, Rebecca Neilon (May 24, 2022)

In response to the City Engineer's questions, Kathleen stated that

1. Permit was issued to the original development team. The permit stands with the land.
2. The current landowner is responsible for the permit and any lost wetland acreage unless the City has accepted this avoidance/mitigation area.
3. The permittee is responsible for any lost acreage mitigation unless responsibility was transferred to the LLD or the City.

The question remains of whether the golf course owner of the wetlands in question is still the permittee If the permit was never transferred legally, or whether it is all the LLD owners now that the Development Agreement is over and the wetlands (lakes) are considered of value to all owners by the court based on the SCI Engineer's Report 2015.

Conclusions

Not being a lawyer and without the benefit of "being there" I draw the following conclusions/observations.

1. The term maintenance by the LLD in the Development Agreement (1994) and the USACoE 404 permit was ill defined. Some glimpse into the intent can be found in the first Engineer's Report (1995) where it is stated that the intent was that the maintenance of the areas should nil inasmuch as these areas are to be left alone to develop naturally. Only $2800 was inserted for this maintenance that year which was for fencing and signage to protect these areas.

2. Maintenance by the LLD is now being interpreted by some to mean maintaining the water level and flow levels as well as acreage levels of the wetlands and trimming of vegetation. As I understand it, water to attempt to replenish the levels comes from the City supply through an GHR meter and the water is being paid for by the GHC funds. The letter from Mr. Stevenot in November 1993 stated, "The downstream area from the existing pipe drain area shall be maintained at a minimum of 3 GPM by the insertion of Angels Creek surface water or by well water produced on site by existing wells." Clearly his intent was for the Golf Course developer to dig those wells and provide the necessary water if necessary. In fact, he did so, in part and then abandoned it/them. One other issue with City water is the impurities in it and their impact on the quality and potentially quantity of the wetlands, not to mention the impact on aquatic and flying species.

   With ongoing drought and increased temperature conditions likely persisting in future, and with likely further federal and state restrictions on water use, it could be prudent for GCR to reactivate that/those wells. Such a cost has not been contemplated in any LLD budgets.

3. A major risk is the need for restoration or potential payment of more in-lieu fees for lost wetlands acreage. In his review of the situation Mr. Reidy, an expert in land use and environmental law in response to the City's Attorney Mr. Matranga's requests in 2004, stated "the maintenance of water quality for the purpose of improving the visual appearance of the lakes and ponds would seem to be more properly included within the golf course maintenance program than added to the District's work program."

4. The USACoE initially contacted the Grupe Company in November 2003 to correct the wetlands deficiencies found in their 5-year inspection earlier that year. Clearly, they believed that the permittee owner of the golf course was responsible for this restoration at that time. This was just before the 10-year sunset clause of the Development Agreement was set to expire (in 2004). When they presumably didn't get a favorable response from the Grupe Company, they approached City as the preserve manager in January 2004, stating the City of Angels assumed the responsibility to ensure the preserve is managed and maintained in compliance with permit conditions. Failure to manage the preserve could SUBJECT THE ORIGINAL PERMITTEE (THE GOLF COURSE) TO ADMINISTRATIVE PENALTIES OR OTHER ACTIONS." The USACoE recommended that "the LLD of the City of Angels should work with the Grupe Company to generate and implement a remediation plan for the Greenhorn Creek Resort to avoid potential adverse action. Clearly, the USACoE felt that any administrative penalties would fall on the original permittee.

5. After some legal and expert opinions, that took several years to obtain, including a never-finalized plan for the remediation and enhancement of the wetlands areas by Horizon, the City chose to use surplus LLD funds to implement the remedial action. They had been advised that they did not legally have to do that, yet they could do so if it made good business sense. After a lawsuit by LLD owners was settled in the City's favor they proceeded to use the funds for that purpose including the payment of an in-lieu fee I believe. The remaining question is whether the court ruling was predicated on the financial aspects relative to the Prop 218 assessment of $300

and whether they were approving the one-time restoration if the City chose to implement it, or were they stating that the City (LLD), having set the precedent would continue to be accountable for future restorations and in-lieu fees? The COA (Rebecca Neilon) stated that it was a one-time use of surplus funds only decision.

6. One question I have is whether the LLD became the "property owner" when the Development agreement expired, i.e. in 2004? If so, then the LLD would be responsible for any future restoration or in-lieu fee payment that might become necessary. The letter from the USACoE to Rebecca Neilon this May stated that the responsibility for restoration and any penalties would be the permittee unless responsibility was transferred to the City or the LLD (i.e. runs with the land). It would appear that the permit was never legally transferred. So is the permittee the downstream owner of the golf course upon whose land the wetlands in question are located, or is it the entirety of the LLD owners of which the golf course owner is one? The in-lieu fees to remove these wetlands from the waters of the United States so that it can be a self-managed golf course lake would cost about $1M (SCI 2022). This would be the simplest way to gain full control of these wetlands. If it were to be an LLD responsibility this would be very expensive for the LLD owners (~$1,667) one-time assessment) so this is not a viable option.

   If some would say that the LLD is now accountable for complete wetlands maintenance, water, restoration, vegetation control, then essentially, we have become a golf club maintenance management group. I don't think that was ever intended. The LLD has no control over what chemicals are used on the golf course and their impact on the quality and quantity of the wetlands. Our task was to protect the wetlands in its native state.

7. The permit required a 10–30-foot natural buffer between the wetlands and the mowed golf course. In the 2003 USACoE review, they stated the buffer requirement is 50 feet. This was never implemented. It would be very expensive and would cause great consternation in the community. Resolution of this issue appears to be to complete unobtrusive fencing around the periphery of the lakes in question – which was also a requirement, with signage to alert golfers to stay out – which they now don't do along the fifth hole, in front of the sixth hole, and in front of the seventh tee.

8. In terms of the allowed Cattail hand trimming, the golf course crew is doing this, another example of the historical acceptance for responsibility. Let them continue to do this.