

REVISED
ENGINEERS' REPORT
SPECIAL BENEFIT ASSESSMENT

TULARE COUNTY OLIVE
PEST CONTROL DISTRICT

MARCH 2004



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REPORT SUMMARY

TO: Interested Landowners

FROM: Tulare County Olive Pest Control District

DATE: March 29, 2004

SUBJECT: Detailed Engineer's Report in Support of Service Charges

Dear Landowner:

The attached report is being provided to you based on your request and in accordance with the provisions of Article 13(D) of the California Constitution and specifically in accordance with the provisions of Section 53750 through 53753.5 of the Government Code of the State of California. These Constitutional and statutory provisions implement so-called Proposition 218, which was intended to establish certain mandatory procedures for the levy of special benefit assessments, as well as other assessments and charges by special agencies.

The Board of Directors of the Tulare County Olive Pest Control District has determined that the District should establish an assessment sufficient to raise \$303,800 in the first year and \$195,000, indexed for inflation, in subsequent years. Funds will be utilized to support the programs necessary to control pests affecting the production of olives, specifically at this time, the olive fruit fly. These programs include, at a minimum, educational programs, spray programs and trapping programs. The specific programs which are eligible to be funded with the proposed service charge are detailed in Chapter II.

The attached report also presents an evaluation of the proposal based on the statutory requirements of the implementing legislation for Proposition 218. This evaluation is presented in Chapter III. The evaluation is divided into two specific segments. The first of these is the determination of the eligibility and the extent of eligibility of each specified program. The second portion of the evaluation deals with the allocation of costs to the impacted landowners within the District. The requirement of allocation of costs on a proportional benefits basis is also addressed.

Per the Notice provided, a public hearing will be held by the District in order to consider and address comments and questions from affected landowners. In addition, procedures have been established whereby landowner may participate in that hearing, as well as the mandatory procedures by which all landowners affected by the assessment are entitled to respond to the imposition of the proposed assessments.

CHAPTER I
DISTRICT BACKGROUND DATA
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

GENERAL

The Tulare County Olive Pest Control District (District) was formed and organized under the provisions of the California Stone and Pome Fruit Pest District Control Law in 2002. The formation documents for the District indicate that the purpose of formation was to allow for an organizational mechanism having as its purpose the eradication or controlling of pests affecting the viability of the olive crop grown within the County of Tulare. The District was formed by authority of the Tulare County Board of Supervisors. The District contains lands which are varied in nature, including valley floor, foothill and mountainous terrain. The lands within the boundary of the District are presented on Figure I with crop locations also presented.

MISSION STATEMENT

The purpose of the District is to monitor, research and support the control of any pest or disease which endangers the commercial production and/or viability of olives in Tulare County.

OLIVE FRUIT FLY

The olive fruit fly, *Bactrocera oleae*, is considered to be the most serious pest of olive fruit in the world. In areas where this species is endemic and uncontrolled, its damage has been responsible for up to 100% loss of the table crop and 80% loss of the oil crop. The fly was first detected in the Los Angeles basin of California in 1998 and, by 2001, had spread to Tulare County. It has been detected as far north in California as the counties of Butte, Glenn and Tehama.

The insect lays its eggs in the fruit. As the eggs hatch, the larvae feed on the fruit. Processing and table industry officials have set a rejection threshold at one (1) percent infestation. This past season, one entire county (Butte County) was deemed fully infested and all commercial deliveries of harvested fruit were stopped.

The impacts of the fly on the fruit are numerous. Of significant impact, the larvae feeding on the fruit causes premature fruit drop. The infestation also causes an increase in fruit acidity. This increase decreases fruit and oil quality and is a principal cause for the rejection of fruit for oil.

CURRENT PROGRAMS

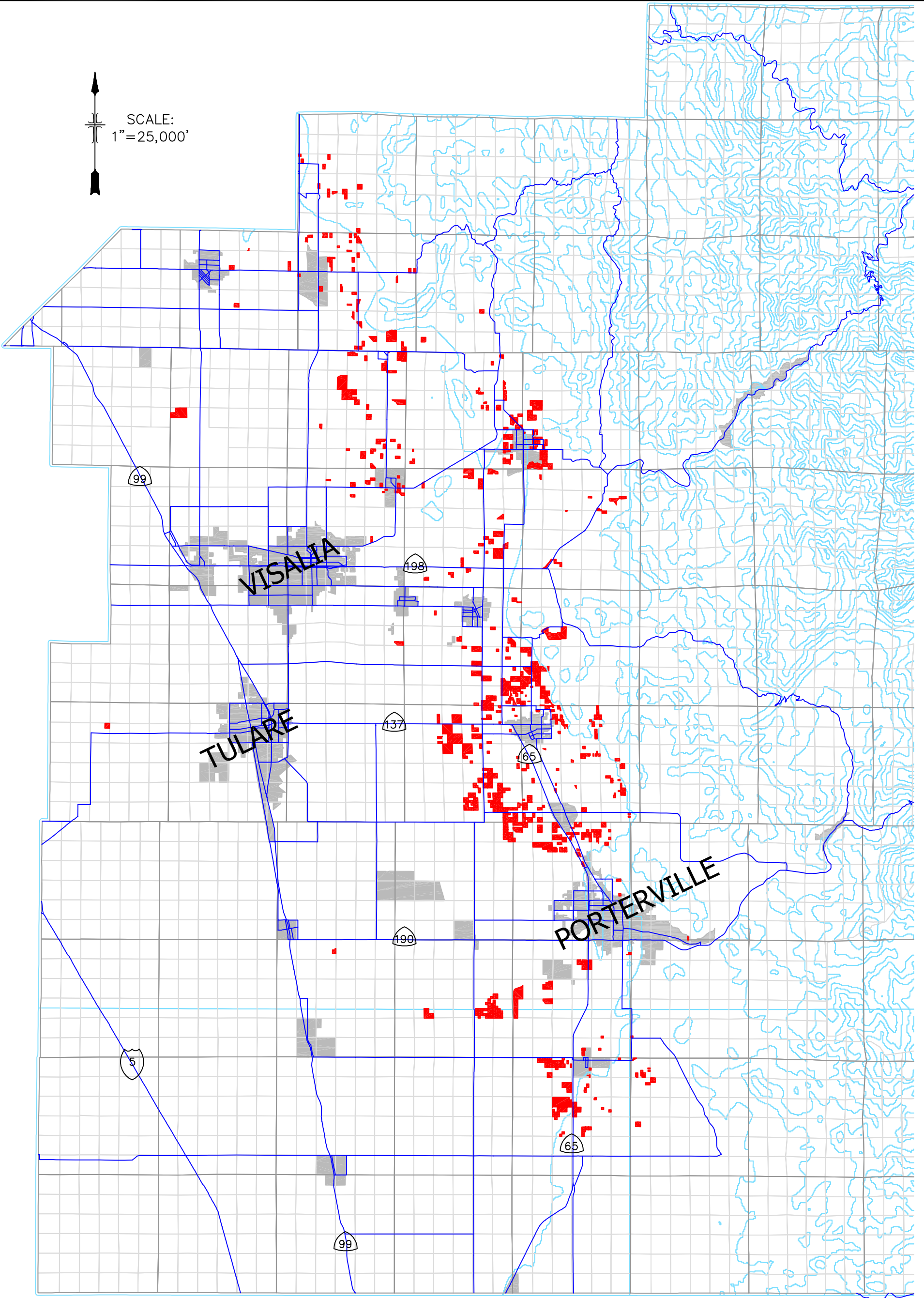
Several programs are in motion to address the problems generated by the fly, considered a statewide problem. Specific control programs have been implemented in the counties of Glenn and Butte and growers are being assessed in those counties to support those programs.

The California Olive Committee (COC) has been funding research to define the insect's biology, to determine potential chemical and biological control methods of control and the timing

of application of chemicals which have demonstrated the capability to control the pest. The COC has also been funding a two year monitoring program that includes all of the valley floor portion of Tulare County and extends from Bakersfield to Madera.

Recognizing the importance of the issue to the economy of Tulare County, the Tulare County Board of Supervisors has granted the District a loan to develop a control program. The loan proceeds were also granted to develop long-term budget strategies and benefit assessment procedures.

SCALE:
1"=25,000'



LEGEND

■ OLIVE GROVES

OLIVE GROVES WITHIN TULARE COUNTY
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

CHAPTER II
DISTRICT COST DATA
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

GENERAL

The District operates under a budget prepared on a fiscal year basis. The District's fiscal year runs from July 1 to June 30 of the following year. Said budget is prepared on a detailed line item basis and is subject to approval by the Board of Directors. Revenues are budgeted by source with expenditures budgeted by use in categories consistent with those utilized by the Auditor of the County of Tulare. Due to its formation date, the District does not receive any portion of the general county tax revenue resulting from the provisions of Chapter 13 of the California Constitution.

The District's principal source of revenue is anticipated to be income from assessments, with collection of said assessments requested to be by the County of Tulare in conjunction with collection procedures associated with general County property taxes. As such, the District must make provision to finance activities of the District from July 1 of each fiscal year until the first element of the then current revenue becomes available for distribution to the District. It is therefore a requirement of the

construction of each annual budget to specify a reserve to be carried forward from the prior fiscal year to fund expenditures during this defined period of time.

ANNUAL BUDGET

At the time of the preparation of this revised Report, the Board of Directors had replaced the original split budget for Fiscal Year 2003-2004 with a single budget. The Board also established revised preliminary budgets for Fiscal Years 2004-2005, 2005-2006 and 2006-2007. It was determined from this exercise that there were anticipated cost increases associated with labor and with the purchase of chemicals that required consideration. The Board also established an initial assessment rate and implemented procedures to conduct an election to allow for conformance with the provisions of Proposition 218. The purpose of the election will be to confirm the initial and future annual rates of assessment. The first year budget is presented herein in Table I and establishes balancing revenue and expenditures of \$50,000.

The total amount of grower assessments called for in the initial post election budget is \$303,800 representing an assessment rate of \$19.86 per acre planted to olives. This is based on a verified olive acreage as of the date of this Report of 15,296 acres. This assessment rate is proposed for the initial assessment only. The assessment rate is proposed to be reduced in subsequent years as the loans from the County of Tulare will have been repaid and a sufficient reserve will have been generated to cover the dry period between transmittal of assessment proceeds.

The budget for the initial post election year is presented in Table II. Budgets for the two subsequent years are presented in Table III. Assessment rates for the subsequent years are to be based on an actual tree count basis. The tree count will be established as a result of mapping efforts

undertaken in the initial post election year. The per tree assessment rate for Fiscal Year 2005-2006 is estimated at \$0.1700 and for Fiscal Year 2006-2007 is estimated at \$0.1709. The assessment rate is based on an average number of trees of 75 per acre on an estimated 15,296 acres.

TABLE I
ADOPTED BUDGET - FIRST YEAR
FISCAL YEAR 2003-2004
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

CATEGORY

	<u>Amount</u>
<u>Revenue:</u>	
County Advance(s):	
Approved June, 2003	\$ 50,000
Carryforward from previous fiscal year	0
<u>Revenue:</u>	
Grower Assessments	0
Interest Income	0
Total Revenue	\$ 50,000
 <u>Expenditures:</u>	
Proposition 218 Procedures:	
Legal and Engineering Consultants	\$ 11,700
Tulare County Ag Commissioner	5,000
Printing, Mailing, etc.	2,500
Public Relations / Outreach Program	5,000
Legal, Insurance, CPA	0
Administration:	
Meetings	3,300
Accounting	1,000
General	1,500
Operational Activities:	
Management	5,000
Mapping	0
Satellite Images	0
Database	0
Treatment Programs:	
GF-120 Applications	0
Mass Trapping Program	0
Attract & Kill Trap Program	0
Carryforward to fund first half of next FY	15,000
LAFCO Fees (repay Ag Commissioner)	0
Loan Repayment (<i>including interest</i>) - Tulare County	0
Total Expenditures	\$ 50,000

TABLE II
PRELIMINARY BUDGET - POST ELECTION YEAR
FISCAL YEAR 2004-2005
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

CATEGORY

	<u>Amount</u>
<u>Revenue:</u>	
County Advance	\$ 80,000
Carryforward from previous fiscal year	15,000
<u>Revenue:</u>	
Grower Assessments	303,800
Interest Income	1,000
Total Revenue	\$ 399,800
 <u>Expenditures:</u>	
Public Relations / Outreach Program	\$ 20,000
County Auditor Processing Fees	2,000
Legal, Insurance, CPA	10,000
<u>Administration:</u>	
Meetings	2,500
Accounting	2,500
General	2,500
<u>Operational Activities:</u>	
Management	4,000
Mapping	62,000
Satellite Images	2,000
Database	3,200
<u>Treatment Programs:</u>	
GF-120 Applications	10,000
Mass Trapping Program	20,000
Attract & Kill Trap Program	20,000
Carryforward to fund first half of next FY	98,500
LAFCO Fees (repay Ag Commissioner)	6,600
Loan Repayment (<i>including interest</i>) - Tulare County	134,000
Total Expenditures	\$ 399,800

TABLE III
PROPOSED BUDGETS
FISCAL YEAR 2005-2006 AND 2006-2007
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

CATEGORY

	<u>AMOUNTS</u>	
	<u>FY</u>	<u>FY</u>
	<u>2005-2006</u>	<u>2006-2007</u>
<u>Revenue:</u>		
Carryforward from previous fiscal year	\$ 98,500	\$ 99,000
<u>Revenue:</u>		
Grower Assessments	195,000	196,000
Interest Income	5,000	5,000
Total Revenue	<u>\$ 298,500</u>	<u>\$ 300,000</u>
<u>Expenditures:</u>		
Public Relations / Outreach Program	\$ 20,000	\$ 20,000
County Auditor Processing Fees	2,000	2,000
Legal, Insurance, CPA	11,000	12,000
<u>Administration:</u>		
Meetings	2,500	2,500
Accounting	2,500	2,500
General	2,500	2,500
<u>Operational Activities:</u>		
Management	4,000	4,000
Mapping	50,000	25,000
Satellite Images	2,000	2,000
Database	3,000	3,000
<u>Treatment Programs:</u>		
GF-120 Applications	20,000	25,000
Mass Trapping Program	40,000	50,000
Attract & Kill Trap Program	40,000	50,000
Carryforward to fund first half of next FY	99,000	99,500
LAFCO Fees (repay Ag Commissioner)	0	0
Loan Repayment (<i>including interest</i>) - Tulare County	0	0
Total Expenditures	<u>\$ 298,500</u>	<u>\$ 300,000</u>

CHAPTER III
IMPLEMENTATION PROCEDURES
TULARE COUNTY OLIVE PEST CONTROL DISTRICT

GENERAL

On November 5, 1996, California's voters endorsed Proposition 218 - the Right to Vote on Taxes Act of 1996. The express purpose of Proposition 218 is to limit "the methods by which local governments exact revenues from taxpayers without their consent." Proposition 218, officially referred to as Articles XIIC and D of the California Constitution, require the preparation of a report which determines the proportionate special benefit for each element of the assessment base, based on each cost element. The amount of any assessment is limited to the "reasonable cost of the proportional special benefit conferred."

As the District has established an initial budget which calls for an assessment based on planted acreage, followed by budgets which call for assessments based on a per-tree basis, it must be determined that the purposes for which the funds derived from the assessments are expended, confers approximate equivalent benefit on a per-tree basis.

PROCEDURAL REQUIREMENTS

Following the action by the Board of Directors of their intent to request authority to implement specific assessments and the expenditure purposes, a notice is to be prepared notifying all record owners of land effected by the proposed assessment and located within the agency's boundaries, of the proposed assessments. This notice must describe the total assessments, the bases on which the assessments are to be computed, the duration of each assessment, the purpose of the assessments and the relationship of the assessments to the election process. The District must further include on the notice, a description of the procedures required to levy an assessment and specifically detail the procedures wherein parties adverse to the establishment of the assessment can record their protest. Also to be enclosed with the notice must be a ballot for use in voting on the proposed assessments.

The District must then hold a public hearing on the proposed assessments. This hearing must precede the election, following which the election may be held. Each landowner receives a number of votes proportional to the financial obligations on which the assessment is based. In the subject procedure, as the assessment is initially proposed to be levied on a per-acre basis, the votes will be in accordance with a per-acre basis. If a majority of the votes cast oppose the proposed assessment, the District is forbidden from levying the assessment.

In support of that process, this Report has been prepared to determine that there is an assessable special benefit and that the amount of the proposed assessment is proportional to the special benefit.

DETERMINATION OF BENEFITS

The Board of Directors of the District have proposed an initial assessment of \$19.86 per acre, as specific tree count data is lacking. Following development of a specific tree count to be generated during the first year, subsequent assessments are to be based on a per tree assessment to pay for defined activities of the District. These activities are directed specifically at efforts to control the generation of the olive fruit fly and to study presence/absence in defined areas. The main activities proposed to be conducted during the upcoming fiscal year include spray programs targeting non-commercial landscape trees, a mass trapping program, an attract and kill trap program, random surveys and informational programs. As growers specifically benefit from the protection of their groves from infestation generated in landscape trees and from educational programs, the benefits derived from the proposed program elements are not disproportionate.

The proposed mass trapping program and the attract and kill trap program are designed to provide information related to the extent to which the fly exists and the areas in which they exist. Information derived from these surveys will be utilized by the District and by growers within the District to determine the level of potential threat to the viability of non-infected fruit, the education of growers as to the level to which the pest exists in defined areas of the District and to allow growers to provide input and direction to the Board of Directors as to what types of programs, if any, they desire the District to engage in, in the future, relative to the pest.

As the information which is proposed to be generated will be made available to all growers within the District and is felt to be of interest to the growers, as well as to be of use in the development of specific input related to future policies and procedures of the District, the

benefits appear to be non-differential and thus, in conformance with the requirements of Articles XIII C and D of the California Constitution.

Most compelling of the equivalent benefit issues is that associated with fruit purchase agreements. The current form of agreement being utilized contains a rejection clause with two significant provisions. The first allows for an election, at the buyer's option, to reject any load that contains damage from the olive fly or its larvae. No threshold amount is set, nor is damage defined in any terms other than those established by the buyer. On rejection of the delivered fruit, the second provision applies, that being the responsibility of the seller to fulfill his obligations contemplated by the contract by delivering the balance owing of the contracted fruit. Thus, a grower who takes proper steps to control the presence of the fly in his grove, can be adversely affected by others who do not take similar steps, particularly those individuals with non-commercial trees who have no economic incentive to undertake control steps. The procedures which are a part of the District's current program are designed to address those deficiencies specifically to the benefit of the commercial grower.

ANALYSIS OF FUTURE PROGRAMS

The mission statement of the District does not limit the efforts of damage control to only that of the olive fruit fly. As yet unidentified threats to the olive industry may be determined in the future which must be addressed by the District to protect the industry. Some of these efforts may meet the requirements utilized in the Engineer's Report to establish the existence of equivalent benefit and some may not. The addressing of issues such as benefit to trees being grown and maintained for landscape purposes, assurance that benefits exist across all varieties

and that benefits are not proportioned to distance to non-commercial plantings must be addressed.

It is the policy direction of the District Board of Directors to include eligible program elements within the scope of the opinion contained within this Engineer's Report. As each effort may carry with it characteristics which are potentially different than other proposed efforts, it is the recommendation of this Engineer's Report that, as proposals arise to potentially utilize funds generated from the proposed assessment structure, that they be subjected to a brief, but criteria compatible examination to insure that the benefits test requirements are met. Such examinations are to be performed in such a fashion to be appendices to this Engineer's Report. In this manner, they will benefit from the compatible information which is contained herein without the necessity of preparing a new engineer's report which simply mimics the pertinent information contained herein.

COST INDEXING

The Board of Directors has considered the effects of inflation on the proposed program elements. Significant inflationary impact effects are felt to exist in the elements involving labor and chemicals. The Board is therefore seeking approval to index the assessment rate. The Board has selected an index to be utilized for the inflationary adjustment. The index which has been chosen is the Engineering - News Record 20-city skilled labor index. The base for the index was 100, first established in 1913. The December 8, 2003, index value was 6615.89. Indexing is proposed to be effective on July 1 of each year, beginning July 1, 2005. The maximum number of years which the index can be applied is five without further approval of the owners of the assessed acreage.

OPINION

Based on an examination of the preliminary budgets established by the District and further examination of the intent of the Board of Directors as to the types of programs envisioned to be funded with the proceeds of the proposed assessments, it is our opinion that the assessments have been reasonably apportioned to the benefitted assessment base and that costs attributable to the proposed benefits are proportional to the proposed assessments.

Programs which have insufficient detail at the current time to determine their compliance with the equivalent benefits tests are required to be subjected to further evaluation when such detail is available that will allow for the proper evaluation to be performed. Those evaluations are to be appended to this Engineer's Report as the revenue stream evaluation and background information provided herein are completed within the scope of the statutory requirements.