


TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: MARCH 7, 2008

**AGENDA ITEM
D-5
MAR 12, 2008**

DEGROOT LITIGATION ANNOUNCEMENTS

ITEM

Notice of court hearing and proposed judgment (DeGroot) [RECOMMEND ADOPTION].

BACKGROUND

Attached is a copy of the proposed DeGroot litigation judgment and a copy of the Notice of Motion for Entry of Judgment at the March 13, 2008 SLO Superior Court hearing at 9am in Department 3.

RECOMMENDATION

Staff recommends that your Honorable Board take no action.

ATTACHMENTS

- Proposed Judgment
- Notice of Motion for Entry of Judgment

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2008\DeGrootJudgment.DOC

1 John W. Belsher, Esquire (SBN 103088)
2 BELSHER & BECKER
3 Attorneys at Law
4 412 Marsh Street
5 San Luis Obispo, California 93401
6 Telephone: (805) 542-9900
7 Facsimile: (805) 542-9949

8 Attorneys for Defendant Real Parties in Interest,
9 HENRI DEGROOT, DUANE HERON and BETTY CARROLL

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN THE COUNTY OF SAN LUIS OBISPO**
12 **UNLIMITED DIVISION**

13 NIPOMO COMMUNITY SERVICES
14 DISTRICT, a California Community
15 Services District,

16 Petitioner,

17 vs.

18 COUNTY OF SAN LUIS OBISPO, a
19 political subdivision of the State of
20 California, and DOES 1-10,

21 Respondents.

22 HENRI DEGROOT, DUANE
23 HERON, RICHARD MONAGHETTI,
24 A. MICHAEL LEMOS, SAMUEL
25 FOSSACCECA, BETTY A
26 CARROLL, and DOES 11-20,

27 Real Parties in Interest.

CASE NO. CV070066
Assigned for all purposes to:
Hon. Teresa Estrada-Mullaney, Dept. 3

[PROPOSED] JUDGMENT

28 Petitioner Nipomo Community Services District ("District") filed a Petition for Writ of
Mandate and Complaint for Declaratory Relief ("Petition") challenging the adoption on
December 19, 2006 by Respondent County of San Luis Obispo of a general plan
amendment (LRP 2003-00011) (General Plan Amendment) initiated by the County of San
Luis Obispo and Real Party in Interest, Henri DeGroot, rezoning properties owned by the
Real Parties in Interest, as set forth below, from Agriculture to Residential Rural. Said

1 Petition is based on alleged inconsistencies with the County's General Plan and Ordinances,
2 as well as the California Environmental Quality Act. Responding Party, DeGroot, has a
3 subdivision map application pending, which requires the General Plan Amendment in order
4 to proceed.

5 County and Real Party DeGroot have answered said Petition. Real Parties Heron and
6 Carroll have appeared by the filing of Disclaimers of Interest. The remaining parties have
7 been served and have not appeared. All parties have been provided notice of motion to
8 have the Court approve and enter this Proposed Judgment and afforded adequate time to
9 appear and object.

10 Judgment regarding APN 075-241-004 [DeGroot], APN 075-041-008 [Heron], APN
11 075-041-007 [Monaghatti], APN 075-041-003 [Lemos], APN 075-241-013 [Fossacceca],
12 and APN 075-241-003 [Carroll] and the County of San Luis Obispo, is hereby granted and
13 shall be entered as follows:

14 **A. As to Real Party in Interest DeGroot (APN 075-241-004) and Respondent**
15 **County of San Luis Obispo:**

16 1. DeGroot shall pay a non-refundable "Supplemental Water
17 Development Fee Deposit" ("Deposit") to the District, or its successor,
18 prior to the recording a Final Map for the DeGroot property. The
19 Deposit will be in the amount of Thirteen Thousand Two Hundred
20 Dollars (\$13,200) for each parcel as shown on the Final Map. The
21 Deposit will be credited to DeGroot, and his successors and assigns,
22 who are owners of the parcels within the Final Map, for the purposes
23 of providing a dedicated source of supplemental water to support the
24 development referenced in the Final Map. A lien and notice shall be
25 recorded on each parcel within the subdivision concurrently with the
26 recordation of the Final Map that:

27 (a) obligates the parcel owner(s) to make a final payment (actual
28 costs minus Deposit) prior to the County issuing certificates of

1 occupancy for any development on the parcel or at such earlier
2 date as the District , or its successor, may require to obtain
3 supplemental water. The Supplemental Water Development
4 Fee, when combined with the supplemental water final
5 payment fee, shall not exceed the amount of the then current
6 Nipomo Community Services District supplemental water
7 charge or fee; and

8 (b) That provides notice that in addition to the Supplemental
9 Water Development Fee (referenced above), the future
10 property owners may be subject to periodic payment for
11 supplemental water.

12 2. The County of San Luis Obispo shall not approve secondary units or
13 further land divisions within the DeGroot property boundaries until
14 such time as supplemental water is purchased, delivered to the
15 Nipomo Water Conservation Area (as defined in County Land Use
16 Ordinance Section 22.112.020 E) and is specifically allocated for the
17 exclusive use of the proposed secondary units and/or additional
18 parcels, consistent with County Land Use Ordinance Section
19 22.112.020 E 1 (a).

20 3. DeGroot will pay up to Nineteen Thousand Dollars (\$19,000) toward
21 the District's attorneys' fees plus the costs to have the Administrative
22 Record prepared pursuant to a Memorandum of Costs.

23 4. The supplemental water referenced in subparagraph 2, above, will not
24 be allocated from the first two thousand five hundred (2,500) acre feet
25 per year ("AFY") delivered to the Nipomo Mesa Management Area
26 ("NMMA") referenced in Section VI of the Stipulation and Judgment
27 related to the lawsuit titled *Santa Maria Water Conservation District,*
28 *et al. v. The City of Santa Maria, et al., CV770214.*

1 5. District retains the right to seek a Court Order amending this
2 Judgment to designate a successor to its interests referenced in
3 paragraph A(1) of this Judgment.

4 **B. As to Real Parties in Interest Heron (AN 075-041-008), Monaggetti (APN**
5 **075-041-007), Lemos (APN 075-041-003), Fossacceca (APN 075-041-013), Carrol (APN**
6 **075-041-003) and Respondent, the County of San Luis Obispo:**

7 1. The County of San Luis Obispo shall not approve the recording of a
8 Final Parcel or Subdivision Map related to the Heron, Monaggetti,
9 Lemos, Fossacceca, and Carroll properties until such time as
10 supplemental water is purchased, delivered to the Nipomo Water
11 Conservation Area (defined in County Land Use Ordinance
12 §22.112.020 E 1(a)) and is specifically allocated for the exclusive use
13 of the development allowed by the recording of the Final Parcel or
14 Subdivision Map.

15 2. The supplemental water referenced in subparagraph 1, above, will not
16 be allocated from the FIRST two thousand five hundred (2,500) acre
17 feet per year ("AFY") delivered to the Nipomo Mesa Management
18 Area ("NMMA") referenced in Section VI of the Stipulation and
19 Judgment related to the lawsuit titled *Santa Maria Valley Water*
20 *Conservation District, et al. versus the City of Santa Maria et al. CV*
21 *770214.*

22 **C. As to Petitioner and Plaintiff, District:**

23 1. Upon Court approval of this Judgment the District may record notice
24 on all parcels within the General Plan Amendment of the terms and
25 conditions of the Judgment.

26 **D. As to Respondent the County of San Luis Obispo.**

27 Unless and until modified by the County, after compliance with all applicable
28 state laws and regulations, General Plan amendments within the Nipomo Mesa Water

1 Conservation area shall comply with the requirements of County Code Title 22, section
2 22.112.020.

3 **E. Retained Jurisdiction.**

- 4 1. Jurisdiction, power and authority are retained by and reserved to the
5 Court to enforce the terms of this Judgment. Nothing in the Court's
6 reserved jurisdiction shall authorize it to modify or amend the
7 Judgment except with the consent of the affected party and the
8 Nipomo Community Services District.
- 9 2. Any party that seeks the Court's exercise of reserved jurisdiction shall
10 file a noticed motion with the Court. Said motion need only be served
11 on the alleged defaulting parties.
- 12 3. Each party retains the right, pursuant to CCP § 1021.5, to request
13 attorney fees in conjunction with any subsequent action to enforce
14 the terms and conditions of this Judgment as a continuation of the
15 underlying litigation
- 16 4. Except as provided in paragraph A (5) of this Judgment, any motion
17 to modify or amend the Judgment shall be made jointly by the
18 affected party and the Nipomo Community Services District and shall
19 include written consent to the modification or amendment executed
20 by the affected party(s) and the District.

21 **F. Miscellaneous Provisions:**

- 22 1. The terms and conditions of this Judgment may be altered, amended
23 or modified only by a writing executed by the affected party(s) and the
24 Nipomo Community Services District that is approved by the Court.
25 Each party waives its right to claim or assert that the terms and
26 conditions of this Judgment has been modified, cancelled,
27 superseded, or changed by any oral agreement, course of conduct,
28 waiver or estoppel.

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Dated: JAN-18, 2008


By: Henri DeGroot

Dated: _____, 2008

By: Duane Heron

Dated: _____, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaghetti

Dated: _____, 2008

By: A. Michael Lemos

Dated: _____, 2008

By: Samuel Fossacceca

Approved as to Form
MCDONOUGH HOLLAND & ALLEN PC

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Dated: _____, 2008

By: Henri DeGroot

Dated: 1-18-, 2008

By: 
Duane Heron

Dated: _____, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaggetti

Dated: _____, 2008

By: A. Michael Lemos

Dated: _____, 2008

By: Samuel Fossacceca

From: Belsher & Becker

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Dated: _____, 2008

By: Henri DeGroot

Dated: 1-18-, 2008

By: Duane Heron

Dated: 1-24-, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaggetti

Dated: _____, 2008

By: A. Michael Lemos

Dated: _____, 2008

By: Samuel Fossacceca

Approved as to Form
MCDONOUGH HOLLAND & ALLEN PC

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Dated: _____, 2008

Harriet A. Steiner, Esquire
Kimberly E. Hood, Esquire
Special Counsel for Petitioner/Plaintiff
Nipomo Community Services District

SHIPSEY & SEITZ, INC.

Dated: Jan 8, 2008



JON S. SEITZ, District Legal Counsel
Nipomo Community Services District

BELSHER & BECKER


Dated: Jan 15, 2008



John W. Belsher, Esquire
Attorneys for Defendant/Real Parties in
Interest Henri DeGroot, Duane Heron and
Betty Carroll

COUNTY OF SAN LUIS OBISPO

Dated: Jan. 15, 2008



James B. Lindholm, County Counsel
By: Timothy McNulty, Deputy County Counsel
Attorneys for Respondent and Defendant
County of San Luis Obispo

The Court hereby approves and enters judgment as provided herein.

Dated: JAN 16, 2008

Hon. Teresa Estrada-Mullaney, Judge
Superior Court of San Luis Obispo County

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

I, HENRI DEGROOT, declare as follows:

I am a citizen of the United States and an employee in the County of San Luis Obispo. I am over the age of 18 and not a party to the above-entitled action. My business address is 412 Marsh Street, San Luis Obispo, California 93401.

On January 24, 2008, I caused the document(s) described below to be served:

PROPOSED JUDGMENT

on the interested parties in this action addressed as follows:

Duane Heron
2531 Los Berros Road
Arroyo Grande, CA 93420

Michael Lemos
2527 Los Berros Road
Arroyo Grande, CA 93420

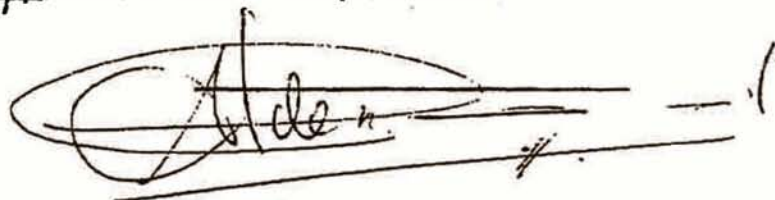
Richard Monaggetti
130 Painted Sky Way
Arroyo Grande, CA 93420

Samuel Fossacceca
117 W El Campo Road
Arroyo Grande, CA 93420

BY HAND DELIVERY: I personally delivered such envelope to the addressee(s), following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 14, 2007, at San Luis Obispo, California.

HENRI DEGROOT



NCSD E-469
De Groot

RECEIVED
02-19-08

1 John W. Belsher, Esquire (SBN 103088)
2 BELSHER & BECKER
3 Attorneys at Law
4 412 Marsh Street
5 San Luis Obispo, California 93401
6 Telephone: (805) 542-9900
7 Facsimile: (805) 542-9949
8 Attorneys for Defendant Real Parties in Interest,
9 HENRI DEGROOT, DUANE HERON and BETTY CARROLL

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN THE COUNTY OF SAN LUIS OBISPO

10 NIPOMO COMMUNITY SERVICES)
11 DISTRICT, a California Community)
12 Services District,)

12 Petitioner,

13 vs.

14 COUNTY OF SAN LUIS OBISPO, a)
15 political subdivision of the State of)
16 California, and DOES 1-10,)

16 Respondents.

17 HENRI DEGROOT, DUANE)
18 HERON, RICHARD MONAGHETTI,)
19 A. MICHAEL LEMOS, SAMUEL)
20 FOSSACCECA, BETTY A)
21 CARROLL, and DOES 11-20,)

20 Real Parties in Interest.

CASE NO. CV070066
Assigned for all purposes to:
Hon. Teresa Estrada-Mullaney, Dept. 3

**NOTICE OF MOTION FOR ENTRY OF
JUDGMENT [CCP §438, 1094.5];
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
JOHN W. BELSHER**

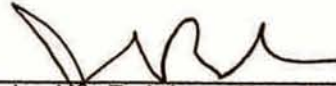
Date: March 13, 2008
Time: 9:00 a.m.
Dept: 3

21 PLEASE TAKE NOTICE THAT pursuant to stipulation with and the support of
22 Defendant County of San Luis Obispo and Plaintiff Nipomo Community Services District,
23 Real Party in Interest, Henri DeGroot, moves for entry of judgment. Said motion is to be
24 heard on March 13, 2008 at 9:00 a.m., or soon thereafter as the matter may be heard,
25 before this Court in Department 3 of the above-entitled court located at 1035 Palm Street,
26 San Luis Obispo, CA.

1 Said motion will be based upon this Notice, served on all parties, the attached
2 Memorandum of Points and Authorities, the attached Declaration of John W. Belsher, and
3 the complete files and records of this action, and on such evidence which may be
4 presented at the hearing of this motion.

5 Dated: February 12, 2008

BELSHER & BECKER

6
7 

8 John W. Belsher, Esquire
9 Attorneys for Defendant/Real Parties in
10 Interest Henri DeGroot, Duane Heron and
11 Betty Carroll

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **INTRODUCTION**

4 This case involves a challenge by Nipomo Community Services District (NCSD) to
5 the County of San Luis Obispo's re-zoning by General Plan Amendment of several
6 properties owned by Real Parties on the Nipomo Mesa. The County, NCSD, and Real
7 Party, DeGroot, have all stipulated to entry of judgment, as proposed, which allows the up-
8 zoning to remain in effect. The other Real Parties have been personally served with this
9 Notice of Motion and have either appeared (in the case of Duane Heron) or should have
10 the Judgment entered by default. See Declaration of John W. Belsher re: service.

11 This Judgment allows the Real Parties' properties to keep their new up-zoning,
12 based on conditions requiring obtaining of "supplemental" water prior to subdivision of said
13 properties.

14 **1. Entry of Judgment is Appropriate Under CCP §§ 438 and 1094.5.**

15 CCP §438 allows the Court to enter judgment based on the pleadings. In this case,
16 all appearing parties have stipulated to the proposed Judgment. All other parties chose
17 not to appear and to thereby let the Judgment be entered by default.

18 NCSD's challenge was brought under CCP §1094.5. Its CEQA challenge was
19 brought under Public Resources Code §21168, which requires compliance with procedures
20 for CCP §1094.5. All parties were served as required by that statute and CEQA. Under
21 the Writ of Mandate statutory provisions, no answer was due from Real Parties or
22 Defendants until thirty days after the Administrative Record has been served. CCP 1089.5.
23 All parties were served more than thirty days prior to this hearing with an Index to the
24 Administrative Record and a letter making the complete record available. See Declaration
25 of John W. Belsher, served herewith. The Record is 1,000 pages and too cumbersome
26 to copy in its entirety for service.

27 *///*

1 **2. Default Judgment May be Entered Against Non-Appearing Parties Under CCP**
2 **§585.**

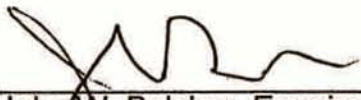
3 Under CCP §585, default judgment may be entered against non-appearing
4 Defendants, properly served. Service was accomplished on the non-appearing Real
5 Parties more than thirty days prior to this hearing date. See Declaration of John W.
6 Belsher, served herewith. The proposed Judgment preserves the up-zoning of said
7 Parties' properties, which likely explains why said Real Parties are not contesting the
8 proposed Judgment.

9 **CONCLUSION**

10 The Court is requested to enter judgment consistent with the attached Proposed
11 Judgment.

12 Dated: February 24, 2008

BELSHER & BECKER

13 
14 _____
15 John W. Belsher, Esquire
16 Attorneys for Defendant/Real Parties in
17 Interest Henri DeGroot, Duane Heron and
18 Betty Carroll
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BELSHER & BECKER

ATTORNEYS AT LAW
412 MARSH STREET
SAN LUIS OBISPO, CALIFORNIA 93401

JOHN W. BELSHER
HOWARD MARK BECKER
STEVEN P. ROBERTS
GREGORY A. CONNELL

TELEPHONE (805) 542-9900
FAX (805) 542-9949
E-MAIL slolaw@belsherandbecker.com

January 17, 2008

VIA HAND DELIVERY

Duane Heron
2531 Los Berros Road
Arroyo Grande, CA 93420

Betty Carroll
1591 Farroll Road
Grover Beach, CA 93433

Richard Monaggetti
130 Painted Sky Way
Arroyo Grande, CA 93420

Michael Lemos
2527 Los Berros Road
Arroyo Grande, CA 93420

Samuel Fossacceca
117 W El Campo Road
Arroyo Grande, CA 93420

**RE: NCSD v County of SLO, Case No. CV070066
NIPOMO COMMUNITY SERVICES DISTRICT vs. COUNTY OF SAN LUIS
OBISPO, and Real Parties in Interest, HENRI DEGROOT, DUANE HERON,
RICHARD MONAGHETTI, A. MICHAEL LEMOS, SAMUEL FOSSACCECA,
and BETTY A CARROLL**

Dear Real Parties:

As you may be aware, Nipomo Community Services District ("NCSD") filed suit last year to challenge a County general plan amendment, which re-zoned your Los Berros Road properties to "Rural Residential" from "Agricultural". This firm represents Henri DeGroot, a Real Party in Interest in the referenced case. For the purposes of filing a Notice of Disclaimer only, we have also represented Duane Heron and Betty Carroll. This case has been settled but for Court approval. The proposed settlement would confirm the County's re-zoning of all of your properties from agricultural to rural residential as valid.

This letter is accompanied by a service of an Index to a 1,000 page Administrative Record and a copy of the Proposed Judgment. This provides you with an opportunity to review and sign the Proposed Judgment prior to its hearing. Should you not take any action with respect to this Proposed Judgment, it is anticipated that Judge Estrada-Mullaney will enter a default judgment, which would confirm the re-zoning subject to the conditions listed in the Proposed Judgment.

Among the conditions in the Proposed Judgment is a requirement that prior to any subdivision of your properties, you will be required to secure a source of supplemental water for your property. This is consistent with the County's General Plan with one important additional component. NCSD has requested and the Proposed Judgment includes that the supplemental water be something above and beyond the 2,500 acre feet per year secured by NCSD and Rural Water Company as part of the Santa Maria Valley water basin litigation. In all likelihood, you will be required to secure a supplemental water source from NCSD. It would be incumbent on each of you to physically secure this supplemental water source should you wish to subdivide in the future and this requirement will be difficult to satisfy in light of current water issues on the Nipomo Mesa.

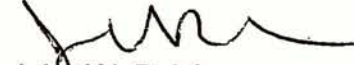
All Real Parties in Interest
January 17, 2008
Page 2

If the Proposed Judgment meets with your approval, please sign it and return the signature page in the enclosed envelope.

I realize that these matters are complicated and that the Administrative Record is lengthy. I advise you to consult with legal counsel prior to determining whether to either 1) sign the Proposed Judgment or 2) allow a default judgment to be entered. If you wish to review the entire Record, you may contact this office. I am available for questions should you have any. Again, if you take no action, a judge is likely to enter the Proposed Judgment confirming the re-zoning of your property, subject to the conditions stated.

Sincerely,

Belsher & Becker



John W. Belsher

JWB/ab
Encls

cc: Jon Seitz, Esq. (NCSD counsel)
Tim McNulty, Esq. (County counsel)
Henri DeGroot

P:\John's Files\Grant, Byron\DeGroot\Correspondence\All real parties 2008-0117.wpd

ADMINISTRATIVE RECORD

*Superior Court Case #CV 070066 – Nipomo Community Services District
vs. County of San Luis Obispo, Henri De Groot et al.*

VOLUME 1

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1/2007

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967

COPY

1 John W. Belsher, Esquire (SBN 103088)
2 BELSHER & BECKER
3 Attorneys at Law
4 412 Marsh Street
5 San Luis Obispo, California 93401
6 Telephone: (805) 542-9900
7 Facsimile: (805) 542-9949

8 Attorneys for Defendant Real Parties in Interest,
9 HENRI DEGROOT, DUANE HERON and BETTY CARROLL

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN THE COUNTY OF SAN LUIS OBISPO**
13 **UNLIMITED DIVISION**

14 NIPOMO COMMUNITY SERVICES
15 DISTRICT, a California Community
16 Services District,

17 Petitioner,

18 vs.

19 COUNTY OF SAN LUIS OBISPO, a
20 political subdivision of the State of
21 California, and DOES 1-10,

22 Respondents.

23 HENRI DEGROOT, DUANE
24 HERON, RICHARD MONAGHETTI,
25 A. MICHAEL LEMOS, SAMUEL
26 FOSSACCECA, BETTY A
27 CARROLL, and DOES 11-20,

28 Real Parties in Interest.

CASE NO. CV070066
Assigned for all purposes to:
Hon. Teresa Estrada-Mullaney, Dept. 3

[PROPOSED] JUDGMENT

Petitioner Nipomo Community Services District ("District") filed a Petition for Writ of Mandate and Complaint for Declaratory Relief ("Petition") challenging the adoption on December 19, 2006 by Respondent County of San Luis Obispo of a general plan amendment (LRP 2003-00011) (General Plan Amendment) initiated by the County of San Luis Obispo and Real Party in Interest, Henri DeGroot, rezoning properties owned by the Real Parties in Interest, as set forth below, from Agriculture to Residential Rural. Said

1 Petition is based on alleged inconsistencies with the County's General Plan and Ordinances,
2 as well as the California Environmental Quality Act. Responding Party, DeGroot, has a
3 subdivision map application pending, which requires the General Plan Amendment in order
4 to proceed.

5 County and Real Party DeGroot have answered said Petition. Real Parties Heron and
6 Carroll have appeared by the filing of Disclaimers of Interest. The remaining parties have
7 been served and have not appeared. All parties have been provided notice of motion to
8 have the Court approve and enter this Proposed Judgment and afforded adequate time to
9 appear and object.

10 Judgment regarding APN 075-241-004 [DeGroot], APN 075-041-008 [Heron], APN
11 075-041-007 [Monaghetti], APN 075-041-003 [Lemos], APN 075-241-013 [Fossacceca],
12 and APN 075-241-003 [Carroll] and the County of San Luis Obispo, is hereby granted and
13 shall be entered as follows:

14 **A. As to Real Party in Interest DeGroot (APN 075-241-004) and Respondent**
15 **County of San Luis Obispo:**

16 1. DeGroot shall pay a non-refundable "Supplemental Water
17 Development Fee Deposit" ("Deposit") to the District, or its successor,
18 prior to the recording a Final Map for the DeGroot property. The
19 Deposit will be in the amount of Thirteen Thousand Two Hundred
20 Dollars (\$13,200) for each parcel as shown on the Final Map. The
21 Deposit will be credited to DeGroot, and his successors and assigns,
22 who are owners of the parcels within the Final Map, for the purposes
23 of providing a dedicated source of supplemental water to support the
24 development referenced in the Final Map. A lien and notice shall be
25 recorded on each parcel within the subdivision concurrently with the
26 recordation of the Final Map that:

27 (a) obligates the parcel owner(s) to make a final payment (actual
28 costs minus Deposit) prior to the County issuing certificates of

1 occupancy for any development on the parcel or at such earlier
2 date as the District , or its successor, may require to obtain
3 supplemental water. The Supplemental Water Development
4 Fee, when combined with the supplemental water final
5 payment fee, shall not exceed the amount of the then current
6 Nipomo Community Services District supplemental water
7 charge or fee; and

8 (b) That provides notice that in addition to the Supplemental
9 Water Development Fee (referenced above), the future
10 property owners may be subject to periodic payment for
11 supplemental water.

12 2. The County of San Luis Obispo shall not approve secondary units or
13 further land divisions within the DeGroot property boundaries until
14 such time as supplemental water is purchased, delivered to the
15 Nipomo Water Conservation Area (as defined in County Land Use
16 Ordinance Section 22.112.020 E) and is specifically allocated for the
17 exclusive use of the proposed secondary units and/or additional
18 parcels, consistent with County Land Use Ordinance Section
19 22.112.020 E 1 (a).

20 3. DeGroot will pay up to Nineteen Thousand Dollars (\$19,000) toward
21 the District's attorneys' fees plus the costs to have the Administrative
22 Record prepared pursuant to a Memorandum of Costs.

23 4. The supplemental water referenced in subparagraph 2, above, will not
24 be allocated from the first two thousand five hundred (2,500) acre feet
25 per year ("AFY") delivered to the Nipomo Mesa Management Area
26 ("NMMA") referenced in Section VI of the Stipulation and Judgment
27 related to the lawsuit titled *Santa Maria Water Conservation District,*
28 *et al. v. The City of Santa Maria, et al., CV770214.*

1 5. District retains the right to seek a Court Order amending this
2 Judgment to designate a successor to its interests referenced in
3 paragraph A(1) of this Judgment.

4 **B. As to Real Parties in Interest Heron (AN 075-041-008), Monaghetti (APN**
5 **075-041-007), Lemos (APN 075-041-003), Fossacceca (APN 075-041-013), Carrol (APN**
6 **075-041-003) and Respondent, the County of San Luis Obispo:**

7 1. The County of San Luis Obispo shall not approve the recording of a
8 Final Parcel or Subdivision Map related to the Heron, Monaghetti,
9 Lemos, Fossacceca, and Carroll properties until such time as
10 supplemental water is purchased, delivered to the Nipomo Water
11 Conservation Area (defined in County Land Use Ordinance
12 §22.112.020 E 1(a)) and is specifically allocated for the exclusive use
13 of the development allowed by the recording of the Final Parcel or
14 Subdivision Map.

15 2. The supplemental water referenced in subparagraph 1, above, will not
16 be allocated from the FIRST two thousand five hundred (2,500) acre
17 feet per year ("AFY") delivered to the Nipomo Mesa Management
18 Area ("NMMA") referenced in Section VI of the Stipulation and
19 Judgment related to the lawsuit titled *Santa Maria Valley Water*
20 *Conservation District, et al. versus the City of Santa Maria et al. CV*
21 *770214.*

22 **C. As to Petitioner and Plaintiff, District:**

23 1. Upon Court approval of this Judgment the District may record notice
24 on all parcels within the General Plan Amendment of the terms and
25 conditions of the Judgment.

26 **D. As to Respondent the County of San Luis Obispo.**

27 Unless and until modified by the County, after compliance with all applicable
28 state laws and regulations, General Plan amendments within the Nipomo Mesa Water

1 Conservation area shall comply with the requirements of County Code Title 22, section
2 22.112.020.

3 **E. Retained Jurisdiction.**

- 4 1. Jurisdiction, power and authority are retained by and reserved to the
5 Court to enforce the terms of this Judgment. Nothing in the Court's
6 reserved jurisdiction shall authorize it to modify or amend the
7 Judgment except with the consent of the affected party and the
8 Nipomo Community Services District.
- 9 2. Any party that seeks the Court's exercise of reserved jurisdiction shall
10 file a noticed motion with the Court. Said motion need only be served
11 on the alleged defaulting parties.
- 12 3. Each party retains the right, pursuant to CCP § 1021.5, to request
13 attorney fees in conjunction with any subsequent action to enforce
14 the terms and conditions of this Judgment as a continuation of the
15 underlying litigation
- 16 4. Except as provided in paragraph A (5) of this Judgment, any motion
17 to modify or amend the Judgment shall be made jointly by the
18 affected party and the Nipomo Community Services District and shall
19 include written consent to the modification or amendment executed
20 by the affected party(s) and the District.

21 **F. Miscellaneous Provisions:**

- 22 1. The terms and conditions of this Judgment may be altered, amended
23 or modified only by a writing executed by the affected party(s) and the
24 Nipomo Community Services District that is approved by the Court.
25 Each party waives its right to claim or assert that the terms and
26 conditions of this Judgment has been modified, cancelled,
27 superseded, or changed by any oral agreement, course of conduct,
28 waiver or estoppel.

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- 2. The Real Parties in Interest understand and acknowledge that all property owned by them within what is commonly known as the DeGroot General Plan Amendment, County General Plan Amendment No. LRP-2003-000-11 is subject to the terms and conditions of this Judgment and that each of them has received notice and an opportunity to be heard regarding the terms and conditions of this Judgment.
- 3. The terms and conditions of this Judgment shall be binding upon Respondent, County of San Luis Obispo and each Real Party in Interest and their respective heirs, executors, administrators, trustees, successors, assigns, and agents and shall inure to the benefit of the Nipomo Community Services District.
- 4. This Judgment shall be effective whether signed by all parties or not, provided notice of entry of said judgment has been duly given.
- 5. This Stipulation can be signed in Counterparts.

Dated: Jan 4, 2008

Nipomo Community Services District
Plaintiff and Petitioner

Michael Winn
By: Michael Winn, President

Dated: Jan 15, 2008

County of San Luis Obispo,
Defendant and Respondent

James R. Patterson
By: Name and Title

Real Parties in Interest

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Dated: JAN-18, 2008


By: Henri DeGroot

Dated: _____, 2008

By: Duane Heron

Dated: _____, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaghetti

Dated: _____, 2008

By: A. Michael Lemos

Dated: _____, 2008

By: Samuel Fossacceca

Approved as to Form
MCDONOUGH HOLLAND & ALLEN PC

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Dated: _____, 2008

By: Henri DeGroot

Dated: 1-18-, 2008


By: Duane Heron

Dated: _____, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaghetti

Dated: _____, 2008

By: A. Michael Lemos

Dated: _____, 2008

By: Samuel Fossacceca

From: Belsher & Becker

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Dated: _____, 2008

By: Henri DeGroot

Dated: 1-18-, 2008

By: Duane Heron

Dated: 1-24-, 2008

By: Betty A. Carroll

Dated: _____, 2008

By: Richard Monaghetti

Dated: _____, 2008

By: A. Michael Lemios

Dated: _____, 2008

By: Samuel Fossacceca

Approved as to Form
MCDONOUGH HOLLAND & ALLEN PC

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Dated: _____, 2008

Harriet A. Steiner, Esquire
Kimberly E. Hood, Esquire
Special Counsel for Petitioner/Plaintiff
Nipomo Community Services District

SHIPSEY & SEITZ, INC.

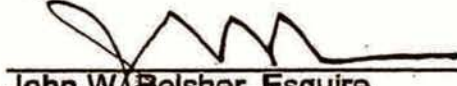
Dated: Jan 8, 2008



JON S. SEITZ, District Legal Counsel
Nipomo Community Services District

BELSHER & BECKER


Dated: Jan 15, 2008



John W. Belsher, Esquire
Attorneys for Defendant/Real Parties in
Interest Henri DeGroot, Duane Heron and
Betty Carroll

COUNTY OF SAN LUIS OBISPO

Dated: Jan. 15, 2008



James B. Lindholm, County Counsel
By: Timothy McNulty, Deputy County Counsel
Attorneys for Respondent and Defendant
County of San Luis Obispo

The Court hereby approves and enters judgment as provided herein.

Dated: JAN 16, 2008

Hon. Teresa Estrada-Mullaney, Judge
Superior Court of San Luis Obispo County

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

I, ANGELA M. BREZDEN, declare as follows:

I am a citizen of the United States and an employee in the County of San Luis Obispo. I am over the age of 18 and not a party to the above-entitled action. My business address is 412 Marsh Street, San Luis Obispo, California 93401.

On February 15, 2008, I caused the document(s) described below to be served:

**NOTICE OF MOTION FOR ENTRY OF JUDGMENT [CCP §438, 1094.5];
MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF JOHN W. BELSHER**

on the interested parties in this action addressed as follows:

*Harriet A. Steiner, Esq.
Kimberly E. Hood, Esq.
McDonough Holland & Allen PC
555 Capital Mall, 9th Floor
Sacramento, CA 95814
916-444-3900
916-444-8334 - fax
Co-Counsel for Petitioner/Plaintiff Nipomo
Community Services District*

*Jon S. Seitz, Esq.
Shipsey & Seitz, Inc.
1066 Palm Street / P.O. Box 953
San Luis Obispo, CA 93406
805-543-7272
805-543-7281 - fax
Co-Counsel for Petitioner/Plaintiff Nipomo
Community Services District*

BY UNITED STATES MAIL: I am readily familiar with the firm's practice of collection and processing documents for mailing. Under that practice, the envelopes are sealed and, with postage thereon fully prepaid, deposited with the United States Postal Service on that same day at San Luis Obispo, California, in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this affidavit.

BY FACSIMILE: On the above-date at ____ p.m. I sent the above-described document(s) via facsimile transmission to the offices of _____, following ordinary business practices.

BY OVERNIGHT COURIER: I caused such document(s) to be delivered by overnight mail to the offices of the addressee by placing it for collection by Federal Express following ordinary business practices, to wit, that package(s) will either be picked up from the firm by the courier service, and/or delivered to the courier's office.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February ___, 2008, at San Luis Obispo, California.

ANGELA M. BREZDEN

