

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BSB*  
DATE: JUNE 6, 2008

**AGENDA ITEM  
E-2  
JUNE 11, 2008**

**DESCRIBE OPTIONS IF BLACKLAKE/TOWN MERGER FAILS**

**ITEM**

Describe options if Blacklake/Town merger fails and discuss pending Proposition 218 protest proceeding [DESCRIBE OPTIONS].

**BACKGROUND**

Your Honorable Board set the discussion of options on this agenda at your May 28<sup>th</sup> meeting to provide the property owners in the Blacklake Water Division important information regarding the pending protest proceeding. On June 5, 2008 the attorney representing the Blacklake Village Council requested that the Board also review the pending Proposition 218 protest proceeding. It is staff's understanding that Blacklake's Attorney will submit a letter to NCSD prior to the Board Meeting and staff will distribute that letter as soon as it is available.

Following is the language on options that was printed in the attached Notice mailed 6/3/08:

"If written protests are presented by a majority of owners and/or tenants ... the District will not adjust/increase rates and the proposed merger ordinance will not be adopted by the District. Thereafter, the District will explore its options in providing water service and fire protection to the Blacklake Water Division as an independent system, including but not limited to:

- Implement limited repairs to the Blacklake Water System consistent with Blacklake reserves of approximately \$250,000.  
and/or
- Design full upgrades to the Blacklake Water System to achieve State Water Code compliance and present a rare adjustment to Blacklake customers and property owners pursuant to the provisions of Section 6 of Article XIII D of the California Constitution."

**RECOMMENDATION**

Staff recommends that your Honorable Board review and edit the options statement set forth above and discuss any new information provided by Blacklake's attorney.

**ATTACHMENTS**

- Notice

TO: BLACKLAKE PROPERTY OWNERS AND TENANTS

NIPOMO COMMUNITY SERVICES DISTRICT  
NOTICE OF PROPOSED WATER RATE INCREASE AND NOTICE OF PUBLIC HEARING  
PURSUANT TO SECTION 6 ARTICLE XIII D OF THE  
CALIFORNIA CONSTITUTION

The Nipomo Community Services District Board of Directors ("District") has introduced Ordinance 2008-109 that, if adopted, would merge the District Blacklake Water Division with the District Town Water Division. The merger, if completed, would require an adjustment/increase in your water rates as herein described.

An informational meeting will be conducted by the District on Wednesday, June 18, 2008, at 2:00 p.m. at the Blacklake Clubhouse located at 1490 Golf Course Lane. Please mark your calendar and bring your questions.

**NOTICE OF PUBLIC HEARING**

**A Public hearing for the Proposed Rate Adjustment/Increase within the Blacklake Water Division will be held on:**

**Date: July 23, 2008                      Time: 9:00 a.m.**

**Place: Nipomo Community Services District Board Room, 148 South Wilson Street, Nipomo, CA**

**At the public hearing the Nipomo Community Services District Board of Directors will consider all public comment in support and in opposition of the Proposed Rate Adjustment/Increase and whether or not a Majority Protest exists pursuant to the California Constitution (below). If approved, the Proposed Rate Adjustment/Increase detailed on page 4 would become effective October 1, 2008. The effect of the rate adjustment/increase is also detailed on page 4.**

**After the close of the Public Hearing, the Board of Directors may direct the District Secretary, or designee, to begin tabulation of the protests and to continue the agenda item to the Board of Directors meeting of August 13, 2008, to announce the protest outcome and to consider the adoption of resolutions and ordinances consistent with the District Secretary's determination.**

**MAJORITY PROTEST:**

Pursuant to Section 6 of Article XIII D of the California Constitution, tenants and owners of property receiving water service within the Blacklake Water Division may submit a written protest against the Proposed Rate Adjustment/Increase to the District's Secretary before the close of the public hearing referenced above. To be valid the written protest must be dated, contain a statement that you protest the proposed increase in water rates, the address and Assessor's Parcel Number (APN) of the parcel or parcels which receive water service, include the printed name of the person filing the protest, and must be signed (original signature), by either the owner or the tenant of the parcel or parcels. If the person signing the protest is not shown on the last equalized assessment roll as the owner of the parcel(s), then the protest must contain or be accompanied by written evidence that such person signing the protest is either the owner or a tenant of the parcel receiving water service. One written protest per parcel shall be counted in calculating a majority protest to the proposed water rate increase subject to the requirements of Section 6 of Article XIII D of the California Constitution. Written protests will not be accepted by e-mail or by facsimile. Verbal protests will not be counted in determining the existence of a majority protest.

Written protests regarding the water rate adjustment/increase may be mailed to:

**Nipomo Community Services District  
Attn: District Secretary  
P.O. Box 326  
Nipomo, CA 93444-0326**

Written protests may also be personally delivered to the Board Secretary at the Nipomo Community Service District office located at 148 S. Wilson Street, Nipomo, California.

If written protests are presented by a majority of owners and/or tenants of identified parcels receiving water service within the Blacklake Water Division, the District will not adjust/increase the water rates and the proposed merger Ordinance will not be adopted by the District. Thereafter, the District will explore its options in providing water service and fire protection to the Blacklake Water Division as an independent system, including, but not limited to:

- Implement limited repairs to the Blacklake Water System consistent with Blacklake reserves of approximately \$250,000,

and/or

- Design full upgrades to the Blacklake Water system to achieve State Water Code compliance and present a rate adjustment to Blacklake customers and property owners pursuant to the provisions of Section 6 of Article XIII D of the California Constitution.

## CHANGE IN PROTEST

Up to the close of the above referenced public hearing of July 23, 2008, owners and tenants occupying parcels within the Blacklake Water Division can change or cancel prior letters of protest by written notification to the District. To be valid, the change in protest must be signed by the person or persons who signed the original protest, must contain the address and APN number of the parcel or parcels that receive water service, dated and must be received by the District by the close of the Public Hearing referenced in this Notice.

## MERGER OF THE TWO WATER DIVISIONS

The District operates two (2) water divisions commonly referred to as the Blacklake Water Division and the Town Water Division. The Blacklake Water Division, by design, uses a hydromatic pump station that includes tanks and variable speed pumps to provide water pressure for potable water and fire protection. The Town Water Division, by design, uses water tanks and a gravity water system to provide water pressure for potable water and fire protection. Each water division has a separate water rate structure. For example, currently, a Town Division water customer pays one hundred two dollars and seventy-eight cents (\$102.78) bi-monthly for 45 hundred cubic feet ("HCF") of water while a Blacklake Water Division customer pays one hundred fourteen dollars and twenty-eight (\$114.28) bi-monthly for 45 HCF of water.

In 2006, the District determined that the Blacklake booster pump station and pneumatic tank were unreliable and required major reconstruction. To address the immediate need to provide Blacklake residents with potable water and fire protection, the District constructed a second, temporary, intertie between the Town Water Division and the Blacklake Water Division. This intertie provides a temporary bypass of the booster pump station and pneumatic tank.

The Blacklake booster pump station has been inactive since October, 2006, with Blacklake water customers being supplied with water pressure and additional water for water service and fire protection through the 2006 temporary intertie with the Town Water Division.

The District is considering the merger of the Blacklake Water Division with the Town Water Division whereby:

- The temporary bypass intertie constructed in October, 2006, and the four-inch emergency water intertie that was previously constructed would be declared permanent connections.
- A second intertie would be budgeted for construction at Misty Glen Road. This intertie would provide redundancy and looping within Blacklake.
- The Blacklake Water Division projects, known as the Blacklake Booster Station and Blacklake Hydromatic Tank, would no longer be required to provide fire service and potable water within the Blacklake Water Division and would be abandoned.
- Town Water Division and the Blacklake Water Division would be merged into a single water division known as the Nipomo Community Services District Water System or District Water System.
- The Town Water Division would provide water pressure and would supplement existing Blacklake water production for water service and fire protection within the Blacklake Water Division.
- Blacklake Water Division customers would pay a "Buy-in Charge" for the portion of the Town Water Division water system that benefits Blacklake.

## FINANCIAL REPORTS RELATED TO MERGER

On September 7, 2007, the Reed Group, Inc. provided the District with a report titled *The Nipomo Community Services District Combined Water Rates System Financial Plan and User Rates* (herein "Reed Report"). The Reed Report analyzed the appropriate bi-monthly user rates for the merged water divisions and the nature and extent, if any, of an equitable surcharge (now known as the "Buy-In Charge"), to be paid by Blacklake water customers to account for the capital contribution to the Town Water Division for providing augmented water service and fire protection through the bypass intertie. The Reed Report came to the following conclusions:

- A. Bi-Monthly Charges for Water Rates: implementing the Town Division Water Rates and Charges as established by 2005-103 District-wide (including Blacklake) will provide adequate financial resources for the next two years for the operation, maintenance, replacement and funding adequate reserves for the merged water systems.
- B. Equitable Surcharge (Buy-in Charge): based on an analysis of the difference in value of the two (2) water divisions assets and financial resources, the Reed Report set a Blacklake equitable surcharge (Buy-in Charge) at one million sixty three thousand three hundred ninety-two dollars (\$1,063,392) which equates to one thousand six hundred seventy-two dollars (\$1,672) per equivalent one inch meter within the Blacklake Water Division. The Report recommended the surcharge (Buy-in Charge) be prorated over a ten (10) year period at five percent (5%) interest or approximately thirty-five dollars and fifty-two cents (\$35.52) bi-monthly per one inch equivalent water meter.

On May 14, 2008, the District Board of Directors approved a Report titled *Blacklake Water Fund Merger with Town Water Fund Financial Plan and User Rates – Final Report* that was prepared by District Staff (herein "District Final Report"). The District Final Report provides an alternative analysis to the Reed Report in calculating the Buy-in Charge. The Buy-in Charge was calculated based on a determination of the June 30, 2006 Town System assets that provide benefit to Blacklake; in other words, exclusion of the Town System assets that do not provide benefits to Blacklake. The District's Final Report concluded that 25.7% of the linear feet of the Town distribution system benefits Blacklake. Multiplying .257 times the \$15,215,058 which is the total June 30, 2006 Town System Assets (adjusted to deduct the Olde Towne Grant), results in

an estimate of \$3,912,861 in Town System Assets that benefit Blacklake. Dividing the \$3,912,861 by 4,215 total equivalent 1" meters in both the Town Division and the Blacklake Division results in a value of \$928 per meter for a total Buy-in Charge of \$590,412. Thus, if each 1" equivalent Blacklake meter were to make a one-time Lump Sum payment of \$928, then the total buy-in of \$590,412 would be paid off up front. The District Final Report recommended the Buy-in Charge be paid over a ten year period at five percent interest or approximately twenty dollars and seven cents (\$20.07) bi-monthly per one inch equivalent water meter.

Both the Reed Report and the District Final Report are on file with the District and are available for inspection at the District office located at 148 S. Wilson, Nipomo, California or online at [www.ncsd.ca.gov](http://www.ncsd.ca.gov).

Subject to the procedures of Section 6 of the Article XIII D of the California Constitution, the District Board of Directors tentatively approved the new water rate structure based on the Town Water Division bi-monthly rates and charges and the Buy-in Charge established by the District Final Report at its meeting of May 14, 2008.

### CALCULATION OF NEW WATER RATES

Each District utility service (water and sewer) is operated as a separate enterprise and is required to provide services primarily through bi-monthly user rates. The proposed water rates would be used to:

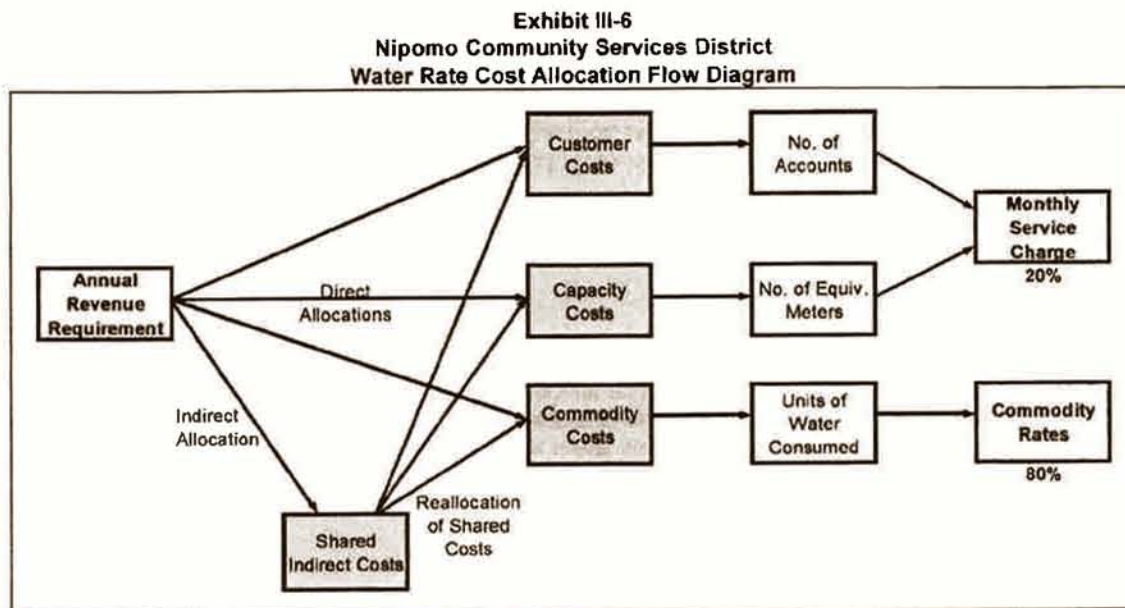
- Provide sufficient funds for ongoing operation and maintenance for the District Water System.
- Rehabilitation, replacement and upgrade of facilities needed to provide services for the District Water System.
- Establish reserves to reduce risk and prudently manage the District's delivery of water resources.

#### Cost of Service Analysis for Bi-Monthly Water Rates:

Cost allocation is the method by which the annual water rate revenue requirement is recovered from each customer class based on the cost of providing water service. The approach used by the District is commensurate with available data that characterizes water system costs into three (3) specific categories which include:

- Customer costs such as meter reading, billing and customer service are denoted as fixed costs that tend to vary as a function of the number of customers served. Customer costs are allocated equally to all customers based on the total number of accounts and are included in the bi-monthly service charge (see Service Charge referenced in page 6, below)
- Capacity costs are also fixed costs, however, capacity costs tend to vary in relation to the capacity of the water system. Customers that place greater or lesser demands on the water system should bear greater or lesser shares of these costs. The demand that each customer could potentially place on the water system is reflected in the size and capacity of the customer's water meter. Capacity costs include fixed operating costs, water system maintenance and debt service. Capacity costs are included in the bi-monthly service charge calculation (see Service Charge referenced in page 6, below).
- Commodity costs include those costs that vary with the amount of actual water usage. Water treatment and pumping costs are the most significant examples. Commodity costs are allocated to each customer based on the actual amount of water used included in the (see Usage Charge referenced on page 6, below).
- Shared indirect costs are those items not directly allocated to any of the three components identified above. Instead these costs are first allocated as shared (indirect costs) and subsequently re-allocated to each of the above three components based on percentage of costs that were directly allocated to these components.

Below is Exhibit III-6 that depicts the water rate cost allocation diagram. A more detailed analysis of water rate calculations is found in the Reed Report.



#### Buy-in Charge Calculation:

The ten year Buy-in Charge would be accounted for as a capital contribution for those components of the Town Water Division that provide water and fire protection service within the Blacklake Water Division. See

above section on Financial Reports related to merger for an analysis of calculating the Buy-in Charge. A more detailed analysis is contained in the District Final Report. (The Buy-in Charge is referenced on page 6, below).

The District recognizes that some water customers within the Blacklake Water Division would prefer to prepay the Buy-in Charge and avoid the five percent (5%) interest rate. Therefore, if adopted, water customers within Blacklake Water Division will have the opportunity to prepay the Buy-in Charge with a lump sum payment. This choice will be offered to Blacklake water customers during the month of September 2008.

### HOW WILL MY RATES BE AFFECTED?

When considering the effect of the proposed merger on your rates, remember the Buy-in Charge terminates in ten years. The following chart depicts the proposed water rates (including the Buy-in Charge) that support the proposed merger and are the rates that are subject to the majority protest procedures described above.

<b>SERVICE CHARGE (OR AVAILABILITY CHARGE)</b>		
SIZE OF METER	2008	2009
1-inch or less	\$22.71	\$24.52
Litigation Charge	\$6.32	\$6.32
1½- inch	\$64.46	\$69.61
Litigation Charge	\$14.36	\$14.36
2-inch	\$102.09	\$110.25
Litigation Charge	\$19.92	\$14.36

\*The above bi-monthly minimum charge reflects the adjusted rate established by Ordinance 2003-95 to meet the District's financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District vs. the City of Santa Maria, the Nipomo Community Services District, et al. When the District's financial obligation regarding this lawsuit have been satisfied, the above litigation charge will be removed.

<b>RESIDENTIAL USAGE RATES</b>		
	2008	2009
Tier 1 (0-40 Units)*	\$1.52	\$1.64
Tier 2 (> 40 Units)*	\$2.59	\$2.80

### NON-RESIDENTIAL USAGE RATES (Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	2008	2009
All Water Use	\$1.91	\$2.06

\*One unit equals 748 gallons = 100 CUBIC FEET = 1HCF

<b>BLACKLAKE BI-MONTHLY BUY-IN CHARGE</b>		
	2008	2009
1-inch equivalent water meter	\$20.07	\$20.07
1½-inch water meter	\$60.21	60.21
2-inch water meter	\$96.34	\$96.34

For the purposes of example the following chart depicts the bi-monthly water rates under existing rate structure and the proposed rate structure including the Buy-in Charge.

	<b>LOW USE (24 Units)*</b>	<b>MEDIUM USE (34 Units)*</b>	<b>HIGH USE (64 Units)*</b>	<b>VERY HIGH USE (120 Units)*</b>
2008 Blacklake existing rates bi-monthly	\$72.70	\$89.50	\$170.14	\$334.78
2008 proposed rates with Buy-in Charge	\$85.58	\$100.78	\$172.06	\$317.10
Increase (Decrease)	\$12.88	\$11.28	\$1.92	(\$17.68)
2009 Blacklake existing rates bi-monthly	\$84.59	\$104.39	\$199.55	\$393.87
2009 proposed rates with Buy-in Charge	\$90.27	\$106.67	\$183.71	\$340.51
Increase (Decrease)	\$5.68	\$2.28	(\$15.84)	(\$53.36)

\*One unit equals 748 gallons = 100 CUBIC FEET = 1HCF

During the ten-year Buy-in Charge period, the District will likely propose additional water rate increases consistent with the procedures of Article XIII D of the California Constitution. Subject to the Blacklake customers making the one time payment (as described above) the Buy-in Charge will remain a separate obligation of Blacklake Water Division customers until paid, approximately September 30, 2018. Lastly, if the water rates are approved, the new rates would commence October 1, 2008.

If you should have questions, please attend the Informational Meeting currently set for Wednesday, June 18, 2008, at 2:00 p.m. at the Blacklake Clubhouse located at 1490 Golf Course Lane or contact Bruce Buel, General Manager at (805) 929-1133.