

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BBB*
DATE: October 22, 2009

**AGENDA ITEM
E-7
OCTOBER 28, 2009**

NIPOMO MESA MUTUAL WATER COMPANIES

ITEM

REVIEW RESEARCH ON NIPOMO MESA MUTUAL WATER COMPANIES [PROVIDE POLICY GUIDANCE].

BACKGROUND

In response to a July 6, 2009 Technical Memorandum prepared by Michael LeBrun, M.S. LeBrun Environmental Engineering, that discussed small water companies overlying the Nipomo Mesa Management Area aquifer, the Board of Directors asked staff several follow-up questions. The attached Technical Memorandum, dated October 13, 2009, also prepared by Mr. LeBrun, addresses some of those questions and outlines the questions that could be better answered by others.

FISCAL IMPACT

The cost to prepare the staff report involved the use of budgeted staff time and approximately \$1000 in budgeted consultant costs to M.S. LeBrun Environmental Engineering.

RECOMMENDATION

Staff recommends that your Honorable Board discuss the Technical Memorandum and provide policy guidance.

ATTACHMENTS

- Technical Memorandum Mutual Water Company, Additional Investigation dated October 13, 2009

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M. S. LeBrun Environmental Engineering
PE C55787
2268 Callender Rd., Arroyo Grande, CA 93420
mslenve@verizon.net
805-305-1885

Memorandum

TO: Bruce Buel
General Manager
Nipomo Community Service District

RECEIVED

OCT 16 2009

NIPOMO COMMUNITY
SERVICES DISTRICT

COPY: Peter Sevcik
District Engineer

FROM: Michael S. LeBrun, PE 55787



DATE: October 13, 2009

SUBJECT: MUTUAL WATER COMPANY, ADDITIONAL INVESTIGATION

This Memorandum responds to Request for Services Task Order #09-010, *Mutual Water Company and Well Drilling Permit, Additional Investigation*, dated August 16, 2009.

In response to a July 6, 2009, memorandum discussing small water companies overlying the Nipomo Mesa Management Area aquifer, the District Board of Directors presented follow up questions. This memorandum addresses some of those questions.

The questions are presented below (**bold font**), followed by additional information and discussion.

1) **What is the step-by-step process by which new wells are permitted, and what precisely do 5 or more residents have to do to form a mutual water company on the Mesa?** New wells are permitted when a property owner (actually most often the drilling company representing a property owner) fills out a County Well Permit Application and pays a fee. This is a relatively straightforward process.

Well drilling permit applications made to the County are public documents available by contacting the County Health Department and providing a public records request with some reference to the application/property of interest (e.g. APN). Well *Completion* Reports (depth, screened interval, production) are confidential and not available to the public.

The County Water Well Drilling Application collects basic information about the well owner, location, purpose, and drilling methods. A few 'yes/no' questions are posed regarding public agency services and aquifer quality. The applicant is required to document all property lines, sewage disposal field or sewer lines, animal enclosures or other pollutant sources, intermittent perennial natural or artificial water bodies or water courses, surface water drainage patterns, existing well and access roads all within a 200-foot radius of the proposed well. A County health

department inspector verifies the information prior to application approval. If a proposed well is within the Coastal Zone, the Application is referred to County Planning and Building for further review. County staff indicated a more rigorous review is involved for public drinking water supply well applications.

There is not a review of water resources impacts associated with the well drilling application review process. There is no requirement to document the status (e.g. abandoned, secured, destroyed) of the old well a new well is replacing, unless that well is within a 200-foot radius of the proposed well. In such a case, only the location of the old well is noted.

New mutual or shared water systems are formed when new development, for which no existing water supply system is available, is approved through the County development review process. The increased demand on water resources attributed to the new water system, and new development it serves, is considered (e.g. CA Environmental Quality Act review, County Resource Management review) during development review by County Planning.

In general, County Planning, and Health Department staff discourage small systems, however when a development is otherwise allowable (approved through the development review process) and no existing entity is willing or able (e.g. project is outside service boundary of an existing provider) to provide water service, new mutual systems are permitted. (Recent examples include Woodlands on a large scale and SLO Trio water company at the northwest corner of the Sundale road and Dawn road intersection, on a small scale). The need to form a new water company to service a new development is an aspect of the development process itself that can be reviewed and commented on by the District.

2) At what points in these processes can anyone, person or agency, provide information to assist in the decision(s)? How can a public agency be notified every time one of these decisions is about to be made?

Development related well drilling or Mutual Water Company formation is indirectly referred to the District through the existing County development review process. All development related application made to the County for the Nipomo Mesa and surrounding area, are copied to the District for review and comment.

However, there is no such referral process is in place for water well drilling applications made to the County. The District, individually or through its association with the NMMA Technical Group, may consider requesting a referral of well drilling and abandonment permit Applications filed for the NMMA area. Again, these applications are public documents. It may be possible to establish a procedure similar to the development application referral process currently in place between the District and the County.

The District may consider working with the County to establish an Ordinance governing well drilling over the NMMA. The basin's status as a Court-adjudicated basin may help in establishing the authority for such an Ordinance or provide the basis for improved oversight procedures.

3) What kind of reporting is filed with the County when a new well is drilled? And what, if any, subsequent reporting is made about private wells?

The well application represents the entirety of information collected when a well is drilled outside the coastal zone. Other than the Drilling Application information reviewed above, a basic flow test to verify 'capacity' and a bacteria analysis of the water for health screening is all that is required for private wells. Agricultural wells do not require a bacteria test, flow data is collected yet not available to the public. There is no follow up through the life of the well unless the property changes hands in which case a new flow test and bacteria sample (for non-Ag) are required.

The County does not have a comprehensive program for tracking abandonment or destruction of old wells. County health department staff indicated the County has little to no authority to require well abandonment and that well abandonment is not linked back to the original well permit so there is no comprehensive record of active versus abandon wells. Improperly abandon wells can pose a significant threat to groundwater basin quality by allowing unchecked introduction of surface water into the aquifer.

4) What reporting obligations (if any) do mutual water companies and owners of ag wells have?

Once the decision to allow formation of a Mutual Water Company is made through the County Planning process, the County health department (or State Health Department for larger or special systems) requires the responsible party to provide a Technical, Managerial, and Financial Report (application document) in accordance with State Drinking Water Act. This review is focused on health and safety versus resource availability. "Supply Adequacy" for the sake of this review process means an adequately sized system (e.g. pumps, storage tanks).

The breadth and scope of the TMF Report varies according to the size and complexity of the water system. Two or three neighbors joining together on a new water system would receive light review, where a twenty-connection system with water treatment needs would receive more in-depth review and require a more robust TMF Report.

All County and State regulated potable water systems are inspected regularly according to the CA Drinking Water Act. Inspections are annually for larger and/or more complex systems and as infrequently as every five years for small systems. Inspection reports are available for public review. There are no regular inspections or reporting requirements for private wells (agricultural or residential). A summary of the various reporting requirements is provided below.

Water System Oversight and Reporting Summary

No. of Connects	Status	Oversight Agency	Reporting Frequency	Data Collected
1	Private Well	County DHS	At change of ownership.	Bacteria, production capacity (gallons per minute)
2 - 4	Shared Well, Private	County DHS	Annual sample and report. Inspection depending on system complexity.	Bacteria, production capacity (gallons per minute)
5 - 14	State Small System, Private	County DHS	Annual sample and report. 2-5 year inspection depending on system complexity	Bacteria, production capacity (gallons per minute). General minerals.
15 - 199	Community System Public	County DHS	Regular sampling and an annual quality report. 2-5 year inspection depending on system complexity	General minerals, organics, bacteria, production capacity (gallons per minute). County staff indicated all new public systems are required to have metered wells and to provide monthly and annual production reports. There are no requirements for existing systems to retrofit or report pumping. There are no County regulated systems utilizing the NMMA that are required to report production volume.
Greater than 200	State Public	State DHS	Regular sampling with and annual report. 2-4 year inspection.	General minerals, organic , bacteria, production capacity (gallons per minute), production volume. Production volume is summarized in the publicly available Inspection Report.

Notes:

- Sampling requirements may be adjusted depending on water quality history.
- Systems with as few as a single connection may be deemed a 'public' or 'community' systems by the County in cases such as public schools or businesses with large numbers of employees. Businesses with greater than 25 employees for more than 6-months per year qualify as water systems and are regulated by County DHS. However; this criteria is difficult to apply and County staff recognize some businesses may be overlooked.
- Public water systems require a minimum of two 'supplies' (wells).

5) In what document(s) are the County policies regulating and reviewing mutual water companies found? When are these policies reviewed and updated? ... some mutual and private water companies had been missed. I recommend two sources of such listings. The County's Water Planning Area #6 (WPA-6) lists a large number of such wells. ... how much do such wells pump annually?

Health Department staff indicates mutual water companies under their purview are regulated under the authority of the State Drinking Water Act. They site no County level policy for their oversight.

The County Health Department and State Health Department were contacted directly and asked to provide a listing of regulated water companies. A copy of the most recent inspection report for each company was also obtained. A comparison of County Health Department list of small systems to the Water Planning Area – 6 listing provided in the County's *draft Water Master Plan Update, 2009* is provided below. The draft Master Plan defines WPA-6 as that area of SLO County that lies within the Santa Maria River Watershed. The Master Plan defines Planning Area 5, Five Cities area, as the area of the Pismo Creek and Arroyo Grande Creek watersheds. The variability in geographical definition and criteria for listing, may attribute to some of the differences between these two listings.

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SLO Co. Master Water Plan Update, WPA-6-1.	July 6, 2009 MSLENVE Memo	Note:
A.G. Mushroom Farm		4000 Huasna Road, AG Valley.
	Ball Tagawa Growers	
Black Lake Canyon Wtr. Supply	Black Lake Canyon Water Supply	
	Callender Grove MWC	
Callender Water Assn	Callender Water Association	
Clearwater Nursery		County does not regulate this as a community water system.
	Conoco Phillips	
Country Hills Estates		Arroyo Grande Valley
	Crossroads Community Church Water	
Cuyama Lane Water Co.		Junction of highways CA 166 and CA 101, Nipomo Valley
Dana Elementary School		Abandoned and connected to NCSD
Greenheart Farms	Greenheart Water Supply	
Guadalupe Cooling		Located in SM Valley.
Heritage Lane MWC		Arroyo Grande Valley
Hetrick Water Co.		County Health Staff are not aware of a water company by this name.
Ken Mar Gardens		801 South Halcyon, Arroyo Grande Valley.
La Colonia Water Assn	La Colonia Water Association	
La Mesa Water Co.	La Mesa Water Co.	
Laguna Negra (Tract 610)	Laguna Negra MWC	
Mesa Mutual Water Co	Mutual Water Association	
	Nunes Water Company	
Rancho Nipomo Water Co.		East of Highway 101, in Nipomo Valley.
Rim Rock Water Co.		East of Highway 101, in Nipomo Valley.
Santa Maria Speedway		Junction of highways CA 166 and CA 101, Nipomo Valley.
Speedling, Inc.		Thompson Road, Nipomo Valley.
	T&A Properties Water Company	
True Water Supply	True Water Supply	
	Vista De Las Flores	
	Woodland Park MWC	

State regulated water company production volumes are summarized below. The production data is drawn from the 2008 NMMA Annual report and, in the case of Mesa Dunes, is based on a 2003 State inspection report. Annual production per connection varies widely (.28 – 1.43 AF) for the different purveyors.

NMMA State Regulated Water Systems - Annual Production Analysis

Purveyor	# Connections	# Served	Annual Production (Acre-feet)	Gal/Yr/Connections	Gal/Yr/# served	AF/Yr/Connect	AF/Yr/# Served
Golden State Water Co - Nipomo	1,465	4,782	1380	306991	94049	0.94	0.29
Mesa Dunes	304	700	84	90051	39108	0.28	0.12
Nipomo CSD	3,886	12,696	2700	226436	69308	0.69	0.21
Rural Water Company	917	1,989	900	319858	147466	0.98	0.45
Woodlands Mutual Water Co	377	1,000	540	466806	175986	1.43	0.54
Totals	6949	21167	5604	352536	131479	1.08	0.40

Mesa Dunes production data from their 2003 State DHS Annual report.
 All other production data from the 2008 NMMA Annual Report.
 Number of connections and customers from State DHS Annual reports - various years.

County regulated small systems are not required to report production volumes. An estimate of the annual demand for these small residential systems, based on the number of connections and basic lot/development characterization, is summarized in **Attachment 1**. The estimated annual demand for these county small system and the state regulated Mesa Dunes system is 358-Acre-feet. This is approximately 3-percent of the estimated total annual groundwater production on the NMMA (12,600 AF), 6-percent of the annual production by large residential purveyors (5520 AF) and 21-percent of the estimated annual production of rural landowners (1700 AF), as reported in 2008 NMMA Annual report. It must be assumed the balance of rural landowner water supply production is provided by an untold number of private individual wells.

Questions 1- 4 below are best addressed by District Legal Counsel and/or the NMMA Technical Group.

1) How many different classes of potential Responders are there on the Mesa? And what are the obstacles (if any) to each class?

E.g., in part:

PUC-regulated water companies,

public agencies (e.g., NCSD, Lucia Mar Unified School District, County Parks),

industrial/commercial (e.g., Conoco-Phillips, new car wash permitted on Willow),

mutual water companies (some signing the Settlement, others not),


ag wells (single family, CCGGA greenhouse businesses; some signing the Settlement, others not).

2) Are there some classes (e.g., production ag outdoors) that could be accurately estimated by calculations based on something like crop, soil type, area farmed, and number of crops annually?

3) What voluntary steps could be taken to collect some (of not all) of the needed information?

4) What kinds of requests could be made to Judge Komar in Santa Clara to facilitate the gathering of this important information?

NMMA Small System Demand Estimate						
Purveyor	Type	Source	Location	# Connections	Est. Demand (Acre-feet-yes)	Notes
Ball Tagawa Growers	Nontransient-noncommunity	Well, 450 feet deep, perforated 295-400.	Zenon Way at Blacklake Canyon.	1		Work force supply system. Not used in estimated average.
Black Lake Canyon Water Supply	State Small	Well, depth 440-feet, perf. 250-425.	East of Blacklake Golf Resort on Pomeroy	11	11	Large estate style homes, used 1 AF per connections.
Callender Grove MWC	Community	Well 1, 460 feet, perf. 210-460; Well 2, 470 feet, perf. 210-460.	Callender Rd. at Hwy 1	37	37	A mix of residential. Used 1 AF per connection.
Callender Water Association	State Small	Well, 216 foot, perf. 205 to 216.	Callender near Hwy 1.	7	3.5	Small lot residential. Used .5 AF per connection. Well taps more shallow perched aquifer.
Conoco Phillips	Nontransient-noncommunity	Well 1, 600 feet, perf. 384-600. Well 2, 420 feet, perf. 260-420.	West end of Willow Road	1		Work force supply system. Not used in estimated average.
Crossroads Community Church Water	Transient-noncommunity	Well, 295 feet, perf. 150-295.	North Mesa, Stanton Road	1		Church supply system. Not used in estimated average.
Greenheart Water Supply	Nontransient-noncommunity	Well, 450-feet, perf. 250-400 feet.	Zenon Way at Blacklake Canyon	2		Work force supply system. Not used in estimated average.
La Colonia Water Association	State Small	Well, 203 feet, perf 107- 203	Near Hwy 101 at Hwy 166	6	3	Small lot residential. Used .5 AF per connection. Well taps more shallow perched aquifer.
La Mesa Water Co.	State Small	Well, 83 feet deep, perf. 4 to 80 feet	Westside NMMA near Hwy 1 and Halcyon	11	5.5	Small lot residential. Used .5 AF per connection. Well taps more shallow perched aquifer.
Laguna Negra MWC	Community	Well 1, 601 feet, perf 290-525 feet. Well 2, 320 feet.	Westside, Guadalupe Road @ Laguna Negra Road	29	29	Large estate style homes, used 1 AF per connections.
Mutual Water Association	Nontransient-noncommunity	Well, 332 feet, perf. 288-332 feet.	Westside, Sheridan Road at Highway 1.	8	8	Mixed residential commercial. Used 1 AF per connection.
Nunes Water Company	State Small	Well, 103 feet, perf. 60-100 feet.	Westside, Highway 1 near Halcyon.	12	6	Small lot residential. Used .5 AF per connection. Well taps more shallow perched aquifer.
T&A Properties Water Company	Nontransient-noncommunity	Well, 400 feet, perf. 320-400 feet.	Westend of Willow Road.	7	7	Larger estate lots. Used 1 AF per connection.
True Water Supply	State Small	Well, 430 feet, Perf unknown.	East of Woodlands, Camino Caballo at Summer Lane.	7	7	Large estate style homes, used 1 AF per connections.
Vista De Las Flores	State Small	Well, 105 feet, perf. 47-100 feet.	West side, Hwy. 1 near Halcyon Rd.	12	6	Small lot residential. Used .5 AF per connection. Well taps more shallow perched aquifer.
Woodland Park MWC	Community	Well 1, 240 feet, perf 231-239, serves 12 connections primarily; Well 2, 340 feet, perf 200-340; Well 03, 400 feet, perf 200-380.	Willow Road @ Hwy 1	151	151	Mixed residential lot sizes and supplies. Use 1 AF per connection. Some connections served by perched aquifer.
				Totals	303	274
				Mesa Dunes 2003 DHS reported production:		84
				Estimated annual production by non NMMA reporting mesa purveyors		358

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: October 22, 2009

**AGENDA ITEM
E-8
OCTOBER 28, 2009**

WILLOW ROAD WATERLINE REIMBURSEMENT AGREEMENT AMENDMENT

ITEM

AMEND EXISTING REIMBURSEMENT AGREEMENT WITH SAN LUIS OBISPO COUNTY FOR CONSTRUCTION OF WATERLINE IN WILLOW ROAD [APPROVE RECOMMENDATION].

BACKGROUND

The District entered into a reimbursement agreement with the County of San Luis Obispo for the construction of the District's waterline concurrent with the County's roadway project. The County is getting ready to bid the project and has requested that the District consider an amendment to the agreement. Time is of the essence as the County proposes to bid the project next month. District Counsel is working with County Counsel to finalize the amendment language. Staff will provide the agreement amendment to the Board and post it on the District website as soon as it is available.

FISCAL IMPACT

The cost to prepare the staff report involves the use of budgeted staff and legal counsel time.

RECOMMENDATION

Staff will present the Agreement Amendment and recommendation to the Board under separate cover as soon as it is finalized.

ATTACHMENTS

None