

TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER

DATE: MARCH 9, 2012

**AGENDA ITEM
E-3
MARCH 14, 2012**

REVIEW FORM OF NOTICE OF PUBLIC HEARING AND PROPOSED ASSESSMENT AND FORM OF BALLOT RELATED TO PROPOSED ASSESSMENT DISTRICT 2012-1

ITEM

Review form of Notice and Ballot and provide input.

BACKGROUND

In support of funding for the Supplemental Water Project the District is considering the formation of an Assessment District 2012-1. The form of the proposed Notice and Assessment Ballots are attached. The Notice and Ballots will be mailed following this meeting giving property owners at least 45 days notice of the public hearing.

FISCAL IMPACT

Staff time and professional consulting services related to the supplemental water project development are included in the 2011-12 budget. These costs are capitalized and included in the project cost and are recoverable if the assessment district is formed and bonds are sold. Should the assessment district not receive approval, additional sources of revenue for the Project would be needed.

STRATEGIC PLAN

Strategic Plan Goal 1.1 – Protect, Enhance and Assess available Water Supplies

Strategic Plan Goal 1.2 – Secure New Water Supplies

RECOMMENDATION

Staff recommends that your Honorable Board review of the attached draft Notice and Ballot, provide comment.

ATTACHMENTS

- FORM OF NOTICE
- FORM OF BALLOT



Nipomo Community Services District
148 South Wilson Street
Post Office Box 326
Nipomo, CA 93444-5320

March __, 2012

**NOTICE OF PUBLIC HEARING AND PROPOSED ASSESSMENT
NIPOMO COMMUNITY SERVICES DISTRICT
ASSESSMENT DISTRICT NO. 2012-1
(Supplemental Water Project)**

Background

The Nipomo Community Services District ("NCSD") is proposing the formation of an assessment district to construct certain public capital water improvements known as the Nipomo Mesa Supplemental Water Project ("Project"). The Project will import a reliable source of fresh water to the Nipomo Mesa to relieve the single diminishing supply of groundwater we depend on. This additional water will allow our groundwater levels to rise, reduce the threat of seawater intrusion, and satisfy the Santa Clara County Superior Court-approved Stipulation and Final Judgment to import an additional supply of water from the City of Santa Maria.

You are receiving this notice because you own property subject to the proposed assessment discussed herein.

OFFICIAL NOTICE AND BALLOT

This is a legal notice as required by California Government Code Section 53753. The purpose of this notice is to provide you with information regarding:

- (a) the **Public Hearing** to be held by the Board of Directors of the NCSD on May 9, 2012 at 1 p.m. to consider the formation of Assessment District No. 2012-1 (Supplemental Water Project) ("Assessment District") under the provisions of the Municipal Improvement Act of 1913 ("Improvement Act") and Article XIID of the Constitution of the State of California ("Article XIID") to finance a portion of the costs of the Nipomo Mesa Supplemental Water Project ("Project");
- (b) the **assessment ballot proceeding** which allows you to complete the enclosed Official Property Owner Assessment Ballot to express your support for, or opposition to, the levy of an assessment on your property to finance the Project; and
- (c) your **proposed assessment amount**.

Specifics of the Project, its costs and expenses, the legal proceedings, and a detailed description of the method of determining the proposed allocation of a portion of the costs of the Project among the benefitted parcels in proportion to the special benefit, are described in detail in the Engineer's Report ("Engineer's Report") for the proposed Assessment District, now on file with the Secretary of NCSD at 148 South Wilson Street, Nipomo, California 93444-0326, and available for examination by any interested person.

Please see the enclosed **Official Property Owner Assessment Ballot** for the amount of the proposed assessment for your parcel.

PLEASE COMPLETE AND RETURN YOUR SIGNED AND DATED ASSESSMENT BALLOT ON OR BEFORE MAY 9, 2012. ONLY ONE SIGNATURE IS REQUIRED.

Financing of the Project

The Project consists of the financing, construction and acquisition of (a) certain water capital improvements to transport supplemental water from the City of Santa Maria to the Nipomo Mesa, which improvements include pipeline, storage tank and pump station facilities, and chloramination systems to be owned and operated by NCSD, (b) the acquisition of land and easements necessary for the construction of the facilities, and (c) the payment of incidental expenses related to the foregoing. The Project is estimated to cost a total of \$26,261,122, without financing costs. The total estimated cost of the Project with financing costs is \$29,763,314, of which **\$21,463,314** is proposed to be financed through assessments from specially benefitted properties within the proposed Assessment District. The remaining \$8,300,000 in estimated costs will be funded from a \$2,300,000 State Department of Water Resources grant and \$6,000,000 in capital charges contributed by NCSD.

The boundaries of the proposed Assessment District encompass properties specially benefitted by the Project and include parcels within the service areas of four water purveyors who are subject to the court-approved Stipulation, Final Judgment and the obligation to finance the Project: NCS D (Zone A), Golden State Water Company (Zone B), Rural Water Company (Zone C) and Woodlands Mutual Water Company (Zone D).

What is my assessment used for?

The proposed assessments will allow NCS D to construct the Project. The assessment you pay can only be used for the actual costs of the Project, including certain incidental costs and administration expenses set forth in the Engineer's Report. The assessment cannot be used for anything else or put into any other NCS D fund. All expenditures are subject to independent annual audits. Any excess funds collected will be rebated or used as an offset to the property owners' future installment payments.

How much is my assessment and how was it calculated?

The total assessment for all properties in the proposed Assessment District is \$21,463,314. **The amount of the assessment for your property is shown on the enclosed Official Property Owner Assessment Ballot.** Your property's assessment is based on the special benefit that your parcel receives from the Project. The construction of the Project will specially benefit properties within the proposed Assessment District through the availability of reliable fresh water from direct and/or supplemental water sources, reduced risk of seawater intrusion and satisfaction of obligations under court-approved judgment. The Engineer's Report, which is on file and available for inspection in the Secretary's office, includes more detail on the special benefit that your property receives and the allocation of costs to each property. The basis upon which the amount of the proposed assessments was calculated is set forth in Part V of the Engineer's Report, and summarized in Attachment A hereto.

What payment options are available?

If the Assessment District and assessments are approved, you will have an assessment lien placed on your property. You will be provided an opportunity to pay all or any part of your assessment in cash, less a discount for financing and reserves of approximately 15%, without interest, prior to the issuance of bonds. Following the termination of the cash payment period, NCS D intends to issue bonds in the amount of the unpaid assessments pursuant to the provisions of the Improvement Bond Act of 1915 ("Bonds"). Unpaid

assessments will be amortized and payable over an estimated thirty-year period in smaller level annual installments of principal plus interest. Final interest cost will be determined at the time bonds are sold. The amount of your estimated level annual installment of principal and interest is shown on the enclosed Official Property Owner Assessment Ballot.

If you choose to finance the assessment, you will see an additional line item on your property tax bill for the next 30 years unless you choose to pay off the assessment earlier. You have the right to prepay all or a portion of the assessment at anytime in the future but you will not receive the same upfront discount amount as prior to the financing.

Are there any additional costs?

The annual operation, maintenance and replacement cost of the Project will not be funded by the proposed Assessment District. Instead, NCS D will recover such costs through rates and fees charged to its customers and water purchase rates charged to the three other participating water purveyors.

The Board intends to authorize an annual administrative assessment pursuant to Section 10204(f) of the Improvement Act in the amount of not to exceed \$6.00 per parcel per year, subject to an increase in said maximum amount of 2.0% per year, for costs and expenses incurred from the administration and collection of assessments and administration and registration of assessment bonds.

How do I return my assessment ballot?

The enclosed Official Property Owner Assessment Ballot is THE Official Assessment Ballot! It is not a sample ballot. You will not receive any other or additional assessment ballot.

This Official Property Owner Assessment Ballot is your opportunity to express your support for, or opposition to, the assessment on your property for the proposed Assessment District. In order to be considered, the ballot must be marked "Yes" or "No," and signed and dated in ink by an owner, or if none of the owners is an individual, by an authorized representative of an owner. The ballot should be placed in the return envelope and delivered by mail or personal delivery to the Secretary of NCS D.

Whether returned by mail or personal delivery, the Secretary must receive your signed and dated ballot on or before the close of the Public Hearing to be held on May 9, 2012, 1 p.m. at NCS D Offices or it will not be considered. If you plan to mail the return envelope

included with your ballot, please allow enough time for your mailed ballot to be received by the Secretary before 1 p.m., May 9, 2012. NCS D is not responsible for lost, stolen, misdirected or late mail. Late or partially completed ballots will not be counted.

Each property owner's "Yes" or "No" ballot is weighted by the dollar amount of the assessment proposed for such owner's property. The assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment with the ballots weighted according to the assessment amount of the affected property.

A property owner assessment ballot will not be tabulated if:

- the ballot received is a photocopy of an assessment ballot
- the ballot is a form different than the form of ballot provided by NCS D;
- the ballot is not signed (only one signature is required for properties owned by more than one individual);
- the ballot is submitted via e-mail or fax;
- the ballot is not signed under penalty of perjury by a record owner or authorized representative;
- the ballot is received after the close of the Public Hearing scheduled for 1 p.m. on May 9, 2012;
- the ballot is not marked with an identifiable "Yes" or "No"; or
- the ballot appears tampered with or otherwise invalid based upon its appearance, method of delivery or other circumstances known by the Tabulation Official.

When is the Public Hearing?

The Nipomo Community Services District Board of Directors will conduct a Public Hearing on the proposed assessment at 1 p.m., on Wednesday, May, 9, 2012, at 148 South Wilson Street, Nipomo, California 93444-0326. You can either return your assessment ballot in person or via the enclosed return envelop by mail to be received prior to May 9, 2012, or you can return your ballot in person at the Public Hearing and/or offer oral or written testimony about the proposed assessment. At the close of the Public Hearing, the Board of Directors will direct the Secretary to have the Tabulation Official begin publicly counting all properly returned assessment

ballots at District Offices. Results will be announced upon completion of the tabulation and Board action taken accordingly.

Further questions?

If your information is incorrect on the ballot or you are not an owner or an authorized representative of an owner of the parcel, or if you have questions about the balloting process or need more information about the Assessment District, please contact Kari Wagner, Assessment Engineer, at (805) 929-0411 or kariw@wallacegroup.us. If you have questions about the Project, please contact Michael LeBrun, General Manager, (805) 929-1133 or mlebrun@ncsd.ca.gov at NCS D.

How to properly fill out your Official Property Owner Assessment Ballot to ensure that it will be counted:

- 1 Read the attached information about the proposed Assessment District and the proposed assessment amount.
- 2 Mark "Yes" or "No" on page 2 of the Official Property Owner Assessment Ballot.
- 3 Sign your name and write the date in ink. (Unsigned ballots will not be counted. Only one property owner signature is required.)
- 4 Return the ballot in the envelope provided or deliver to:

**Secretary
Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326**

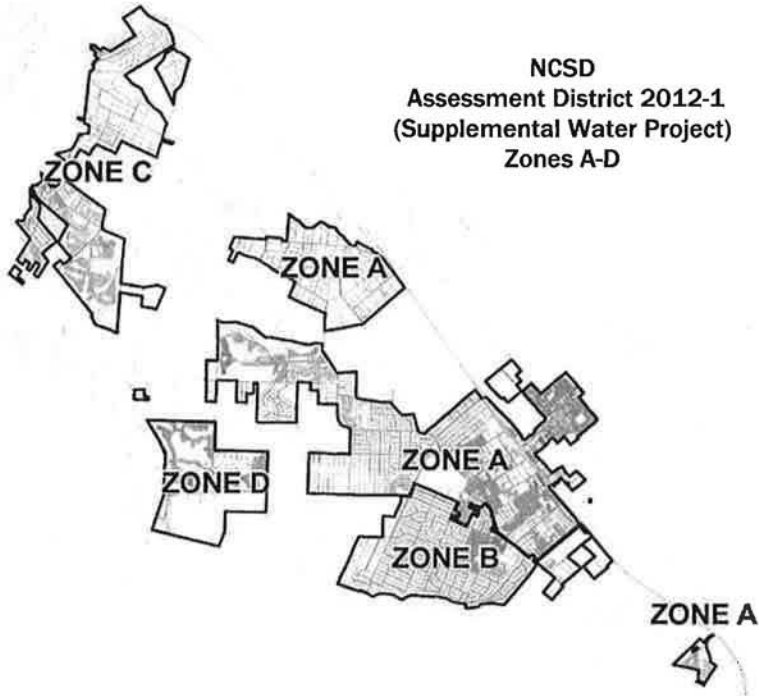
Completed ballots must be received by the Secretary no later than the close of the Public Hearing scheduled for 1 p.m. on Wednesday, May 9, 2012, at District Offices, 148 South Wilson Street, Nipomo, CA 93444-0326.

If you mistakenly mark or deface the Official Property Owner Assessment Ballot, you may receive a replacement ballot by contacting Kari Wagner, Assessment Engineer, at (805) 929-0411 or kariw@wallacegroup.us.

ATTACHMENT A

METHOD OF APPORTIONMENT OF ASSESSMENT

An analysis was conducted by the Assessment Engineer to determine the proposed allocation of a portion of the cost of the Project among the benefitted parcels in proportion to the special benefit received by such parcels. General and special benefit was reviewed and only special benefit was assessed to affected parcels. The Project will be utilized and benefits received by those parcels within the service areas of four water purveyors of the Nipomo Mesa area: Nipomo Community Services District (Zone A), Golden State Water Company (Zone B), Rural Water Company (Zone C), and Woodlands Mutual Water Company (Zone D).



Only those benefitted parcels within the service areas of these water purveyors will be allocated availability of water as a result of the construction of the Project. Those parcels with no assessment or outside the assessment boundaries are subject to County Ordinance No. 3090 and are required to pay a supplemental water development fee or a capital charge to offset their impact and increase, not supplant, the benefits of the Project to the availability and reliability of water sources. General benefit to the public at large from the reduced risk of seawater intrusion has been quantified as less than the allocated amount of grant proceeds contributed toward the Project. Properties assessed include public and private, vacant and occupied,

subdivided and unsubdivided parcels. The construction of the Project will specially benefit properties within the proposed Assessment District through the availability of reliable fresh water from direct and/or supplemental water sources, reduced risk of seawater intrusion and satisfaction of obligations under court-approved stipulation and final judgment.

To determine the special benefit of an individual parcel and to fairly apportion the cost of the Project among all parcels, the benefits to an individual parcel are based on its service location, zoning, size, use of property, whether it is currently developed and its development potential. First, the Assessment District was divided into four Zones A - D. Each zone has a different share in the total Project cost based on their benefits as determined by the Assessment Engineer and the percentage obligation established in the court-approved stipulation that was incorporated in to the final judgment based on projected availability of total water for such zone as a result of the construction of the Project.

Nipomo Mesa Supplemental Water Project
Apportioned Project Costs

Zone	Percentage of Share ¹ (%)	Water Supply ² (acre-ft)	Additional Water Supply Requested (acre-ft)	Equivalent Percentage Based on 3,000 acre-ft ³ (%)	Project Cost (\$)
Zone A (NCS D)	66.68%	1,667	500	72.23%	13,186,314
Zone B (GSWC)	8.33%	208	0	6.94%	2,086,047
Zone C (RWC)	8.33%	208	0	6.94%	2,086,047
Zone D (WMWC)	16.66%	417	0	13.88%	4,104,906
Total	100.00%	2,500	500	100.00%	21,463,314

¹ Percentage based on stipulation agreement for 2,500 acre-feet of water.

² The amount of water supply for each zone based on a percentage of 2,500 acre-ft.

³ The equivalent percentage for each zone based on 3,000 acre-feet of water. This percentage will be used to calculate distributed cost to each zone.

Next, within a zone, each parcel was classified based on size, zoning, use, state of development and potential development and assigned an equivalent benefit unit in proportion to the estimated special benefits the parcel receives relative to other parcels in such zone. The most common categories and other sample categories and their related BUs are provided in the following table.

PARCEL ZONING	PARCEL SIZE	BENEFIT UNIT (BU)
Zones A, B and C		
Residential Home	On less than 0.35 acres	1.0 BU
	Between 0.35 and 0.65 acres	1.6 BU
	Greater than 0.65 acres	2.0 BU
Residential Multi-Family Home	Less than 0.1 acres	0.7 BU per Unit
Commercial	On less than 0.35 acres	1.0 BU
	Between 0.35 and 0.65 acres	1.6 BU
	0.65 and 2.0 acres	3.0 BU
	Greater than 2.0 acres	6.0 BU
Hotel	All Parcel Sizes	0.4 BU per room
School/Government	On less than 0.35 acres	1.0 BU
	Between 0.35 and 0.65 acres	1.6 BU
	0.65 and 2.0 acres	3.0 BU
	Greater than 2.0 acres	3.0 BU plus 1.0 BU for every acre over 2.0 acres
Recreational	All Parcel Sizes	1.0 BU per acre
Agriculture	All Parcel Sizes	1.0 BU per acre
Exempt (own source of water)	All Parcel Sizes	0.0 BU
Zone D		
Residential Home	All Parcel Sizes	1.0 BU
Residential Multi-Family Home	Less than 0.1 acres	0.7 BU per Unit
Commercial	On less than 1.20 acres	1.5 BU
	Between 1.20 and 3.5 acres	3.0 BU
	Greater than 3.5 acres	6.0 BU
Exempt (own source of water)	All Parcel Sizes	0.0 BU

Once BUs were determined based on the evaluation of the assumptions and thresholds of water use and availability identified in a report prepared by Wallace Group for Nipomo Community Service District on April 15, 2009, the costs of the Project were spread by the Assessment Engineer within a Zone as determined by the Zone's share of Project costs, allocation of any contributions and the total number of BUs within the Zone. The following chart shows the amount of assessment per BU for each Zone.

Zone	Estimated # of BU	Estimated Total Project Cost Minus State Water Board Contribution	Estimated Total Assessment Per BU
A	7,605.51	\$19,186,314	\$2,522.69 (undeveloped parcel)
			\$1,477.51 ¹ (developed parcel)
B	2,615.45	2,086,047	\$797.59
C	1,739.90	2,086,047	\$1,198.95
D	1,516.25	4,104,906	\$2,707.28

1. After credit of \$6,000,000 of water capital charges for developed parcels within Zone A.

A detailed description of the costs of the Project, along with the method of determining the proposed allocation among the benefitted parcels in proportion to the special benefit, including all categories for each Zone, are described in detail in the Engineer's Report for the Assessment District, dated March 14, 2012, now on file with the Secretary of NCSD at 148 South Wilson Street, Nipomo, California 93444-0326, and available for examination by any interested person.

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

Please indicate your support of or opposition to the proposed assessment on your property by returning this Property Owner Assessment Ballot to the Secretary of the Nipomo Community Services District by _____, 2012.

- 1** Read the enclosed information about the proposed Assessment District and the proposed assessment amount.
- 2** Mark Yes or No on the backside of this ballot.
- 3** Sign your name and write the date in ink. (Unsigned ballots will not be counted. Only one property owner signature is required.)

- 4** Return the ballot in the envelope provided or deliver to:
Secretary
Nipomo Community Services District
148 South Wilson Street
Nipomo, CA 93444-0326

Completed ballots must be received by the Secretary no later than the close of the Public Hearing scheduled for 1:00 p.m. on Wednesday, May 9, 2012, at 148 South Wilson Street, Nipomo, CA 93444-0326. If you mistakenly mark or deface this property owner assessment ballot, you may receive a replacement ballot by contacting the Assessment Engineer at 805-929-0411.

**DRAFT BALLOT –
FRONT SIDE**

Property Owner Assessment Ballot
Nipomo Community Services District
Assessment District No. 2012-1 (Supplemental Water Project)

In order to fund construction of the Nipomo Mesa Supplemental Water Project (described in the enclosed Notice) to provide a long-term supply of safe and high-quality water and reduce the risk of seawater intrusion of local water supplies, do you support the proposed assessment shown below for your property?

Yes, I SUPPORT the proposed assessment amount of \$<<F_Assmnt_Amt>> for my property for a supplemental water project.

No, I OPPOSE the proposed assessment for my property for a supplemental water project.



Property: APN No(s.) «APNs»
 «New_Owner_First_Last»
 «mailing»
 «mailcity», «mailstate» «mailzip»

Signature: _____
 Printed Name: _____
 Date: _____

I hereby declare under penalty of perjury that I am a/the record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted. Only one property owner signature is required.)

If approved, I understand that I will be given an opportunity to prepay my assessment, without finance charges or reserves, otherwise my assessment will be financed as part of a NCS D bond issue and I will pay smaller annual installments of the above-referenced assessment amount, plus interest, over an estimated thirty-year period. The actual interest rate will be determined at the time of the bond sale. The current estimated annual installment payment for my parcel is \$_____ per year.

**DRAFT BALLOT –
 BACK SIDE**