

# NIPOMO COMMUNITY SERVICES DISTRICT

TUESDAY MAY 29, 2012

10:00 A.M.

## **SPECIAL MEETING NOTICE & AGENDA** **WATER RESOURCES POLICY COMMITTEE**

---

---

### COMMITTEE MEMBERS

ED EBY, CHAIRMAN  
MIKE WINN, MEMBER

### PRINCIPAL STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER  
LISA BOGNUDA, ASST GM/FINANCE DIRECTOR  
JON SEITZ, GENERAL COUNSEL  
PETER SEVCIK, DISTRICT ENGINEER

**MEETING LOCATION - District Board Room**  
**148 S. Wilson Street, Nipomo, California**

1. **CALL TO ORDER, FLAG SALUTE AND ROLL CALL**
2. **PURPOSE OF COMMITTEE**  
Discuss Board Committee formation and purpose.  
NO ACTION
3. **INTERTIE PIPELINE ALTERNATIVES**  
Discuss potential for alternative versions of intertie project with City of Santa and timelines that might preserve the \$2.3 million Department of Water Resources Grant, for future recommendation and consideration by Board of Directors, including but not limited to:
  - Scaled back project alternatives
  - Funding alternatives

ACTION RECOMMENDED: Provide direction to Staff

4. **SUPPLEMENTAL WATER PROJECT ALTERNATIVES**  
Discuss potential alternatives to Santa Maria Supplemental Water Project for future recommendation and consideration by Board of Directors, including but not limited to:
  - Re-review of past project alternative studies
  - Updated study of project alternatives
    - -by District
    - -by 'Blue Ribbon' citizens community
  - Funding alternatives

ACTION RECOMMENDED: Provide direction to Staff

5. **SET NEXT WATER RESOURCES POLICY COMMITTEE MEETING**
6. **ADJOURN**

TO: WATER RESOURCES POLICY  
COMMITTEE

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: MAY 25, 2012



## COMMITTEE PURPOSE

### ITEM

Discuss formation and purpose of Nipomo Community Services District Board of Directors Water Resources Policy Committee.

[CONSIDER INFORMATION AND DIRECT STAFF]

### BACKGROUND

At its May 23, 2012 Regular Meeting the Nipomo Community Services District Board of Directors voted to form the Water Resources Policy Committee. President Harrison appointed Director Eby as Chairperson and Director Winn and member.

The Committee is tasked with evaluating options for Board direction forward following the unsuccessful measure to fund building of an intertie pipeline to deliver supplemental water from the City of Santa Maria to the District and Nipomo Mesa.

The Committee members will discuss and take public comment on Committee purpose, goals, and direction.

### RECOMMENDATION

Consider information, public comment, and provide staff direction.

TO: WATER RESOURCES POLICY  
COMMITTEE

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: MAY 25, 2012

## AGENDA ITEM

3

MAY 29, 2012

### INTERTIE PIPELINE ALTERNATIVES

#### ITEM

Discuss potential for alternative versions of intertie project with City of Santa and timelines that might preserve the \$2.3 million Department of Water Resources Grant, for future recommendation and consideration by Board of Directors, including but not limited to:

- Scaled back project alternatives
- Funding alternatives

[CONSIDER INFORMATION AND DIRECT STAFF]

#### BACKGROUND

The Nipomo Community Services District (the "District" or "NCSD") relies solely on groundwater underlying the Nipomo Mesa Management Area (formerly known as the Nipomo Mesa Groundwater Subbasin) of the Santa Maria Groundwater Basin to provide water service to water customers.

Over the past several years, a number of groundwater studies assessing the status of groundwater resources underlying the Nipomo Mesa area have been conducted. These studies include:

1. Water Resources of the Arroyo Grande – Nipomo Mesa Area in 2002, prepared by the California Department of Water Resources (DWR), dated October 25, 2002;
2. 2004 the Nipomo Mesa Groundwater Resource Capacity Study prepared at the request of the County of San Luis Obispo (the "County") by the firm of S.S. Papadopoulos & Associates, Inc.;
3. "Water Supply in the Nipomo Mesa Area, October, 2004", a Resource Capacity Study prepared by the County of San Luis Obispo, Department of Planning and Building; and
4. Nipomo Mesa Management Area Technical Group annual reports, filed with the Court pursuant to a 2005 Stipulation and Final Judgment, years 2008 – 2011.

The 2002 Department of Water Resources Report concluded that overdraft of the Santa Maria Groundwater Basin is not likely through the year 2020 but indicates that projected water demands exceed the dependable safe yield of groundwater in the Nipomo Mesa Sub-Area. The March 2004 Papadopoulos Report concluded that the Nipomo Mesa Sub-Basin is currently in overdraft. The County's November 2004 Resource Capacity Study indicated that in order to maintain sustainability of the Nipomo Mesa groundwater supply, total extractions would have to be stabilized at 6,000 acre-feet per year (as first indicated in the Department of Water Resources Report) and that sustainability can be achieved through a combination of conservation and water supply augmentation.

In recognition of the findings and recommendations contained in the 2002 DWR Report and the 2004 Papadopoulos Report, the District on September 07, 2004, entered into a Memorandum of Understanding with the City of Santa Maria for the purchase of approximately 2,500 acre-feet of water per year to provide supplemental water for the exclusive use of the District (2004 MOU).

As recommended in the County's 2004 Resource Capacity Study on June 22, 2007, the County Board of Supervisors certified the Severity Level III for water resources underlying the Nipomo Mesa Water Conservation Area (essentially same area as Court defined Nipomo Mesa Management Area). Table F of the County's Resource Management System provides:

Table F RESOURCE DEFICIENCY CRITERIA FOR LEVELS OF SEVERITY		
Level I	Level II	Level III
Projected consumption estimated to exceed dependable supply within 9 years	7 year lead time to develop supplementary water for delivery to users	Resource is being used at or beyond its estimated dependable supply or will deplete dependable supply before new supplies can be developed

#### SUPPLEMENTAL WATER PROJECT SUMMARY

There have been several studies commissioned by NCS D to evaluate supplemental water alternatives, including:

1. *Evaluation of Alternative Supplemental Water Supplies* (Prepared by Bookman-Edmonston Engineering, Inc. dated July 1994);
2. *Evaluation of Water Supply Alternatives* (Prepared by Kennedy/Jenks Consultants, dated October 2001);
3. *Evaluation of Supplemental Water Alternatives – Technical Memorandum No. 1*, prepared by Boyle Engineering dated June 2007;
4. *Evaluation of Desalinization as a Source of Supplemental Water - Technical Memorandum No. 2*, prepared by Boyle Engineering dated September 28, 2007; and
5. *Evaluation of Supplemental Water Alternatives - Technical Memorandum No. 3*, prepared by Boyle Engineering dated November 30, 2007.

The objectives of the Supplemental Water Project include:

1. Slow the depletion of the above-sea-level groundwater in storage beneath the Nipomo Mesa Water Conservation Area (NMWCA) of the Santa Maria Groundwater Basin to reduce the potential for seawater intrusion by using supplemental water.
2. Assist in stabilizing the groundwater levels in the NMWCA by reducing pumping in the NMMA.
3. Augment and diversify the current water supply available to the Mesa
4. Increase the reliability of NMWCA water supply by providing a diversity of water sources.

#### ASSESSMENT DISTRICT SUMMARY

On March 23, 2012, Nipomo CSD Board of Directors gave preliminary approval to an Assessment Engineer's report and authorized a 45-day mail ballot proceedings to fund a \$26M

pipeline project that would intertie City of Santa Maria water system with Nipomo CSD water system and deliver Supplemental Water to the NMWCA.

On May 10, 2012, NCSD Board adopted a Resolution recognizing the outcome of the proceedings as a successful protest (the funding measure failed).

It took the District twenty years to bring a supplemental water project back before District customers following the votes disapproving State Water project participation in 1991/1992. Three formal studies of supply alternatives led to the selection of the intertie pipeline project with the City of Santa Maria. Four million dollars is invested in development of the intertie pipeline to date.

On May 23, 2011, the District Board formed a Water Resources Policy Committee to explore and investigate options for addressing supply reliability and water resources concerns. Among the many questions that will be considered in the coming months are:

- Should the intertie pipeline or some version of it be further pursued? What funding method(s), which if any partners?
- Is there any path forward that preserves the \$2.3M state grant for the project?
- Should the most recent review of alternatives be revisited or perhaps a fourth review of alternatives conducted by the District or others (e.g. SLO County, Blue Ribbon Citizen Committee)?
- Is there a 'regional' option the County or others are prepared to implement?
- In the absence of supplemental water, how are the water rights of District customers and long-term health of the District sole source of water best protected in the face of ongoing development on the Nipomo Mesa?

At today's Committee meeting, Woodlands Mutual Water Company customer and NMWCA resident, Sam Saltoun will present his May 24, 2012 memo (attached) on project funding alternatives.

### **FISCAL IMPACT**

NCSD has spent nearly \$4M pursuing supplemental water via intertie with the City of Santa Maria. Historically, public works project development and construction costs and water commodity rates have increased over time at a rate that exceeds inflation.

### **STRATEGIC PLAN**

NCSD Strategic Plan Goal 1.1 – Protect, Enhance and Assess available Water Supplies  
NCSD Strategic Plan Goal 1.2 – Secure New Water Supplies

### **RECOMMENDATION**

Consider information, public comment and provide staff direction

### **ATTACHMENTS**

- May 24, 2012 Saltoun Memo

24 May 2012

From: Samuel Saltoun  
Nipomo Resident

To: Water Resources Policy Committee  
Nipomo Community Services District

Via: Michael S. LeBrun, District General Manager

Subj: Creating a Nonprofit Public Benefit Corporation to fund and construct the Supplemental Water Project pipeline

**Background:**

In order to complete the Nipomo Mesa Supplemental Water Project, there are two fiscal bridges that must be crossed. The first is funding construction of a Santa Maria to Nipomo pipeline. The second is funding the Wholesale Water Supply Agreement with Santa Maria. The community is having difficulty at the first bridge crossing, and has not yet come to the second.

Many Nipomo Mesa property owners want to build the pipeline, and fund it by forming a special assessment district. However, the results of the successful protest vote this month show that the majority of property owners do not want an assessment district formed, and do not want to pay for a pipeline.

There are varying reasons for not wanting the pipeline. For example, there are those who do not think a supplemental water source is needed because they believe there is no shortage of groundwater supply. Others accept that there is a groundwater problem, but believe a pipeline is not the best long-term solution. Still others object to paying for a pipeline that does not have a direct physical connection to their property. Some think the cost distribution among property owners is inequitable within the proposed assessment district, and beneficiaries of the project outside the proposed district would not share in the costs at all. Some can simply not afford to pay more for their water whatever they think the need may be.

Is there a way to cross that first bridge, and build the pipeline, without disenfranchising *any* of Nipomo Mesa's of property owners?

**Proposal:**

The establishment of a Nonprofit Public Benefit Corporation under the California Corporations Code (Sections 5110 - 6910) might be one of the alternatives that the NCSD Board may wish to consider.

California Code provides for creation of this classification of corporation by an elected legislative body "in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or other entity..."

There are different scenarios for how a Public Benefit Corporation might work in practice. Here is an example, respectfully submitted to the Committee for consideration.

The sole purpose of the Corporation would be the funding and construction of the Supplemental Water Project pipeline. Its purpose would not extend to the Wholesale Water Supply Agreement with Santa Maria.

The "members" (i.e. shareholders) of the Corporation would be limited to property owners within the Court established Nipomo Mesa Management Area. It would include property owners both inside and outside the special assessment district that was created for this project. As such, the Corporation may need to be formed under the auspices of the S.L.O. County Board of Supervisors.

Membership in the Corporation would be voluntary. Property owners who wish to participate would pay a membership assessment, or fee that is calculated proportionally in a manner similar to the use of benefit units for special assessment districts, except that only participating member's properties would be included in the calculation.

Membership fees could be paid for in a lump sum, or spread out to a monthly basis. The Corporation could secure financing under the Code's provisions to support those members who choose to make periodic payments.

Memberships would be tied to property rights, and would transfer with the property to any future owner.

Members who are serviced by Mesa water purveyors could benefit from their investment at such time as supplemental water was flowing by paying a lower member rate, or receiving a discount to the supplemental water portion of their billing.

Members not serviced by water purveyors - for example, ConocoPhillips, and some commercial growers - may not be able to receive a similar financial benefit. However, they would still benefit from the restoration of the Mesa aquifer, and may wish support the Corporation in an expression of good faith in their community. Additionally, a separate membership class with a lower assessment calculation could be established for these property owners not serviced by a water purveyor.

Property owners who do not choose to join the Corporation would not be contributing to the pipeline construction cost, and thus would not be financially impacted. Furthermore, they would have a future opportunity to vote for or against future water rate increases resulting from implementation of the Wholesale Water Supply Agreement.

However, if there is a change in the electorate's sentiments when we reach the second bridge for water delivery, or if a future water supply crisis were to galvanize voter support behind the purchase of supplemental water from Santa Maria, the pipeline would be ready to put into service. Almost two years could be shaved off the timeframe for delivery of supplemental water.

**Risks:**

It is very possible that on closer study, there would be insurmountable legal obstacles that would make creation of a Public Benefit Corporation for a public works project unworkable in our case. There are also risks that it would fail in practice for lack of community support.

For example, the cost of participation in the Corporation would depend on the number of memberships, but would likely be significantly higher than an assessment district would have been. This would likely eliminate potential participants who otherwise supported the establishment of the special assessment district. However, there may be other willing participants who were not previously included in the assessment district.

There would also be a risk to Corporation members that the supplemental water may not flow if a future vote on the Santa Maria water purchase were defeated. Members would not see a benefit from a lower rate for the supplemental water, and that may also discourage potential participants – particularly those who would view membership as a financial investment rather than as insurance for water security.

The impact of this proposal on the \$2.3 million State grant for pipeline construction needs to be assessed.

The Wholesale Water Supply Agreement with the City of Santa Maria may need to be reexamined and revised in crucial ways that might make it less attractive.

Finally, the County Board of Supervisors may not be willing to support this approach.

**Conclusion:**

If creating a Public Benefit Corporation can garner adequate funding for pipeline construction, it might be a way to complete construction without disenfranchising property owners who did not vote to support the project. Those voters would still have a say in the final outcome of the Supplemental Water Project when we come to the second bridge, paying for the delivered water.

If the Corporation can not raise sufficient funds for the pipeline construction, the community would just be back to where it is today – at the first bridge. However, including this alternative in the discussion does not diminish any other alternatives being considered by the Committee for submission to the full NCSD Board.

Respectfully submitted,

Samuel Saltoun



TO: WATER RESOURCES POLICY  
COMMITTEE

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: MAY 25, 2012

## AGENDA ITEM

4

MAY 29, 2012

### SUPPLEMENTAL WATER PROJECT ALTERNATIVES

#### ITEM

Discuss potential alternatives to Santa Maria Supplemental Water Project for future recommendation and consideration by Board of Directors, including but not limited to:

- Re-review of past project alternative studies
- Updated study of project alternatives
  - o -by District
  - o -by 'Blue Ribbon' citizens community
- Funding alternatives.

[CONSIDER INFORMATION AND DIRECT STAFF]

#### BACKGROUND

The Nipomo Community Services District (the "District" or "NCSD") relies solely on groundwater underlying the Nipomo Mesa Management Area (formerly known as the Nipomo Mesa Groundwater Subbasin) of the Santa Maria Groundwater Basin to provide water service to water customers.

Over the past several years, a number of groundwater studies assessing the status of groundwater resources underlying the Nipomo Mesa area have been conducted. These studies include:

1. Water Resources of the Arroyo Grande – Nipomo Mesa Area in 2002, prepared by the California Department of Water Resources (DWR), dated October 25, 2002;
2. 2004 the Nipomo Mesa Groundwater Resource Capacity Study prepared at the request of the County of San Luis Obispo (the "County") by the firm of S.S. Papadopoulos & Associates, Inc.;
3. "Water Supply in the Nipomo Mesa Area, October, 2004", a Resource Capacity Study prepared by the County of San Luis Obispo, Department of Planning and Building; and
4. Nipomo Mesa Management Area Technical Group annual reports, filed with the Court pursuant to a 2005 Stipulation and Final Judgment, years 2008 – 2011.

The 2002 Department of Water Resources Report concluded that overdraft of the Santa Maria Groundwater Basin is not likely through the year 2020 but indicates that projected water demands exceed the dependable safe yield of groundwater in the Nipomo Mesa Sub-Area. The March 2004 Papadopoulos Report concluded that the Nipomo Mesa Sub-Basin is currently in overdraft. The County's November 2004 Resource Capacity Study indicated that in order to maintain sustainability of the Nipomo Mesa groundwater supply, total extractions would have to be stabilized at 6,000 acre-feet per year (as first indicated in the Department of Water Resources Report) and that sustainability can be achieved through a combination of conservation and water supply augmentation.

In recognition of the findings and recommendations contained in the 2002 DWR Report and the 2004 Papadopoulos Report, the District on September 07, 2004, entered into a Memorandum of

Understanding with the City of Santa Maria for the purchase of approximately 2,500 acre-feet of water per year to provide supplemental water for the exclusive use of the District (2004 MOU).

As recommended in the County's 2004 Resource Capacity Study on June 22, 2007, the County Board of Supervisors certified the Severity Level III for water resources underlying the Nipomo Mesa Water Conservation Area (essentially same area as Court defined Nipomo Mesa Management Area). Table F of the County's Resource Management System provides:

<b>Table F</b>		
<b>RESOURCE DEFICIENCY CRITERIA FOR LEVELS OF SEVERITY</b>		
<b>Level I</b>	<b>Level II</b>	<b>Level III</b>
Projected consumption estimated to exceed dependable supply within 9 years	7 year lead time to develop supplementary water for delivery to users	Resource is being used at or beyond its estimated dependable supply or will deplete dependable supply before new supplies can be developed

**SUPPLEMENTAL WATER PROJECT SUMMARY**

There have been several studies commissioned by NCSD to evaluate supplemental water alternatives, including:

1. *Evaluation of Alternative Supplemental Water Supplies* (Prepared by Bookman-Edmonston Engineering, Inc. dated July 1994);
2. *Evaluation of Water Supply Alternatives* (Prepared by Kennedy/Jenks Consultants, dated October 2001);
3. *Evaluation of Supplemental Water Alternatives – Technical Memorandum No. 1*, prepared by Boyle Engineering dated June 2007;
4. *Evaluation of Desalinization as a Source of Supplemental Water - Technical Memorandum No. 2*, prepared by Boyle Engineering dated September 28, 2007; and
5. *Evaluation of Supplemental Water Alternatives - Technical Memorandum No. 3*, prepared by Boyle Engineering dated November 30, 2007.

The objectives of the Supplemental Water Project include:

1. Slow the depletion of the above-sea-level groundwater in storage beneath the Nipomo Mesa Water Conservation Area (NMWCA) of the Santa Maria Groundwater Basin to reduce the potential for seawater intrusion by using supplemental water.
2. Assist in stabilizing the groundwater levels in the NMWCA by reducing pumping in the NMMA.
3. Augment and diversify the current water supply available to the Mesa
4. Increase the reliability of NMWCA water supply by providing a diversity of water sources.

**ASSESSMENT DISTRICT SUMMARY**

On March 23, 2012, Nipomo CSD Board of Directors gave preliminary approval to an Assessment Engineer's report and authorized a 45-day mail ballot proceedings to fund a \$26M

pipeline project that would intertie City of Santa Maria water system with Nipomo CSD water system and deliver Supplemental Water to the NMWCA.

On May 10, 2012, your NCSD Board adopted a Resolution recognizing the outcome of the proceedings as a successful protest (the funding measure failed).

It took the District twenty years to bring a supplemental water project back before District customers following the votes disapproving State Water project participation in 1991/1992. Three formal studies of supply alternatives led to the selection of the intertie pipeline project with the City of Santa Maria. Four million dollars is invested in development of the intertie pipeline to date.

On May 23, 2011, the District Board formed a Water Resources Policy Committee to explore and investigate options for addressing supply reliability and water resources concerns. Among the many questions that will be considered in the coming months are:

- Should the intertie pipeline or some version of it be further pursued? What funding method(s), which if any partners?
- Is there any path forward that preserves the \$2.3M state grant for the project?
- Should the most recent review of alternatives be revisited or perhaps a fourth review of alternatives conducted by the District or others (e.g. SLO County, Blue Ribbon Citizen Committee)?
- Is there a 'regional' option the County or others are prepared to implement?
- In the absence of supplemental water, how are the water rights of District customers and long-term health of the District sole source of water best protected in the face of ongoing development on the Nipomo Mesa?

Under this Agenda Item the third and fourth items from the bulleted list above will be discussed.

#### **FISCAL IMPACT**

NCSD has spent nearly \$4M pursuing supplemental water via intertie with the City of Santa Maria. Historically, public works project development and construction costs and water commodity rates have increased over time at a rate that exceeds inflation.

#### **STRATEGIC PLAN**

NCSD Strategic Plan Goal 1.1 – Protect, Enhance and Assess available Water Supplies  
NCSD Strategic Plan Goal 1.2 – Secure New Water Supplies

#### **RECOMMENDATION**

Consider information, public comment, and provide staff direction.

TO: WATER RESOURCES POLICY  
COMMITTEE

FROM: MICHAEL S. LEBRUN  
GENERAL MANAGER

DATE: MAY 25, 2012

**AGENDA ITEM**

**5**

**MAY 29, 2012**

**SET NEXT MEETING DATE AND TIME**

**ITEM**

Discuss the time and date for the next meeting of the Water Resources Policy Committee

[RECOMMEND SET TIME AND DATE OF NEXT COMMITTEE MEETING]

**BACKGROUND**

Depending on direction to staff and Committee goals, a Committee meeting may be desirable prior to the June 13, 2012 Regular Board Meeting.

**RECOMMENDATION**

Consider information, public comment, and provide staff direction.