Koch California Ltd.
662 Eucalyptus Road, P.O. Box 1127
Nipomo, CA 93444

Phone: (805) 929-4153
Fax: (805) 929-5598
Email: kochcal@earthlink.net

July 6, 2000
Nipomo Community Services District
148 Wilson Street
P.O. Box 326
Nipomo, CA 93444

(805) 929-1133 Phone
(805) 929-1932 Fax

Dear Doug Jones:

I received your letter dated July 3rd 2000. (attached)

In my letter of June 26th 2000 (attached) I requested a complete unedited exact copy of the document provided to Jim Garing by NCSD; "Engineering Considerations of Groundwater Yields and Rights on the Nipomo Mesa Sub-Area, San Luis Obispo County, CA (October 1993) as listed on page 8 of the draft initial study by Jim Garing for new water transmission Main in the May 17th 2000 agenda.

I am now including a copy of that page 8. As you can see in the last paragraph starting at the being of line 2 it states

'information provided by NCSD: "Engineering Considerations of Groundwater Yields and Rights on the Nipomo Mesa Sub-Area, San Luis Obispo County, CA (October 1993);'

I am requesting a copy of the exact information provided to Mr. Garing that is referenced in this text. I have received other documents listed which I have asked for before. I am not now requesting any of the other documents listed in that paragraph

I do not understand how your July 3rd 2000 letter complies with my data request. Would you please fax me a copy of the letter that you state was sent to me by Jon Seitz data March 23, 2000. I do not seem to have a letter that I can relate to this data request of June 26th 2000.

Thank You

John Snyder
Vice President

Koch California Ltd.

Tel: (805) 929-4153
Fax: (805) 929-5598
Email kochcal@earthlink.net

FACSIMILE COVER PAGE

To: John Snyder	From: John Snyder
Fax #: 9295598	Fax #: (805) 929-5598
Company: Koch California Ltd.	Tel #: (805) 929-4153

Subject:	
Sent: 7/6/00 at 6:58:20 PM	Pages: 5 (including cover)

MESSAGE:

Data re-Request letter.

NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET
P.O. BOX 326 NIPOMO, CA 93444-0326
(805) 929-1133 FAX (805) 929-1932

July 3, 2000

John Snyder
Koch California Ltd.
P O Box 1127
Nipomo, CA 93444

SUBJECT: REQUEST FOR DOCUMENTS

This is in response to your June 26, 2000 FAX requesting documents from the District. Please refer to the letter sent to you from Mr. Jon Seitz, dated March 23, 2000.

If you have any further questions, please call.

Very truly yours,
NIPOMO COMMUNITY SERVICES DISTRICT

Doug Jones
General Manager

cc: Jon S. Seitz, District Legal Counsel

Document request/Snyder42

Koch California Ltd.
662 Eucalyptus Road, P.O. Box 1127
Nipomo, CA 93444

Phone: (805) 929-4153
Fax: (805) 929-5598
Email: kochcal@earthlink.net

June 26, 2000
Nipomo Community Services District
148 Wilson Street
P.O. Box 326
Nipomo, CA 93444

(805) 929-1133 Phone
(805) 929-1932 Fax

Dear Doug Jones:

I am requesting a complete unedited exact copy of the document provided to Jim Garing by NCSD; "Engineering Considerations of Groundwater Yields and Rights on the Nipomo Mesa Sub-Area, San Luis Obispo County, CA (October 1993) as listed on page 8 of the draft initial study by Jim Garing for new water transmission Main in the May 17th 2000 agenda.

Thank You

John Snyder
Vice President

XVII. Mandatory Findings of Significance. Less than significant impact.

a. No wildlife habitats or populations, plant or animal communities, rare or endangered plants or animals, or cultural resources will be affected by the project. The service area of the District is not being expanded.

b. The population of the District was established through the environmental studies prepared for the County General Plan. The project is being constructed in response to that population figure as well as the needs of the existing population. The service area of the District is not being expanded. The District currently has the production capacity to provide water for its customers at buildout. This project is within both the short and long-term environmental goals of the County.

c. The project will not cause direct or indirect substantial adverse effects on human beings.

Note: *This checklist was based on information found in the General Plan for San Luis Obispo County; information provided by NCSD; "Engineering Considerations of Groundwater Yields and Rights on the Nipomo Mesa Sub-Area, San Luis Obispo County, CA (October 1993); "Water and Sewer System Master Plan (November 1995); Final EIR prepared for South County Area Plan - Inland Portion (May 1991); and Attachment A to a memo from Environmental Division to Board of Supervisors re: Submittal of CEQA Required Findings and Statement of Overriding Considerations for South County Area Plan Update (March 1994), and a memo to the District from Jim Garing, District Engineer, re: South County Area Plan Update, FEIR*

s:\City\NCSD\400055\INCEQA.doc

924.5598

NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET
P.O. BOX 326 NIPOMO, CA 93444-0326
(805) 929-1133 FAX (805) 929-1932

July 7, 2000

John Snyder
Koch California Ltd.
P O Box 1127
Nipomo, CA 93444

SUBJECT: REQUEST FOR DOCUMENTS

This is in response to your July 6, 2000 FAX requesting documents from the District. A copy of the letter from Mr. Jon Seitz, dated March 23, 2000 is enclosed.

Very truly yours,
NIPOMO COMMUNITY SERVICES DISTRICT

Doug Jones
General Manager

cc: Jon S. Seitz, District Legal Counsel

Public Document request/Snyder43

JON S. SEITZ
MICHAEL W. SEITZ

SHIPSEY & SEITZ, INC.
A LAW CORPORATION
1066 PALM STREET
POST OFFICE BOX 953
SAN LUIS OBISPO, CALIFORNIA 93406
(805) 543-7272 FAX (805) 543-7281
JON S. SEITZ
District Legal Counsel
Nipomo Community Services District

JOHN L. SEITZ
(1934-1986)

GERALD W. SHIPSEY
(RETIRED)

March 23, 2000

JOHN SNYDER, VICE PRESIDENT
KOCH CALIFORNIA LTD.
662 Eucalyptus Road
P.O. Box 1127
Nipomo, CA 93444

BARRY H. EPSTEIN, ESQ.
FITZGERALD, ABBOTT & BEARDSLEY LLP
Attorney for Koch California Ltd./
and John Snyder
1221 Broadway, 21st Floor
Oakland, CA 94612

RE: REQUEST FOR DOCUMENTS

Dear Mr. Snyder:

The District has forwarded your March 18, 2000 request for records, which I presume to be a public records request, on to this firm for a response. Said letter is attached hereto. Accordingly, the District responds as follows:

1. The Request is objected to pursuant to Government Code Section 6255, because on the facts of this particular request the public interest served by not making the records public clearly outweighs the public interest served by disclosure of the records.

You are currently represented by Attorneys in the groundwater litigation against the District titled Santa Maria Valley Water Conservation District, a public entity, plaintiff, vs. the City of Santa Maria, a municipal corporation, et al. and related cross actions. The records requested potentially relate to said litigation. Using the Public Records Act as well as the formal discovery process under the California Code of Civil Procedure and Evidence Code, unfairly requires the District (as a litigator) to deal with:

- The burden of double disclosure request for the same document; one under the Public Records Act and the other under the formal discovery process.

- Two disclosure process that could be sequenced by you and your attorneys to the disadvantage of the public
- Two disclosure processes whose procedures may conflict with one another
- Having to make a disclosure determination for the purposes of litigation but within the abbreviated time period allowed by the Public Records Act for public records purposes; rather than within the longer period allowed by the formal discovery process for litigation purposes.

Further, the District cannot fully prepare for litigation challenges if records are being given to an opposing party through the Public Records Act process. Since the Public Records Act is to be administered liberally by the District to facilitate the disclosure of records, it is virtually impossible for the District's special water litigation attorneys to know about, let alone substantially review, requests for records under the Public Records Act. Thus, under the Public Records Act, records relating to a pending claim or litigation can be disclosed to an opposing litigant without being called to the attention of the special litigation attorneys for the District. As a consequence, the District is not able to fully prepare a response to an opponent's potential use of those records.

During the pendency of the current groundwater litigation to which you are a litigant, whatever public interest there is in the disclosure of obtaining records through the Public Records Act is satisfied fully by the formal discovery process which:

- makes available the disclosure of such records, even if the records are not disclosed under the Public Records Act while the matter is pending;
- ensures that the District's litigation attorneys will know about and be involved in deciding what records are being disclosed to an opposing party;
- provides the District's litigation attorneys with the opportunity to raise proper objections to the request for records, within the time frame appropriate for litigation.

It is the District's position that the Public Records Act

should not be interpreted to result in a nullification of the existing discovery procedures for obtaining documents for litigation. Therefore, the District objects to the request made in the March 18, 2000 letter and will continue to object on this basis to any and all future Public Records Requests that have any relation or nexus to water issues involved in the current groundwater litigation.

2. To the extent the records exist, the request is objected to pursuant to Government Code Section 6254(b) because they relate to pending litigation to which the District is a party.

3. To the extent the records exist, the request is objected to pursuant to Government Code Section 6254(k) because disclosure of said records is exempted or prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code and Code of Civil Procedure relating to Attorney/Client Privilege, Attorney Work Product, and Expert Work Product.

As you are a litigant in the Santa Maria Valley Water Conservation District lawsuit and are represented by legal counsel in said litigation, I am jointly addressing this letter to you and your attorney of record.

Very truly yours,
SHIPSEY & SEITZ, INC.

JON S. SEITZ
District Legal Counsel

JSS/cm
Enclosures
cc: Doug Jones, General Manager
Nipomo Community Services District (w/encls)
James Markman, Esq., Water Counsel, NCSD (w/encls)