



## Koch California Ltd.

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

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May 10, 2001

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 current copy of NCSD's Pumping amounts and well standing water levels for January 1, 1999 to May 10, 2001. (the last copies of the reports were titled Nipomo Community Services District Gross Well Production and Nipomo Community Services District Well Report Static Water Depth)

Thank You

John Snyder  
Vice President

Faxed and hand Delivered.

# NIPOMO COMMUNITY SERVICES DISTRICT

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

May 14, 2001

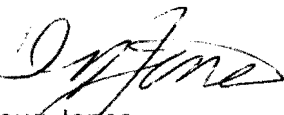
John Snyder  
Koch California Ltd.  
P O Box 1127  
Nipomo, CA 93444

SUBJECT: REQUEST FOR DOCUMENTS

Nipomo Community Services District is in receipt of your public documents request dated May 10, 2001. The District objects to this public documents request based on the same grounds as outlined in the March 23, 2000 letter addressed to you and your attorney (copy attached).

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT



Doug Jones  
General Manager

Enclosure

cc: Jon Seitz, Shipsey & Seitz  
James, Markman, Esq. Water Counsel

PDR/Snyder45

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  
(1924-1986)  
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, 21<sup>st</sup> 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.

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Mr. John Snyder  
Attorney Barry H. Epstein  
March 23, 2000

- 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

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Mr. John Snyder  
Attorney Barry H. Epstein  
March 23, 2000

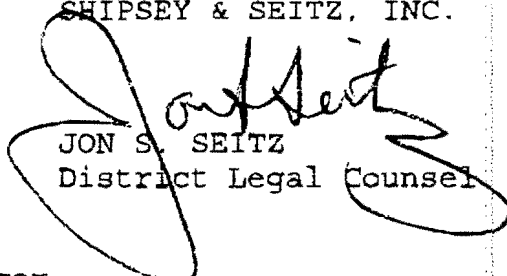
should not be interpreted to result in a nullification of the existing discovery procedures for obtaining documents for litigation. Therefore, the District objects to the request made in the March 18, 2000 letter and will continue to object on this basis to any and all future Public Records Requests 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, NCS D (w/encls)