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September 8, 2009
Nipomo Community Services District
148 Wilson Street
P.O. Box 326
Nipomo, CA 93444

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

Dear Bruce Buel:

The County of San Luis Obispo requires a "supplemental water development fee" for Land Divisions for new development in the Nipomo Mesa Water Conservation Area in title 22.112.020 F 1 b of the County Code. See attached which states:

"at the time of building permit issuance, in the amount then currently imposed by county ordinance, not to exceed \$13,200. If the development resulting from the land division is subject to payment of supplemental water development fees to an entity other than San Luis Obispo County, the amount of these other fees shall be deducted from the County fee."

I would like to know if NCSD or the County collected a fee to meet the requirement. Has NCSD collected a sum of money from "Nipomo Oaks" for development of a number of parcels, as described in the attached news document, for the development to meet the county requirements for a supplemental water source?

If NCSD has collected the fee or accepted a fee from the county I make the following public records requests:

- 1) A copy of a document with the amount NCSD collected for the project.
- 2) A copy of a NCSD document that allocates the fee between the "capacity" costs and the "water" costs to supply the supplemental water for this project.
- 3) A copy of the NCSD document that shows the water source as specifically allocated for the exclusive use of the development.

Thank You



Harold Snyder

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NIPOMO COMMUNITY
SERVICES DISTRICT

Developer Sues Over Nipomo Supplemental Water Fees: Community Services District Nipomo Oaks Paid More Than \$300,000 In Fees Under Protest

By Nick Wilson The Tribune, San Luis Obispo, Calif.

Publication: The Tribune (San Luis Obispo, California)

Date: Wednesday, September 3, 2008

Sep. 3--The developer of a 24-home project in Nipomo has sued the town's services district, accusing the agency of illegally charging more than \$300,000 in fees for supplemental water.

But the Nipomo Community Services District is confident it has a legal basis for the fees. And officials said

Nipomo's services district has won two similar lawsuits.

The developer -- Nipomo Oaks, a partnership between Carey Geihs and James Bednar-- has begun construction on the single-family home development on Hill Street, designed to provide affordable rental housing.

"Basically, we're seeking a refund on the supplemental water fees that we're claiming were unlawful and unreasonable," said lawyer Stephen G. Geihs, Carey Geihs' brother.

The lawsuit claims that the services district violated the state's Mitigation Fee Act by imposing \$301,550 in supplemental water fee charges that the developer paid under protest.

The fees make up 63 percent of those the district has assessed for the project, Stephen G. Geihs said.

The lawsuit alleges the district exceeded the purported cost of providing the service of supplemental water.

And the legal filing also claims the district is charging for an uncertain new water source and has provided no record for the basis of the charge, and that the agency acted in an "arbitrary and capricious manner."

The fees are designed to help pay for a new water source for Nipomo, including the planned \$20 million pipeline to bring water from Santa Maria. That project is set for completion in 2010, according to district officials.

"Their project might come into fruition or it might not," Geihs said.

District General Manager Bruce Buel said the agency's board established the fee in an ordinance approved three years ago to levy the charge on new developments.

It has prevailed in two lawsuits filed by developers over the same issue, Buel said.

Buel estimates that 50 payments have been made for supplemental water fees to the district by developers already.

Jon Seitz, the district's lawyer, couldn't comment on the lawsuit when reached last week because the district had not yet been served with it. Buel said Tuesday the district still hadn't received a copy of the suit.

Stephen G. Geihs said he's looking into more legal issues and might add to the complaint.

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- F. **Nipomo Mesa Water Conservation Area.** The following standards apply to all land in the Nipomo Mesa Water Conservation Area shown in Figure 112-4.

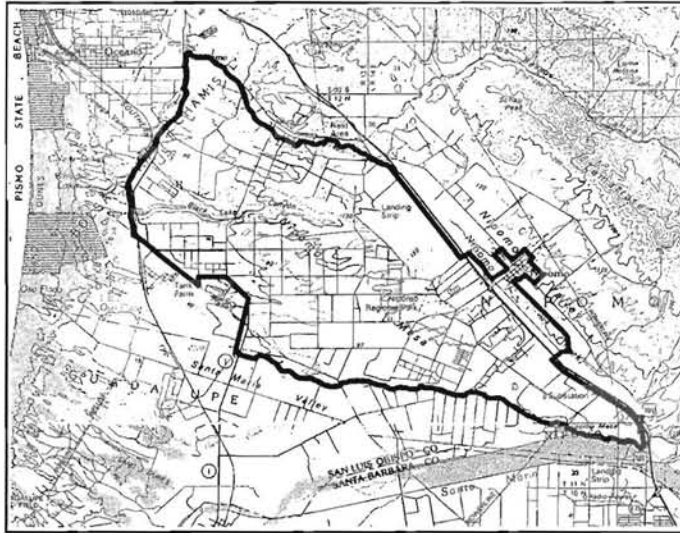


Figure 112-4 - Nipomo Mesa Water Conservation Area

1. **General Plan Amendments and land divisions.** Applications for general plan amendments and land divisions in the Nipomo Mesa Water Conservation Area shall include documentation regarding estimated existing and proposed non-agricultural water demand for the land division or development that could occur with the General Plan Amendment. If this documentation indicates that the proposed non-agricultural water demand exceeds the demand without the requested amendment or land division, the application shall include provisions for supplemental water as follows:
 - a. **General Plan Amendments.** Where the estimated non-agricultural water demand resulting from the amendment would exceed the existing non-agricultural demand, the application shall not be approved unless supplemental water to off-set the proposed development's estimated increase in non-agricultural demand has been specifically allocated for the exclusive use of the development resulting from the general plan amendment, and is available for delivery to the Nipomo Mesa Water Conservation Area.
 - b. **Land Divisions.** Where the estimated non-agricultural water demand resulting from the land division would exceed the existing non-agricultural demand, a supplemental water development fee shall be paid for each dwelling unit or dwelling unit equivalent, at the time of building permit issuance, in the amount then currently imposed by county ordinance, not to exceed \$13,200. If the development resulting from the land division is subject to payment of supplemental water development fees to an entity other than San Luis Obispo County, the amount of these other fees shall be deducted from the County fee.

NIPOMO COMMUNITY

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September 18, 2009

Mr. Harold Snyder
P O Box 926
Nipomo, CA 93444

SUBJECT: SEPTEMBER 8, 2009 PUBLIC DOCUMENT REQUEST

Dear Mr. Snyder,

NCSD has not received any disbursement of fees collected by San Luis Obispo County pursuant to County Code Section 22.112.020 F 1.

Sincerely,

NIPOMO COMMUNITY SERVICES DISTRICT



Bruce Buel
General Manager

CC: Chronological File

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