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October 25th, 2011

San Luis Obispo Board of Supervisors
Room D-430, County Government Center
San Luis Obispo, California 93408

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RE: Second letter on general issues for the October 25th, 2011 Item D-2 Consideration of a request to provide staff direction to return to the Board with a final resolution to allow the Nipomo Community Services District (NCS D) to create an assessment district to fund capital improvements for the NCS D's Supplemental Water project (WIP) for the Nipomo Mesa Management Area; 4th District.

Dear Supervisor Paul Teixeira and other Board members:

I request that the Board not approve moving forward with a resolution that will allow NCS D to form an assessment district outside NCS D's boundary.

NCS D, GSWC and RWC have not kept people informed of the actions it has requested.

The NCS D public survey has indicated that the majority of people are against the WIP project. During the 8/23/11 public meeting on the WIP project NCS D did not inform the public of NCS D's intent to request this resolution. Although the board packet has a letter from NCS D dated 10/11/11 it was not publicized in any way and it does not provide time to properly respond to by the 10/25/11 meeting.

There is an 11/9/11 meeting NCS D has scheduled that should precede this meeting so that people can be informed and have time to comment.

The staff report has taken information from NCS D that is misleading, trivializes the actual effect and includes many misrepresentations by NCS D.

This is not simply a resolution to allow a vote on the assessment as claimed.

Page D-2:9 incorrectly states:

"Ultimately, whether the recommended action is approved or not, approval or denial of the assessments for the Project will rest with property owners."

This resolution will allow portions of Nipomo to be taxed without benefit.

This resolution will allow portions of Nipomo to be taxed without representation.

This resolution will allow portions of Nipomo to have a higher cost than if water rates are used.

This resolution will allow elimination of PUC approval.

This resolution will allow key sections of the settlement to be bypassed.

The "I just handed him the loaded gun, I didn't pull the trigger" excuse does not cut it.

The staff report does not mention of the bias resulting from including customers of GSWC within the assessment. Just having a vote is not the same thing.

NCSD is about 3-5 times larger, depending on the parcels and Benefit Units (BUs), than the actual customers served by GSWC. With a combined assessment vote NCSD has the majority of the vote. NCSD board members have already started the propaganda that if NCSD customers and landowners don't vote for this assessment it will be done with rates at a much higher cost to NCSD customers and landowners. This could result in NCSD majority votes compelling GSWC customers to pay a much larger amount of money.

For example no where does the staff report note that the cost of an assessment method for customers of GSWC will be around 5 times higher than a rate based method of collecting the same revenue. This is because within the settlement all GSWC customers, both those in Orcutt and Nipomo, pay equally for litigation costs. Those costs include both the TMA costs and the NMMA costs of the settlement. Because the Nipomo area GSWC has about 1/10 the customers, Nipomo GSWC customers pay, in rough numbers, 1/10 of the TMA costs and only 1/10 of the NMMA costs. It would be unfair to allow Nipomo GSWC customers to be saddled with TMA costs and not get the corresponding benefit of Orcutt paying their share of the NMMA costs due to a county approved setup of an assessment that gives NCSD customers the Majority.

Page D-2:29 incorrectly states:

“Nipomo will also be the agency owning the improvements. The financing of the project should therefore be managed and controlled by Nipomo (NCSD)”

This configuration deprives any party outside NCSD from having any representation concerning the WIP project.

Page D-2:29 incorrectly states:

“The fact that a portion of the proposed assessment financing also relate to agreements between other water companies and the City of Santa Maria further illustrate this point.”

The staff report fails to mention that an “agreement” with a for profit water company is not the same as an agreement with the customers of that water company. It is also not the same as having an agreement with landowners in an alleged “area” or “service area” of the water company.

The customers are entitled to PUC review and approval of any costs. The proposed assessment configuration that NCSD is asking for deprives GSWC and RWC customers of their protection and independent representation in the PUC process from the conflicting interests of the for profit water companies.

Page D-2:30 incorrectly states:

“The source of repayment will be assessments levied on parcels **primarily** within the corporate boundaries of Nipomo and the other private water suppliers involved. The parcels assessed are customers of Nipomo directly or through water supply **agreements** with the three private water suppliers.”

GSWC and RWC do not have authority to “agree” for customers much less for lands that they do not serve. There is no legal “service area” that defines and parcels that are not directly served by GSWC/RWC. The proposed configuration draws in land that is not part of the “primary” parcels. Those parcels do not have any “agreements” that bind them.

Page D-2:30 incorrectly states:

“This will help assure property owners are assessed at the lowest amounts possible.”

Clearly for GSWC customers this will not be true as the assessment method will result in a higher rate.

For RWC customers it removes the PUC approval process that would allow an objection to approval of costs based on the unfair percentage in the settlement.

Rural Water Company customers got scammed in the settlement:

Rural Water Company customers were not represented in litigation or settlement. In addition to that the same attorney represented GSWC and RWC while at the same time purveyors in the litigation sued other purveyors due to conflicting interests. This clearly had the potential to create conflict of interest in the settlement process. There is no explanation of the percentages for the cost sharing in the settlement of 66.6% NCS 16.6% 8.3% and 8.3% have no clear basis in fact. Given the amount of pumping that is used by RWC and the number of connections are so different from GSWC it is unfair to make a smaller number pay the same rate.

Page D-2:9 incorrectly states:

Results

The results of the recommended action are limited to determining whether the County will continue to participate in the formation of the assessment district and related proceedings, or whether NCS will proceed independently.

Staff misrepresents the choices. There are three not two.

The three are,

1. The county makes an assessment for all the areas.
2. NCS is given control outside it's area without representation for those outside areas
3. NCS can form it's own assessment for it's own area “independently”. GSWC customers can opt for the lower cost rate based choice with continued oversight of costs by the PUC. And RWC customers can ask the county to form an independent assessment area for them or object in the PUC process to the inequity in the proposed percentages in the settlement and attempt to get a denial of rates. The result of which will force a renegotiation of the unfair percentages. And then a choice of independent assessment or rates based funding.

The proposed resolution is not acceptable because it removes the lowest cost option 3 from the table.

Page D-2:4 incorrectly states:

“Specifically, as a result of negotiation by the NMMA Purveyors during the proceedings of the Santa Maria Groundwater Basin Litigation, its judgment stipulates the Project's implementation by the NMMA Purveyors.”

The Judgment does not “stipulate” anything. If it did anything the Judgment does is being appealed under case numbers and all actions are stayed pending the appeal process.

(The **California Appellate Courts, 6th Appellate District** Cases H035056, H021401, H027639, H033544, H034362 for the appeal of the Santa Maria Groundwater Litigation cases are located on the website at: <http://appellatecases.courtinfo.ca.gov/search.cfm?dist=6>)

Page D-2:9 incorrectly states:

“Approval of the assessments by property owners will have a significant positive influence on the timing of the Nipomo Supplemental Water Project and help lead to substantial improvements in water resources within the NMMA, thereby ensuring a healthy, livable and well-governed community. Likewise, denial of the assessments by property owners will impair project timing and not improve water resources within the NMMA in the immediate future.”

This is not true, It's clear to me the opposite is true.

If the board approves the resolution without more then the 20% uneducated public support, there will be increased distrust of NCSD, GSWC, RWC and the County. It will look like a back room deal was made that eliminated better choices for some to benefit others. It will also look like taxation without representation. The negative effect of having to vote down an unfair, unneeded assessment will permanently hinder the funding of future projects that may be needed to support the “a healthy, livable and well-governed community”

Please do not approve any resolution that allows NCSD outside there boundary.

I request that the above comments and referenced attachments be added to the record.

Thank You



John Snyder

CC

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For source information see: www.NoNewWipTax.com

Also submitted and included by reference:

October 25th, 2011 comments on incorrect map with parcel that should be excluded

Which included the attachments:

SLO BoS 10/25/11 D-2 page 35 with indication of parcel that should be removed.

September 17, 2010 letter

RE: September 21, 2010 Item A-2 Request to approve: 1) Memorandum of Understanding with Nipomo Community Services District (NCSD) Assessment District for the Waterline Intertie project (WIP)”

February 2nd, 2010 letter 2 of 2 to BOS

February 2nd, 2010 letter 1 of 2 to BOS

September 23, 2009 letter to the BOS.

RE: September 22, 2009 Item C3 “recommendations regarding water resource planning efforts associated with the Nipomo Community Services District (NCSD) and City of Santa Maria (SM) Waterline Intertie project (WIP)”

September 17, 2009 comments to the BOS hearing on September 22, 2009 Item 3.

RE: September 22, 2009 Item C3 “recommendations regarding water resource planning efforts associated with the Nipomo Community Services District (NCSD) and City of Santa Maria (SM) Waterline Intertie project (WIP)”