

NIPOMO COMMUNITY

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148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website address: ncsd.ca.gov

January 23, 2011

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

Dear Mr. Snyder:

SUBJECT: NIPOMO COMMUNITY SERVICE DISTRICT RESPONSE TO JANUARY 11, 2012 PUBLIC DOCUMENT REQUEST

Please accept this letter in response to your letter of January 11, 2012, which the Nipomo Community Services District (District) interprets as a request for public records. This response has been reviewed by District Legal Counsel, Jon Seitz, and is the person responsible for raising objections referenced in this response.

Your letter of January 11, 2012, states in relevant part:

1. *"On the 1/11/12 Board agenda Item E1 attachment posted on the NCS D website is a "Supplement Water Project Owner letter" Scheduled to be mailed on January 13, 2012. This letter is a request for public records which are in the possession of the Nipomo Community Services District pursuant to the California Public Records Act (Govt. Code 6250, et. Seq.). The following is a list of the reasonably identifiable public records which I request copies of:*

1. *I am making a public record request for an electronic copy of the Merge of data that will be sent out with the letters approved by the board. The Merge data includes at least the following:*

MERGE PROPERTY OWNER NAME
MERGE MAILING ADDRESS
MERGE SITE ADDRESS
MERGE APN #
MERGE ACREAGE
MERGE WATER PURVEYOR
MERGE BENEFIT UNITS

If a portion of the information contained in the records we have requested is exempt from the disclosure by express provision of law, Govt. Code 6354

requires segregation and deletion of that material in order that the remainder of the information may be released."

The District will produce the requested documents with the property owner name, mailing address, site address, and APN Number being deleted which, as explained below, the District maintains is exempt from disclosure at this time. However, the exempted information will be made available at the end of next month.

In raising the exemptions to your requests the District relies on the following:

A. "Cal. Gov. Code § 6255 which states in relevant part:

(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing."

Background

Part and parcel of the letter(s) referenced in your public records request includes the ability of property owners to make corrections to the proposed benefit units assigned to their property(s) by either contacting the District Assessment Engineer with errors in the calculation or to request participation in the Water Project Benefit Assignment Reduction Program referenced in the next Agenda Item. Corrections and/or participation in the Water Project Benefit Assignment Policy must be applied for no later than February 16, 2012. The District has tentatively scheduled a February 29, 2012 public meeting to consider for approval property owners request for participation in the Water Benefit Assignment Policy Program and review of the draft Assessment Engineer's Report. The intended actions taken by the District, on February 29, by their nature, will publicly disclose the information that is being withheld for this short period of time (approximately 32 days from the date of mailing this response). The District normally includes and posts on its web page all Agenda materials the Friday prior to District Board of Director meetings.

Analysis

1. Public Interest in Non-Disclosure

Property owners, in determining whether or not a correction to their proposed assessments is warranted or whether or not to participate in the Benefit Unit Reduction Program, have a privacy interest in determining/reaching those decisions. Disclosure of the redacted information would have a chilling effect on the decision making process (whether or not to participate in the above referenced program).

2. Public Interest in Disclosure

The public's interest in disclosure during this short period of time is minimal because the disclosure will only illuminate the performance of private decisions and will not serve the purpose of illuminating the performance of public duties. However, the February 29th Board meeting will allow the public to participate as part of the "Public Meeting Procedures" the District's consideration of property owners' request for participation in the Benefit Assignment Reduction Program and the Board's review of the draft Assessment Engineer's Report.

B. "Cal. Gov. Code § 6254.16 Utility customers; disclosure of names, credit histories, usage data, addresses, or telephone numbers

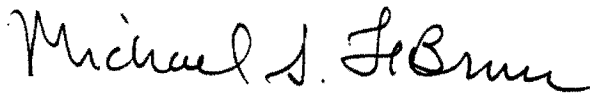
Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:"

The District references this Code Section to demonstrate that the California Legislature recognizes the privacy interest in names and addresses.

If you wish to proceed with the request please call Lisa Bognuda at 929-1133. The District will then make arrangements for production of the non-exempt information (approx. 4 days) and will provide an estimate for the costs. As requested a copy of the disclosurable portion of the request will be provided on a CD.

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT



Michael S. LeBrun, P.E.
General Manager

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

January 11, 2012

Michael LeBrun,
Nipomo Community Services District (NCSD)
148 Wilson Street, P.O. Box 326
Nipomo, CA 93444

mlebrun@ncsd.ca.gov
(805) 929-1133 Phone
(805) 929-1932 Fax

Dear Michael LeBrun:

On the 1/11/12 Board agenda Item E1 attachment posted on the NCSD website is a "Supplement Water Project Property Owner letter" "scheduled to be mailed on January 13, 2012".

This letter is a request for public records which are in the possession of the Nipomo Community Services District pursuant to the California Public Records Act (Govt. Code 6250, et seq.).

The following is a list of the reasonably identifiable public records which I request copies of:

1. I am making a public record request for an electronic copy of the Merge data that will be sent out with the letters approved by the board. The Merge data includes at least the following:

MERGE PROPERTY OWNER NAME
MERGE MAILING ADDRESS
MERGE SITE ADDRESS
MERGE APN #.
MERGE ACREAGE
MERGE WATER PURVEYOR.
MERGE BENEFIT UNITS

If a portion of the information contained in the records we have requested is exempt from disclosure by express provisions of law, Govt. Code 6254 requires segregation and deletion of that material in order that the remainder of the information may be released.

Please take note that Govt. Code 6256 requires the Nipomo Community Services District to determine, within ten (10) days after receipt of this request, whether the Nipomo Community Services District will comply with this request. If the Nipomo Community Services District decides not to comply with all or any portion of this request, Govt. Code 6256 requires notification to us of the reasons for the determination not later than ten (10) days from your receipt of this request. Further, Govt. Code 6256.2 prohibits the use of any provision of the Public Records Act to delay access for the purposes of inspecting public records. Govt. Code 6256.2 also requires that any notification of denial of this request for records must set forth the names and titles or positions of each person responsible for the denial.

Also as before my understanding is the coping cost is \$15 per CD or DVD. I you have any questions please let me know.

Thank You



Harold Snyder

RECEIVED

JAN 11 2012

**NIPOMO COMMUNITY
SERVICES DISTRICT**