

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE June 27, 2006	(3) CONTACT/PHONE Doug Bird, Hydraulic Operations Administrator, 781-5116	
(4) SUBJECT Submittal of a Resolution Adopting Policies for the Provision of Priority Water and/or Wastewater Service for Lower Income Housing Developments Pursuant to Senate Bill No. 1087			
(5) SUMMARY OF REQUEST Your Board's adoption of the attached resolution and policies will ensure that future proposed housing developments are granted priority for water or wastewater services and that the Special Districts governed by your Board are in compliance with the provisions of Senate Bill No. 1087.			
(6) RECOMMENDED ACTION It is our recommendation that your Honorable Board adopt the proposed resolution establishing priority water and/or wastewater service for affordable income housing developments pursuant to Senate Bill No. 1087.			
(7) FUNDING SOURCE(S) N/A	(8) CURRENT YEAR COST N/A	(9) ANNUAL COST N/A	(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): County Planning and Building is aware of the requested action and is in agreement with it. County Counsel has approved the attached resolution and policy for legal form and effect.			
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____			
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input checked="" type="checkbox"/> All	(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A	
(16) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)	(17) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____	(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date _____	
(23) ADMINISTRATIVE OFFICE REVIEW <p align="center" style="font-size: 1.2em; font-family: cursive;">OK Leslie Bon</p>			

Reference: 06JUN27-C-2
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B-17
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SAN LUIS OBISPO COUNTY DEPARTMENT OF PUBLIC WORKS

Noel King, Director

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TO: Board of Supervisors

FROM: Doug Bird, Hydraulic Operations Administrator *DOB*

VIA: Paavo Ogren, Deputy Director of Public Works *PO*

DATE: June 27, 2006

SUBJECT: Submittal of a Resolution Adopting Policies for the Provision of Priority Water and/or Wastewater Service for Lower Income Housing Developments Pursuant to Senate Bill No. 1087

Recommendation

It is our recommendation that your Honorable Board adopt the proposed resolution establishing priority water and/or wastewater service for lower income housing developments pursuant to Senate Bill No. 1087.

Discussion

Senate Bill No. 1087 (SB 1087) was signed into law on October 7, 2005, by the Governor amending Section 65589.7 of the California Government Code and adding Section 10631.1 to the California Water Code. These amendments require that housing elements adopted by land-use approval governmental agencies be transmitted immediately to all water or wastewater agencies within the jurisdiction of that land-use agency.

The amendments to the Codes also require that the water and wastewater agencies shall grant a priority for the provision of their services to proposed developments that include housing units affordable to lower income households. Specifically, the amendments to the Codes require that the water and wastewater agencies adopt written policies and procedures, not later than July 1, 2006, and at least once every five (5) years thereafter to ensure priority service for affordable housing units.

In accordance with the requirements of SB 1087, the County Planning and Building Department has distributed copies of the San Luis Obispo County Housing Element to all water and wastewater agencies within the unincorporated region of the County.

Your Board governs several water and wastewater special districts that are operated by the County's Department of Public Works. The Department has determined which of those

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2*

special districts are subject to the provisions of SB 1087 (Attachment 1 to Exhibit A) and has developed policies, pursuant to SB 1087, for your Board's consideration and adoption.

Other Agency Involvement/Impact

The County Planning and Building Department is aware of and agrees with today's requested action. County Counsel has reviewed and approved the attached resolution as to form and legal effect.

Financial Considerations

The costs associated with development of an analysis to comply with SB 1087 will be relatively minor because those efforts can be included with regular updates to the master plans for each special district.

Results

Future proposed housing developments with housing affordable to lower income households shall be granted priority for water or wastewater services. This will contribute to more healthy and livable communities throughout the county by ensuring that lower income households will have access to basic necessities.

Attachments: Resolution

File: CSA Nos. 18 and 7-A

Reference: 06JUN27-C-2

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B-17
B-3

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION ADOPTING POLICIES FOR THE PROVISION OF PRIORITY WATER AND WASTEWATER SERVICE FOR LOWER INCOME HOUSING DEVELOPMENTS PURSUANT TO SENATE BILL NO. 1087

The following resolution is now offered and read:

WHEREAS, on October 7, 2005, the Governor of the State of California signed into law Senate Bill No. 1087 (SB 1087) amending Section 65589.7 of the California Government Code and adding Section 10631.1 to the California Water Code; and

WHEREAS, said amendments to the Government and Water Codes (Codes) require that housing elements adopted by the land-use approval governmental agencies be transmitted immediately to all water and wastewater agencies within the jurisdiction of that land-use agency; and

WHEREAS, said amendments to the Codes also require that all public agencies or private entities that provide water or sewer services shall grant a priority for the provision of said services to proposed developments that include affordable housing units; and

WHEREAS, said amendments to the Codes further require that a public agency or private entity providing water or sewer services shall adopt written policies and procedures, not later than July 1, 2006, and at least once every five (5) years thereafter to ensure priority service for affordable housing units; and

WHEREAS, the County of San Luis Obispo governs and administers certain Special Districts (Districts), as described in Attachment 1 to Exhibit A, attached hereto, for the purposes of providing water or wastewater service that are subject to the provisions of SB 1087; and

WHEREAS, the County of San Luis Obispo has developed policies, pursuant to the provisions of SB 1087, for granting priority water or wastewater service for all proposed developments that include affordable housing units; and

WHEREAS, the County of San Luis Obispo Board of Supervisors desires to adopt and implement the aforementioned policies thereby ensuring priority water or wastewater service for affordable housing.

B-17
4

NOW THEREFORE BE IT RESOLVED by the San Luis Obispo County Board of Supervisors, sitting as the governing board of the County's water and wastewater special districts, that pursuant to and subject to all of the terms and conditions of Senate Bill No. 1087:

1. The County of San Luis Obispo does hereby adopt policies (Exhibit A), pursuant to and subject to all of the terms and conditions of Senate Bill No. 1087, granting priority water or wastewater service for all proposed developments that include housing units affordable to lower income households in each of the Special Districts governed and administered by the County of San Luis Obispo that are subject to the provisions of Senate Bill No. 1087.
2. The San Luis Obispo County Planning Director is hereby directed to immediately provide the San Luis Obispo County Housing Element, and any future amendments thereto, to all public agencies or private entities that provide water or sewer services within the jurisdictional boundaries of the County of San Luis Obispo.
3. The San Luis Obispo County Director of Public Works is hereby authorized and directed, pursuant to and in compliance with all of the terms and conditions of Senate Bill No. 1087, to implement the attached policies for granting priority water or sewer service for all proposed developments that include housing units affordable to lower income households in each of the Special Districts that are subject to the provisions of SB 1087 and are governed and administered by the County of San Luis Obispo.

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B-7
5

Upon motion of Supervisor _____, seconded by
Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors
ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: 6.14.06

B-17
6

Exhibit A

County of San Luis Obispo Policies Establishing Water and Wastewater Priorities for Low Income Housing Developments Pursuant to Senate Bill 1087

1. **Housing Element Adoption.** Upon adoption of the Housing Element (Element) of the San Luis Obispo County General Plan, and/or adoption of any amendments to the Element, by the San Luis Obispo County Board of Supervisors (Board), the Director of Planning and Building shall cause copies of the Element, and/or amendments thereto, to be immediately distributed and delivered to all public agencies or private entities within the jurisdictional area of the County that provide water or wastewater services in accordance with Section 65589.7(a) of the California Government Code, a copy of which is attached hereto.
2. **Water Shortage Emergencies.** The San Luis Obispo County Director of Public Works (Director) hereby declares, pursuant to Chapter 3 (commencing with Section 350) of Division 1 of the California Water Code, relating to water shortage emergencies, that, at such time as a water shortage emergency occurs (i.e. the total water supply is less than the system demands) in any of the County's Special Districts (Districts), the Director will request that the Board adopt a Water Shortage Emergency Ordinance (Ordinance) and that said Ordinance shall remain in effect until such time as the Director declares that the water shortage emergency no longer exists and requests the Board to rescind the Ordinance. At such time as said Ordinance is rescinded, the District shall dedicate the first available additional water supply to developments with low income housing.
3. **Water Supply Availability.** The Director has determined that, pursuant to Part 2.6 (commencing with Section 10610 and ending with Section 10617) of Division 6 of the Water Code (Urban Water Management Plans) that none of the County's Special Districts are designated as Urban Water Suppliers and therefore none of said Districts are required to develop Urban Water Management Plans (UWMP) and that, accordingly, the availability of water supplies for each of said Districts shall be as determined in the Master Water Plan (MWP) for each District.
4. **Master Water Plans.** The Director shall develop or cause to be developed, a Master Water Plan (MWP) for each of the Special Districts having water systems that are owned and operated by the

B17

County of San Luis Obispo and subject to the provisions of SB 1087. Each MWP shall identify:

- a. Existing sources and quantities of water supply available to the District,
- b. Existing quantities of water being used, listed by category of user (i.e. single family residential, industrial, etc),
- c. Amount of water available for projected future uses (i.e. current supply minus current use),
- d. Prioritized projection of quantities of water needed for future users that assigns the highest priority to developments with housing affordable to lower income households,
- e. Amount of water available after deduction of the amount of water reserved for lower income housing,
- f. Amount of water available for all other future users after deduction for lower income housing,
- g. Total amount of water supply available after deduction for all other future users.

5. Denial of Service to Lower Income Housing Developments.

- a. The County's Special Districts that provide water or wastewater service shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the County has made specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:
 - i. The District in question does not have sufficient water supply as defined in paragraph (2) of subdivision (a) of Section 66473.7 of the Government Code, or is operating under a water shortage emergency as defined in Section 350 of the Water Code and as specified herein, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated in the District's Master Water Plan.
 - ii. The District in question is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections.
 - iii. The District in question providing wastewater service does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works, to serve the needs of the proposed development.

B-17
B-8

- iii. The District in question provides wastewater service but is under an order issued by the Regional Water Quality Control Board that prohibits new wastewater connections.
 - iv. The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the District, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed in compliance with Section 66013 of the Government Code.
 - b. At such time as the County makes specific written findings, in accordance with Section 5.a. herein, for denial of service, the County shall also establish written conditions whereby the applicant can address and remedy the County's findings, to the satisfaction of the County.
- 6. **Definitions.** The following definitions are derived from SB 1087 and shall apply for purposes of this policy:
 - (1) "Proposed developments that include housing units affordable to lower income households" means that dwelling units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.
 - (2) "Water or sewer services" means supplying service through a pipe or other constructed conveyance for a residential purpose, and does not include the sale of water for human consumption by a water supplier to another water supplier for resale. As used in this section, "water service" provided by a public agency or private entity applies only to water supplied from public water systems subject to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code.

B-17
99

ATTACHMENT 1 TO:

SAN LUIS OBISPO COUNTY
POLICIES FOR SPECIAL DISTRICTS SUBJECT
TO THE PROVISIONS OF SENATE BILL 1087
(PRIORITY WATER OR WASTEWATER SERVICE
FOR LOWER INCOME DEVELOPMENTS)

Special District	Service Provided	Retail (y/n)	Affordable Housing	Policy Applicable
Flood Control Zone 3 (Lopez)	Water	No	n/a	No
State Water Project	Water	No	n/a	No
Nacimiento Water Project	Water	No	n/a	No
CSA 1 (Nipomo)	Wastewater	Yes	Yes	Yes
CSA 7A (Oak Shores)	Wastewater	Yes	Yes	Yes
CSA 10A (Cayucos)	Water	Yes	Yes	Yes
CSA 12 (Avila area)	Water	Yes	Yes	Yes
CSA 16 (Shandon)	Water	Yes	Yes	Yes
CSA 18 (Country Club)	Wastewater	Yes	No	No
CSA 23 (Santa Margarita)	Water	Yes	Yes	Yes

Notes:

1. Flood Control Zone 3, State Water and Nacimiento Water are wholesale operations and as such are not subject to the provisions of SB 1087
2. CSA = County Service Area

B-17
10