



NWP NACIMIENTO WATER PROJECT

San Luis Obispo County Flood Control & Water Conservation District

**Nacimiento Project Commission
Notice of Special Meeting and Agenda
Thursday, April 17, 2014 – 4:00 pm
Templeton Community Services District Offices**

1. Call to Order
 - a. Call to Order, Roll Call, and Flag Salute
2. Public Comment
This is the opportunity for members of the public to address the Commission on items that are not on the agenda, subject to a three minute time limit.
3. Meeting Notes from February 27, 2014
(RECOMMEND APPROVAL)
4. COMMISSION INFORMATION ITEMS – written reports with brief verbal overview by staff or consultant. No action is required.
 - a. Participating Agencies’ Options for Subscribing to Full Allocation
 - b. Third Quarter Project Budget Report
5. PRESENTATIONS – no action required.
None
6. COMMISSION ACTION ITEMS
(No Subsequent Board of Supervisors Action Required)
 - a. J. Lohr 250 AF Proposal
7. COMMISSION ACTION ITEMS
(Board of Supervisors Action is Subsequently Required)
 - a. FY 2014/14 Nacimiento Water Operating Fund Budget
8. FUTURE AGENDA ITEMS DESIRED BY COMMISSION

Commissioners

Frank Mecham, Chair, SLO
County Flood Control & Water
Conservation District

Kathy Smith, Vice Chair, City of
San Luis Obispo

John Hamon, City of El Paso de
Robles

Judy Dietch, Templeton CSD

Grigger Jones, Atascadero MWC

**Next Commission meeting scheduled for
Thursday, May 22, 2014, at 4:00 pm at
Templeton Community Services District Offices**

Nacimiento Project Commission
April 17, 2014
Agenda Item 4.a Participating Agencies' Options for Subscribing to Full Allocation
(Information Only – No Action is Required)

TO: Nacimiento Project Commission

FROM: Dean Benedix, Utilities Division Manager

VIA: Paavo Ogren, Public Works Director

SUBJECT: Update on Participating Agencies' Options for Subscribing to Full Allocation

DATE: April 17, 2014

Background

Over the past eighteen months, updates have been provided to your Commission and the Technical Support Group (TSG) has been evaluating numerous issues. More recently and as directed by the Commission, a meeting with the executive managers of the County and participants was held on April 2, 2014.

At your Commission meeting of February 27, 2014, the Commission also provided additional direction on several issues. That direction is summarized as follows:

1. Provide a list of the environmental issues associated with the participants increasing their delivery entitlements so the project becomes fully subscribed, and a preliminary schedule to complete the environmental review process
2. Draft WDEC Amendment language that modifies the hybrid cost methodology
3. Draft WDEC Amendment language that would allow participants to sell water that is in excess to the participants' initial entitlement

Discussion

Commission Direction from February 27, 2014

- Environmental Summary To Do List – Attachment 1
- Schedule – To be Discussed
- Contract Amendment draft language

o **Modification to Hybrid Cost Methodology:**

Article 6(D) of the WDECs grants Participants the right to acquire additional delivery entitlement from the District in accordance with the procedure set forth in Article 29. Article 29(B) provides that in the event that a Participant elects to exercise this right, the District and the Participant may amend the WDEC (to increase the delivery entitlement) provided that certain conditions are met, including, without limitation: the Participant pays the District a fee that will compensate the District for “the Participant’s Unit Percentage Share of the Total Nacimiento Project Construction Costs.” The Nacimiento Project Construction Costs contain the following three (3) components: the Environmental Mitigation Construction Cost component, the Reserved Capacity Construction Cost component and the All Other Construction Costs component.

Based on the amendment condition set forth in Article 29(B), any amendments to the WDECs effectuating full subscription are contingent on payment (by the Participants) of additional All Other Construction Costs in lieu of the no longer applicable Reserved Capacity Construction Costs. This cost conversion will result in new overall proportionate cost shares among the Participants, because the Reserved Capacity Construction Costs are allocated pro rata on the basis of the Delivery Entitlement Share (a “postage stamp” cost) whereas the All Other Construction Costs are allocated on a Unit Percentage Share basis as specified in Table 1 of the WDECs (a “hybrid” cost).¹

In order to avoid the above-described cost conversion, Article 29(B) would need to be amended prior to full subscription as follows (in basic concept): *In the event that All Participants simultaneously purchase all of the Reserved Capacity and Reserve Water in proportion to their Delivery Entitlement Shares, then the District shall allocate the resulting additional All Other Construction Costs of the Participant’s Unit Percentage Share of the Total Nacimiento Project Construction Costs attributable to the purchase pro rata on the basis of the Participant’s Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively (rather than on the Unit Percentage Share Basis for All Other Construction Costs specified in Table 1).*

Issues:

1. Two separate amendments to the WDECs should be drafted: one amendment changing the payment condition on any amendment increasing a Participant’s delivery entitlement set forth in Article 29(B) (as discussed above) and one amendment actually increasing the delivery entitlements and making all other necessary changes to the WDECs based on the new arrangement, including the

¹ The Unit Percentage Share for a particular Unit_x is calculated as follows: (proportional share of water passing through Unit_x based on Delivery Entitlement Share plus proportional share the Delivery Entitlement) divided by two (2).

changes discussed below. These amendments could be signed simultaneously and their effectiveness made contingent on one other.

- o **Sale of Additional Delivery Entitlement:**

The WDECs contain no express total prohibition on the sale of a Participant's Delivery Entitlement to third parties. However, Article 23 prohibits the Participants from selling their Delivery Entitlement outside the boundaries of the District. This prohibition is necessary based on the Description of Lands where such Water is Put to Beneficial Use within the Amended License for Diversion and Use of Water issued by the State Water Resources Control Board (Permit No. 10137 and License No. 7543). In addition, Article 22(D)(3)(a) prohibits any property acquired, constructed, or improved with the Gross Proceeds (of the Tax-Exempt Obligations) from being used in any activity carried on by any person or entity other than a state or local government unless it would not cause any Tax-Exempt Obligation to become a "private activity bond."

In order to ensure an "equitable distribution of water-sale proceeds" among the Participants who elect to sell their additional delivery entitlement, the WDECs can be amended to include an article placing restrictions on the sale of "additional delivery entitlement" (to be defined in Article 1). The article would require Participants to proceed as follows (in basic concept): *In the event that the Participant receives a bona fide offer for purchase of all or a portion of its Additional Delivery Entitlement, the Participant will not enter into any such sale without first affording the Other Participants the right to sell to the bona fide purchaser for value a portion of the desired amount equal to their respective Delivery Entitlement Shares.*

Issues:

1. Based on the Description of Use described above, the additional delivery entitlement can only be sold to buyers who will use the water within the boundaries of the District (the new article will call out Article 23 and state that the contract of sale shall include this location of use restriction).
2. Article 22(D)(3)(a) may prevent certain sales of water to third parties that are not governmental agencies; and bond counsel should be consulted on any such amendment to the WDECs.

- o **District Contribution from Nacimiento Water Fund:**

Article 17(B)(5) requires the District to apply any portion of the ad valorem taxes levied on the real property within the County received by the Nacimiento Water Fund to reduce the Reserved Capacity Construction Cost component of the Nacimiento Project Construction Costs. As discussed above, if the Project becomes fully subscribed, then the Reserved Capacity Construction component will no longer exist, i.e. there will be no

costs attributable to the District's Reserved Capacity, because there will no longer be any Reserved Capacity. Consequently, the District will be under no contractual obligation to provide the Participants with a credit from the Nacimiento Water Fund.

In order to continue contributions from the District, Article 17(B)(5) can be amended as follows (in basic concept): *The District shall apply _____ (a certain dollar figure) of the allocated portion of the ad valorem taxes received by the Nacimiento Water Fund in any fiscal year to the All Other Construction Costs component for a period of _____ (a certain number of years) from _____ (date the Project became fully subscribed).*

Issues:

1. Equity and legal issues associated with having County-wide taxpayers contribute to the All Other Construction Costs component (i.e. to contribute to a project from which the Participants are now deriving the entire benefit). County Counsel is still reviewing the potential legal issues.

Miscellaneous Amendment Issues:

1. Pursuant to Article 32, an opinion from the rating agency or agencies providing a rating for the Municipal Obligations to the effect that the proposed amendments will not adversely affect the rating of the Municipal Obligation and consent from the bond insurance provider are both required before any amendments to the WDECs can be executed.
2. Role of the Environmental Impact Report Entities (the WDECs are silent on this issue)
3. Article 29(B) provides that the District shall not enter into any amendment increasing a Participant's delivery entitlement that provides terms more favorable than those presently in the existing contract. An amendment to the WDECs that reallocates costs to the benefit of certain Participants (e.g. modification of the hybrid cost methodology) or that requires contribution from the Nacimiento Fund to the All Other Construction Costs component may fall within the above prohibition. The first amendment (altering the amendment conditions) may need to include a caveat to this restriction (applicable to the full subscription scenario).

* * *

Nacimiento Project Commission
April 17, 2014
Agenda Item 4.b Third Quarter Operations Budget Report
(Information Only – No Action is Required)

TO: Nacimiento Project Commission

FROM: Wendy Hall, Administrative Services Manger

**VIA: Dean Benedix, Utilities Division Manager
Nacimiento Technical Support Group**

SUBJECT: Third Quarter Operations Budget Update

DATE: April 17, 2014

Figures summarizing the Quarterly Operating Fund Budget are provided for your information (Attachment 4.c). Actual expenditures are at 61.9% with 75% of the year elapsed is expected that the current trend will continue and expenditures will remain within budget at fiscal yearend. Any budget savings will be credited to participants after the fiscal year end. Some line items are exceeding budget for various reasons.

If you have any questions please feel free to contact me at either (805) 781-5295 or via e-mail at whall@co.slo.ca.us. Staff will be available to answer specific questions at the meeting.

Nacimiento Project Commission
April 17, 2014
Agenda Item 6.a J. Lohr 250 AF Proposal
(Commission Action Item – No Subsequent Board of Supervisors Action Required)

TO: Nacimiento Project Commission

FROM: Dean Benedix, Utilities Division Manager

SUBJECT: J. Lohr 250 AF Proposal

DATE: April 17, 2014

Discussion

District staff received a letter proposal dated March 27, 2014 (copy attached) from J. Lohr requesting to become a Reserve Water Customer purchasing 250 AFY for five (5) years. J. Lohr's proposal characterizes their request as a "Proof of Concept Project for in-lieu groundwater recharge of Nacimiento Water into the Estrella Subarea of the Paso Robles Groundwater Basin." The Nacimiento water would be used to irrigate agricultural land in lieu of pumping groundwater for irrigation. The requested effective date is as soon as possible. The City of Paso Robles supports this request, their letter of March 28, 2014 is attached.

The District has provided a Reimbursement Agreement for J. Lohr's execution to provide for payment of staff time required to further process this request. The District has a formal design for installation of a permanent and emergency (Heritage Ranch) turnout, which will likely be required to be modified for this request.

Recommendation

District staff recommends the Commission support the J. Lohr request subject to the following:

1. Execution of the Reimbursement Agreement.
2. Determination of appropriate pricing of the reserve water; TSG initiated discussion of pricing at their meeting of April 10, 2014.
3. Development of a reserve water agreement with J. Lohr.
4. Conformance to required CEQA environmental processes, as appropriate.

Attachments: J. Lohr letter of March 27, 2014
City of El Paso de Robles dated March 28, 2014
Proposed connection point area map

Nacimiento Project Commission

April 17, 2014

Agenda Item 7.a FY 2014/15 Nacimiento Water Operating Fund Budget

(Commission Action Item – Board of Supervisors Action is Subsequently Required)

TO: Nacimiento Project Commission

FROM: Will Clemens, Public Works Administrator

VIA: Dean Benedix, Utilities Division Manager

SUBJECT: FY 2014/15 Nacimiento Water Budget

DATE: April 17, 2014

The 2014/15 Proposed Operating Budget was presented to your Commission February 27, 2014, along with hardcopies and an electronic copy to all TSG and Finance Committee members. Operations and Maintenance expenditures are proposed to increase by approximately 7.38%. The increase is due primarily to an estimated increase in billable variable energy costs. Billable O&M expenditures other than variable energy actually decreased by 3.4%.

The District proposes that the construction project environmental mitigation efforts be funded from construction funds until such time that construction funding is exhausted. This effort has increased in the current year due to some needed archaeological work that has been required due to our planting of trees in sensitive areas. There is also an additional \$100,000 budgeted to satisfy the Regional Water Quality Control Board's permit requirement to mitigate permanent loss of .32 acres of wetland. The District is working with the local Resource Conservation District to satisfy this requirement.

There are two Capital projects proposed for FY 2014-2015. The first, approved by the TSG January 9, 2014 in the amount of \$30,500 is for Power monitoring Equipment at Santa Ysabel Pump Station. It is proposed that this project be paid out of the construction fund. The other project approved by the TSG February 13, 2014, is the Stenner Canyon Hydro Plant Condition Assessment for \$10,340.

No changes came from the TSG and Finance Committee review of the budget, therefore the proposed budget remains the same as presented to your Commission February 27, 2014.

* * *

ATTACHMENT 1

Nacimiento Water Project
 Participating Agencies' Full Allocation of Reserve Water Concept – To Do List Summary Table

Issue Category	Who	Description	Status
Environmental	Commission, PW Director	Authorize the District to prepare a Supplemental EIR (SEIR)	
Environmental	Commission	Budget funding for the District to prepare a SEIR	
Environmental	District	Communicate with other EIR participants	
Environmental	District	Prepare a SEIR	
Environmental, (Contract?)	District, BoS	Approve SEIR and the "Project" (Contract modifications?)	
Environmental	Participants	Prepare findings and adopt the SEIR	
Contract	District, BoS	Approve Contracts	

ATTACHMENT 2



J. LOHR
VINEYARDS & WINES

March 27, 2014

Mr. Paavo A. Ogren, Director of Public Works
Nacimiento Water Project
San Luis Obispo County Public Works Department
County Government Center, Room 207
San Luis Obispo, CA 93408

SUBJECT: Proposal to Become a Nacimiento Water Project Reserve Water Customer

Dear Mr. Ogren:

J Lohr Vineyards (J Lohr) respectfully proposes to become a Nacimiento Water Project Reserve Water Customer. This proposal is for our Proof of Concept Project for in-lieu groundwater recharge of Nacimiento Water into the Estrella Subarea of the Paso Robles Groundwater Basin.

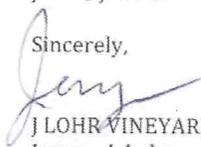
The severe drought conditions have motivated us at J Lohr Vineyards to proactively develop this Proof of Concept Project. We understand that Surplus Water is available from the District for sale to Reserve Water Customers, and we see an immediate need during this time of drought to implement temporary programs to provide recharge to the groundwater basin utilizing these surplus supplies. Nacimiento Water, temporarily delivered to the Estrella Subarea, will be recharged into the groundwater using the in-lieu pumping method (Nacimiento Water used to irrigate agricultural crops in-lieu of pumping groundwater to do the same). The overlayers in this vicinity, and the City of Paso Robles, a Participant in the Nacimiento Water Project, will all benefit from this Proof of Concept Project.

J Lohr proposes participation as a Reserve Water Customer per the following conditions:

- Effective Date of Reserve Water Customer Contract = As Soon As Possible
- Beginning of Surplus Water Deliveries by District = July 1, 2014
- Requested Annual Volume of Surplus Water = 250 acre-feet per year (AFY)
- Point of Delivery = Nacimiento Water Project STA 916+10, a 3-inch A/V Valve (see Figure 1)
- Place of Use = Irrigated Agriculture within the Estrella Subarea of the Paso Robles groundwater Basin, east of the point of delivery.
- Contract Term = 5-years
- Reserve Water Customer Point of Contact = Jerry Lohr
- Compensation:
 - One-Time Compensation Offer = Actual Cost of Temporary Turnout Installed at STA 916+10
 - Annual Compensation Offer = Volume of Surplus Water requested (AF) times [\$/AF for the Surplus Water cost based on prior year's Operation and Maintenance Cost + \$/AF for Variable Energy Cost determined quarterly in accordance with the District's Water Delivery Entitlement Contract]. We understand that the cost of Surplus Water at this location is \$106/AF (cost excludes Unit T2, Paso Robles, turnout costs) for this first year, and is subject to change annually.

Please contact me, Jerry Lohr, with questions or to arrange discussions for developing action items to progressively advance this project. I can be reached at (cell: 408-963-8814), or via e-mail at jlohr@jlohr.com.

Sincerely,


J LOHR VINEYARDS
Jerome J. Lohr
President

ENCLOSURE Figure 1. Sketch of Temporary Turnout Location, NWP STA 916+10

6169 AIRPORT ROAD, PASO ROBLES, CA 93446, TEL 805-239-8900, FAX 805-239-0365, JLOHR.COM

ATTACHMENT 2

cc: San Luis Obispo County Flood Control and Water Conservation District Board of Supervisors
Supervisor Frank Mecham, District 1
Supervisor Bruce Gibson, District 2
Supervisor Adam Hill, District 3
Supervisor Caren Ray, District 4
Supervisor Debbie Arnold, District 5

Nacimiento Project Commission
Frank Mecham, SLO Co. FC&WCD
John Hamon, City of Paso Robles
Judy Dietch, Templeton Community Services District
Grigger Jones, Atascadero Mutual Water Company
Kathy Smith, City of San Luis Obispo

Nacimiento Technical Support Group
Dean Benedix, County Public Works Utilities Manager
Scott Duffield, County Public Works
Christopher Alakel, City of Paso Robles
Jeff Britz, Templeton Community Services District
John Neil, Atascadero Mutual Water Company
Wade Horton, City of San Luis Obispo

Jim App, City Manager, City of Paso Robles

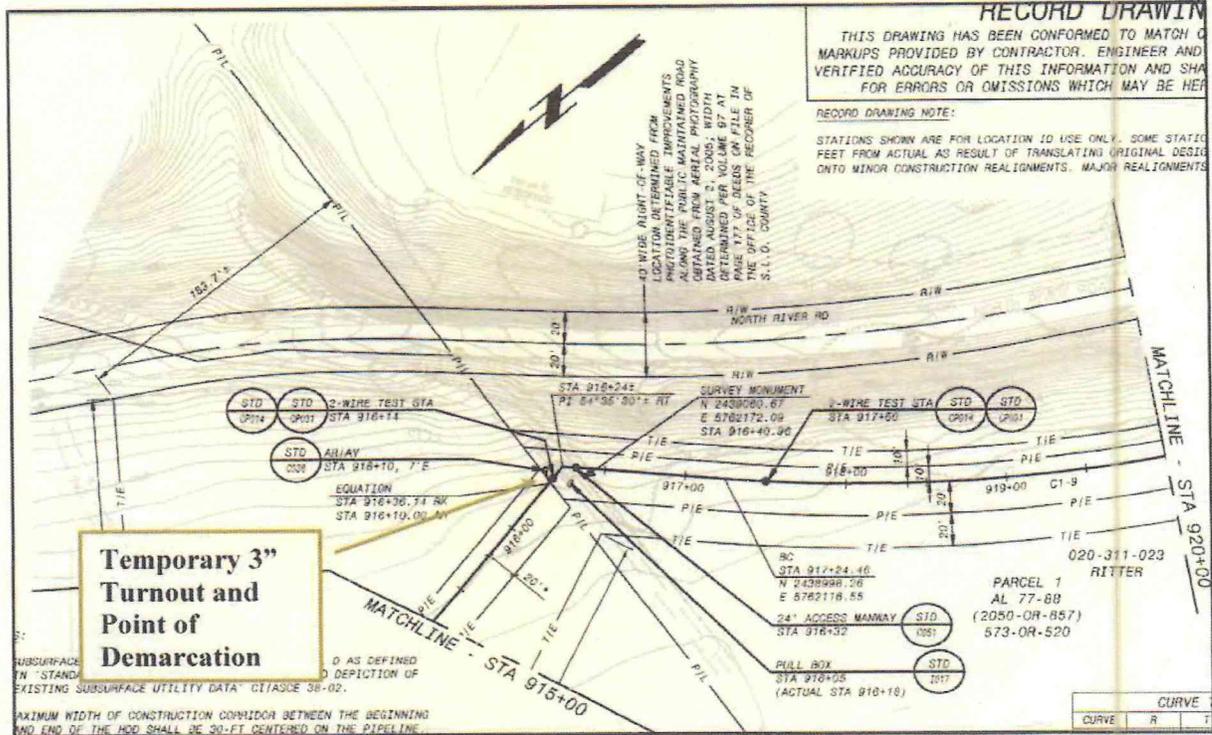
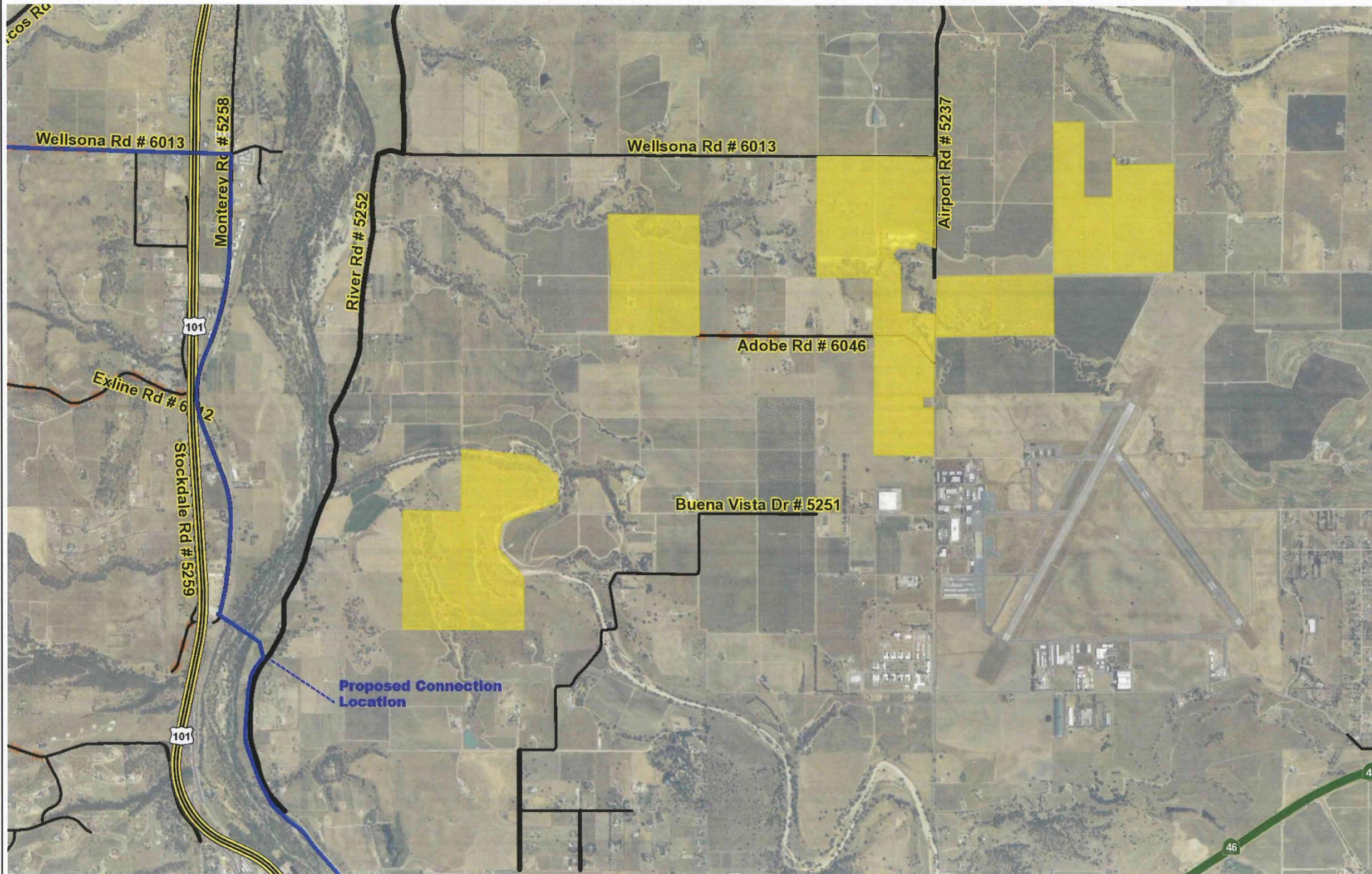
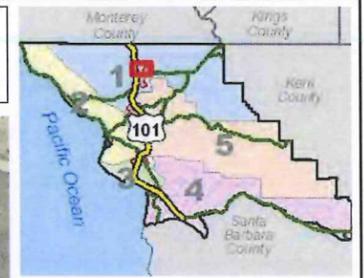


FIGURE 1. Plan View of Temporary Turnout, J Lohr Reserve Water Customer Turnout

(Note: Distribution piping not shown. Piping will leave the turnout at the Point of Demarcation, and transverse east of North River Road. Design details are not yet developed, and applications for encroachment permits or other Rights-of-Way are pending.)



Proposed Connection Point to Naci. Water Project



Legend

State Hwys

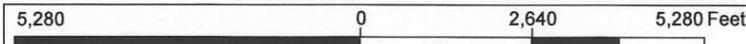
- US Highway
- State Highway
- Ramp

Roads - County Maintained

ROAD CLASS

- Arterial
- Collector
- Minor

- Gravel Roads in CMRS
- Main Transmission Line



WGS_1984_Web_Mercator_Auxiliary_Sphere
 © County of San Luis Obispo Public Works & Transportation Department

The County of San Luis Obispo does not assume liability for any damages caused by errors or omissions in the data and makes no warranty of any kind, express or implied, that these data are accurate and reliable.
 Map for Reference Purposes Only

1: 31,680



From: [Marilyn Crawford](#)
To: [PW_Nac Commission Meeting Agenda](#)
Subject: Fw: Naci Commission Agenda - - Additional Information
Date: 04/16/2014 09:27 AM
Attachments: [Paso letter of support for J. Lohr 3-28-2014](#)

Please see Dean's email below.

Marilyn A. Crawford
Administrative Assistant - Public Works
mcrawford@co.slo.ca.us (805) 781-5289

----- Forwarded by Marilyn Crawford/PubWorks/COSLO on 04/16/2014 09:23 AM -----

From: Dean Benedix/PubWorks/COSLO
To: PW_Typing Requests
Date: 04/16/2014 08:47 AM
Subject: Naci Commission Agenda

The agenda packet distributed on April 14 inadvertently omitted the inclusion of the minutes from the February 27, 2014 meeting and an attachment, the City of El Paso de Robles support letter, to the J. Lohr staff report. On the advice of our County Counsel, we will reagendaize the February 27 minutes for approval on next month's regularly scheduled Commission meeting. Attached is a copy of the City of El Paso de Robles support letter for the J. Lohr proposal for your information. Sorry for the inconvenience.



Thank you,
Dean Benedix, P. E.
Utilities Division Manager



CITY OF EL PASO DE ROBLES
"The Pass of the Oaks"

March 28, 2014

Nacimiento Technical Support Group
c/o Dean Benedix, Utilities Division Manager
County of San Luis Obispo

Support for J Lohr Vineyard Proof-of-Concept Project

Nacimiento Water

J Lohr Vineyard and Wines proposes to temporarily use Nacimiento Water Project reserve water as a "proof-of-concept". The concept is to use untreated Nacimiento water in lieu of well water to offset basin pumping and meet irrigation needs.

As the largest Nacimiento Project Participant, a member of the Technical Support Group, and a member of the Nacimiento Project Commission, Paso Robles applauds and supports this proposal.

Temporarily using available Nacimiento water in this manner is positive active water management, allowing both irrigators and regional water managers to directly observe the effects of in lieu deliveries. It will both reduce basin pumping and allow examination of impacts on water levels. Not only was this practice envisioned in the Nacimiento Water Project delivery entitlement contracts, it addresses concerns regarding basin pumping and the needs of irrigated acreage that overlie the Paso Robles Groundwater Basin.

The City also agrees with J Lohr Vineyard's proposed reserve water (short-term contract) pricing, i.e. that it be based on a proportional share of operations and maintenance costs plus an appropriate share in variable energy costs. That approach allows for positive and beneficial basin pumping relief experimentation and appears consistent with the delivery entitlement contracts.

Timing is critical. The J Lohr proposal should be administered on an expedited and priority basis. Please let us know what the City may do to assist in this matter.

Sincerely,

James L. App
City Manager

Copy: Paso Robles City Council

Duane Picanco, Mayor
John Hamon
Ed Steinbeck
Fred Strong
Steven W. Martin

Nacimiento Project Commission

Frank Mecham, SLO Co. FC&WCD
John Hamon, City of Paso Robles
Judy Dietch, Templeton Community Services District
Grigger Jones, Atascadero Mutual Water Company
Kathy Smith, City of San Luis Obispo

San Luis Obispo County Flood Control & Water Conservation District Board of Supervisors

Supervisor Frank Mecham, District 1
Supervisor Bruce Gibson, District 2
Supervisor Adam Hill, District 3
Supervisor Caren Ray, District 4
Supervisor Debbie Arnold, District 5

Nacimiento Technical Support Group

Dean Benedix, County Public Works Utilities Division Manager
Christopher Alakel, City of Paso Robles Water Resource Manager
Jeff Briltz, Templeton Community Services District
John Neil, Atascadero Mutual Water Company
Wade Horton, City of San Luis Obispo

Jerry Lohr, Founder J Lohr Vineyard and Wines
Dan Buckshi, County Administrative Officer
Paavo Ogren, County Director of Public Works
Katie Lichtig, City Manager - City of San Luis Obispo
Tom O'Malley, Mayor - City of Atascadero
Rachelle Rickard, City Manager - City of Atascadero
Doug Monn, City of Paso Robles Director of Public Works
Christine Halley, Water Resource Consultant - TJCross Engineers, Inc.