

Nacimiento Water Project

Nacimiento Project Commission Notice of Meeting and Agenda

Thursday, February 24, 2005 – 4:00 pm
Templeton Community Services District Board Room
420 Crocker Street, Templeton CA

- I. Call to Order, Roll Call, and Flag Salute
- II. 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.
- III. Meeting Notes from December 9, 2004
(RECOMMEND APPROVAL)
- IV. Project Manager's Report
Overview remarks by the project management team on efforts in recent weeks, design team assembly, and introduction to items on this agenda.
 - a. Budget Status Report (INFORMATIONAL ONLY)
 - b. Environmental Permits
Status report on efforts to secure Army Corps of Engineers as project co-lead (INFORMATIONAL ONLY)
 - c. Funding - Design Phase Memorandum of Understanding
Report on status of design phase MOU and recent inquiries into State/Federal funding programs. (INFORMATIONAL ONLY)
 - d. Schedule Update (INFORMATIONAL ONLY)
- V. Business Items
 - a. Design Team Assembly
Report on proposals and qualifications statements received to date and request to forward recommendations for award of consultant contracts. (RECOMMEND FORWARDING THE CONTRACT AWARD RECOMMENDATIONS OF THE VARIOUS EVALUATION PANELS, CONDITIONAL UPON SUPPORT OF THE TECHNICAL SUPPORT GROUP AND AMOUNTS BUDGETED)
 - b. Local Property Tax Shift Relation to Nacimiento Contracts
Discussion of the 2004/05 State tax shift's impact on the Nacimiento Fund and contract considerations and report on pending Assembly Bill 2115 addressing disproportionate hits on flood control district budgets. (SUPPORT AB2115)
 - c. Federal Lobbyist
Review and consideration of retaining a professional lobbyist to represent the project at the federal level. (RECOMMEND RESEARCH ON PROJECT SPECIFIC LOBBYIST AND COMMISSIONER LOBBYING EFFORTS)

Commissioners Harry Ovitt, Chair , SLO County Flood Control & Water Conservation District Dave Romero, Vice Chair , City of San Luis Obispo David Brooks , Templeton CSD Grigger Jones , Atascadero MWC Frank Mecham , City of El Paso de Robles
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The next meeting of the Nacimiento Commission is scheduled for April 28th at 4:00 pm at Templeton CSD offices.

**Nacimiento Project Commission
February 24, 2005**

Agenda Item III – Meeting Notes from December 9, 2004

TO: Nacimiento Project Commissioners
FROM: Paavo Ogren, Deputy Director of Public Works
Date: February 24, 2004

Flag Salute and Roll Call

4:00 pm – Vice Chair Romero led in the pledge of allegiance and called the meeting to order. The following Commissioners were present:

David Brooks, Templeton CSD; Grigger Jones, Atascadero Mutual Water Company; Frank Mecham, City of El Paso de Robles; David Romero, City of San Luis Obispo.

Chairman Ovitt arrived shortly after the meeting began.

Agenda Item II - Public Comment

Paavo Ogren speaks on the 2004-05 budget approved for the State of California and property tax shifts that were adopted that impact special districts, including the San Luis Obispo County Flood Control and Water Conservation District. Mr. Ogren informed the Commission that the District's estimated general property tax revenue of nearly \$2.1 million was being reduced by over \$1.5 million (approximately 72%) resulting in a revised general property tax estimate of about \$580,000. Mr. Ogren also informed the Commission, that based on the late calculations from the State which were not received by the District until late November, that the staff was obligated to report immediately to the Board of Supervisors for direction so that the County Auditor could administer the property tax allocations. Mr. Ogren informed the Commission that the materials presented to the Board would be included in the Commission's February agenda for Commission consideration.

Agenda Item III– Meeting Notes from October 28, 2004

After public comment, and on motion of Commissioner Mecham, seconded by Commissioner Brook, the Meeting Notes of October 28, 2004 were approved on a 5-0 vote.

Agenda Item IV– Project Manager’s Report

Project Management comments:

Christine Halley led with a discussion of financial highlights, design team assembly, statements of qualifications received from environmental consulting firms, requests for proposals on geotechnical and surveying services, critical project issues, and with Mike Nunley speaking on the schedule. Commissioner comments ensued on drought planning and decisions that may need to be made in the future if critical timing issues develop. Comments also covered Federal lead agency efforts on environmental permits and funding, cost escalation concerns including rising steel prices, and potential new project participants.

Agenda Item IV(a) – Design Phase Financing and Distribution of Costs

Paavo Ogren introduced the item discussing design phase financing and distribution of costs. Project team members met with finance directors from participating agencies in November to discuss design phase funding. The finance directors recommended that the project follow the “pay as you go” approach through the spring and potentially through-out design. The objective is to have the financial team prepared to issue Bond Anticipation Notes (BANs) in late spring or early summer for design phase funding. Based on the terms and costs of the BANs, the participants could then decide if they would continue “pay as you go” funding of design or whether to issue debt (the BANs). In addition, the finance directors recommended that agencies should be able to be reimbursed for early design-phase expenses through the BANs or the debt issued for construction. Mr. Ogren confirmed the County staff support for the recommendations from the finance directors but clarified a statement in paragraph 3 of the Agenda Item 4a Staff Report regarding reimbursement of design-phase costs: reimbursement for design-phase expenses could not occur if participants opt out of the project pursuant to the water entitlement contracts. Mr. Ogren also noted the individual agencies and then the Board of Supervisors will need to formally approve this funding approach through either contract amendments or separate memorandums of understanding. Motion to direct staff to proceed with design-phase financing plan as presented by Commissioner Brooks; seconded by Commissioner Jones; Approved 5-0.

Agenda Item IV(b) – Letter to Effected Property Owners

Christine Halley introduced the draft letter to property owners. Commissioner comments ensued on the letter and requested that the project team work with participants staff to revise the letter. Christine Halley agreed to do so. Motion to direct staff to distribute the letter after reviewing and working with participant staff was made by Chairman Ovitt; seconded by Commissioner Romero; Approved 5-0.

Agenda Item IV(c) – 2005 Nacimiento Commission Calendar

Christine Halley presented the 2005 Commission Meeting calendar item. Motion to accept calendar, after modifying to exclude references to payment and water delivery dates which are not yet applicable, made by Commissioner Mecham; seconded by Commissioner Jones; Approved 5-0.

Agenda Item V – Business Items

Agenda Item V(a) – 13th Street Bridge / Pipe Segment Construction

Christine Halley introduced item requesting approval of a credit to the City of Paso Robles for installing 2100 linear feet of the Nacimiento Pipeline during the 13th Street Bridge Improvement Project. The total amount to be credited to the City is not yet known because a change order is in process and final approval of the amount is intended to be brought back to the Commission for review and approval. Motion to accept recommendation to credit the City of Paso Robles with the cost for installation of a segment of the Nacimiento Pipeline associated with the city's 13th Street Bridge Project by Commissioner Mecham; seconded by Commissioner Romero; Approved 5-0.

Meeting Adjourned by Chair Ovitt 5:10 pm

End of Minutes for Commission meeting of December 9, 2004.

The following is a summary of prior Commission actions that have subsequent action required from the project team and need to be tracked for status updates:

Commission Items				
PM	28-Oct-04	Project Contract Amendments - Commission Size	Commissioners expressed the need to consider limiting the number of Commissioners - contract amendment would be required.	Future agenda date not yet set.
MS	28-Oct-04	Project Manager Contract/Hiring	Commission approved direction for project team to follow.	Interviews being scheduled.
WMC	28-Oct-04	Contract for TJ Cross	Commission approved direction for project team to follow.	Board of Supervisors approved 02/08/05.
WMC	28-Oct-04	Contract for Hamner Jewell	Commission approved direction for project team to follow.	Board of Supervisors approved 02/15/05.
CMH	28-Oct-04	Geotechnical Services	Commission approved direction for project team to follow.	Selection team assembled; review underway.
CMH	28-Oct-04	Surveying and Mapping Services	Commission approved direction for project team to follow.	Selection team assembled; review underway.
CMH	28-Oct-04	Design Services	Commission approved direction for project team to follow.	RFQ pending revisions.
CMH	28-Oct-04	Value Engineering Services	Commission approved direction for project team to follow	RFP pending revisions.
WMC	28-Oct-04	MOU for Design Cash Flow Financing	Commission approved direction for project team to follow.	In legal review with Bond Counsel/County Counsel.
WMC	9-Dec-04	Reimbursement Resolution from Fulbright	Commission approved direction for project team to follow.	Legal review complete; companion item with MOU.
PM	28-Oct-04	Follow up on TCSD by-law etc. comments	To be considered by Commission with Commission size issue (above).	Future agenda date not yet set.
MS	28-Oct-04	Conflict Code Filing Requirements	Commission approved.	Board of Supervisors approval required - March 2005; County Clerk will coordinate Commissioners filing requirements.
MH	28-Oct-04	Environmental SOQ's	Commission approved direction for project team to follow.	Selection team set. Interviews on the 24th of February.
WMC	9-Dec-04	Paso Robles 13th Street Agreement	Commission approved direction for project team to follow, team to report back to Commission on final costs.	Improvements in progress. Future Commission item not yet set.
JB/UBS	9-Dec-04	Plan BAN late Spring 05, early Summer 05	Commission approved direction for project team to follow.	On course with Commission approved direction.
CMH	Ongoing	Schedule Preparation	N/A	Updates ongoing.
CMH	Ongoing	Critical Issues - Quarterly	N/A	Updates ongoing.

Nacimiento Project Commission

February 24, 2005

Agenda Item IV – Project Manager’s Report

TO: Nacimiento Project Commissioners

FROM: Christine Halley, Project Engineer

VIA: Paavo Ogren, Deputy Director of Public Works

Date: February 12, 2005

Budget status – A cost-to-date report is included in this agenda packet. So far, we have fee proposals in hand for right-of-way acquisition services, mapping, and geotechnical services, some of which vary from the line item budgets prepared in April of last year. Adjustments to specific line items are proposed consistent with these fee proposals and with the anticipated schedule for the design phase. Further, a staff report on the anticipated effect of the State tax shift on the Nacimiento Fund is included in context of the Nacimiento delivery entitlement contracts and a pending Assembly Bill addressing disproportionate hits on flood control districts.

Environmental and permitting - Interviews for environmental consultants are scheduled for February 24th – URS and ESA will be interviewed on that date. Dialogue continues with the Army Corps regarding project co-lead, with the Real Estate Section in Sacramento designated as the corresponding office on that issue. Initial contacts with FERC and DSOD for design phase work at the dam are underway.

Funding – Comments on the design phase funding MOU are being addressed by bond counsel now and will then be distributed to participants. Further dialogue with Congressman Thomas’ office has taken place to explore possible federal funding options. Refer to related item on consideration of federal lobbyist.

Schedule – Boyle is working up a detailed project schedule showing not only the sequence of design events but also the anticipated permitting sequence plus County and Nacimiento Project Commission review times needed for various actions. Selecting the design team is critical to advancing the project.

Design team assembly – Your Technical Support Group spent quite a bit of time evaluating our approach to hiring design consultants and recommend a change to the Project Delivery Strategy presented to the Commission in October 2004. Hiring a single firm to design the entire project is the recommendation from the Technical Support Group. Also, the geotechnical and surveying proposals are still being evaluated with short-lists to be determined within the week. The value engineering request for proposals and design request for qualifications are being revised now and are expected to be advertised by month’s end. See agenda item V.a.

Consideration of a “project office” is being explored by the project team to dedicate space for project assignments, project records, and to provide a place for consultants to work together on the project (for short periods of time). One possibility may be vacant space in the old Courthouse where County Public Works is currently located that may be created as a result of

the new County government center. Any options that could create additional project costs will be placed on a future Commission agenda for your review and determination.

Other – The update letter was sent to affected property owners along the proposed route and Hamner-Jewell initiated rights-of-entry contacts with Camp Roberts, Caltrans, and others. Participants received copies of maps showing the locations of affected private properties. Once approved by the County Board of Supervisors, Commission members will be receiving forms to complete in compliance with the Conflict of Interest Code.

**Nacimiento Project Commission
February 24, 2005**

Agenda Item IV.a – Budget Status Report

TO: Nacimiento Project Commissioners
FROM: Christine Halley, Project Engineer
VIA: Paavo Ogren, Deputy Director of Public Works
Date: February 16, 2005

Attached is the updated budget status report showing actual expenditures to date. In April 2004, staff prepared an itemized budget for the project extending through construction. This included an itemization of anticipated expenditures during the design phase. Since the initial preparation of that budget, we received fee proposals for right-of-way, geotechnical, and mapping services. Based on those project-specific fee estimates, these line items have been adjusted. In addition, the design phase budget continues to be reviewed and will be refined as preparation of the “base-line” schedule goes through its final review.

Nacimiento Water Project Project Budget Reporting

Latest Update 2/17/05

	Initial Budget ¹	Revised Item Cost ²	Cost-to-Date thru 01/31/05	Remaining	Comments
Design Phase Anticipated Costs (July 2004 through March 2007)					
Project Management	\$1,250,000	\$1,875,000	\$150,134	\$1,724,866	Includes County Project Manager, support staff, consultant support, and legal fees.
Environmental	\$800,000	\$800,000	\$22,799	\$777,201	Includes design assistance, permit applications, agency coordination and internal staff time.
Survey and Base Mapping	\$150,000	\$600,000		\$600,000	2/05-revised based on fee proposals received in Jan
Geotechnical Investigation	\$500,000	\$600,000		\$600,000	2/05-revised based on fee proposals received in Jan
PG&E Service Extension	\$1,100,000	\$1,100,000		\$1,100,000	Initial estimate to extend power to proposed facilities
Right of Way Consulting Services	\$500,000	\$425,000	\$1,923	\$423,077	Hamner-Jewell contract dated 2/05 plus allowance for appraisals and title reports by others
Property Acquisition ³	\$2,000,000	\$2,000,000		\$2,000,000	
Construction Mgt/Constructability Review	\$2,000,000	\$2,000,000		\$2,000,000	Initial CM services authorization
Engineering Design ⁴	\$9,600,000	\$8,400,000		\$8,400,000	2/05-adjusted based on single design firm
Finance	\$0	\$115,000	\$25,145	\$89,855	
Design Phase Budget Reserve	\$1,000,000	\$985,000		\$985,000	
SUMMARY - DESIGN PHASE	\$18,900,000	\$18,900,000	\$200,001	\$18,699,999	
Construction Phase Anticipated Costs (April 2007 through December 2010)⁵					
Project Management	\$2,325,000	\$2,712,500		\$2,712,500	2/05-extended +4 months
Environmental Mitigation	\$3,700,000	\$3,720,000		\$3,720,000	Contingency item (estimated as approximately 4% of construction cost) for pipeline realignment, special construction techniques, and other costs incurred due to unforeseen environmental issues
Materials Testing	\$300,000	\$300,000		\$300,000	
Construction Management	\$4,200,000	\$4,185,000		\$4,185,000	Est. at 4.5% of construction cost, inc design phase
Environmental Monitoring	\$1,800,000	\$1,800,000		\$1,800,000	Includes cost for cultural and biological monitors during construction
Construction Contracts	\$93,000,000	\$93,000,000		\$93,000,000	
1	\$21,400,000	\$21,400,000		\$21,400,000	Units A and A1 pipeline
2	\$1,600,000	\$1,600,000		\$1,600,000	Tanks
3	\$16,600,000	\$16,600,000		\$16,600,000	Intake tower and pump stations, telemetry, and control building
4	\$6,400,000	\$6,400,000		\$6,400,000	River/creek crossings and tunnels
5	\$16,500,000	\$16,500,000		\$16,500,000	Units C and C1 pipeline
6	\$16,700,000	\$16,700,000		\$16,700,000	Units D, E, and F pipeline
7	\$13,800,000	\$13,800,000		\$13,800,000	Units G, G1, H, and H1 pipeline
Construction Phase Contingency and Reserve	\$24,231,000	\$23,838,500		\$23,838,500	
SUMMARY - CONST. PHASE	\$129,556,000	\$129,556,000	\$0	\$129,556,000	
Prior Expenses					
Advance Expenditures ⁷	\$513,000	\$513,000	N/A	\$513,000	
Cuesta Tunnel	\$1,031,000	\$1,031,000	N/A	\$1,031,000	Includes construction of Nacimiento Water Project pipeline section through Cuesta Tunnel
TOTAL PROJECT*	\$150,000,000	\$150,000,000	\$200,001	\$149,799,999	

* Rounded to \$100k

¹ Original project budget per Project Cost Estimate (4/22/04) and as stated in Entitlement Contracts

² Updated budget as of design progress and planning to date

³ Right of way budget per Hamner-Jewell estimate (12/11/02)

⁴ Per October '04 Project Delivery Strategy. Original design budget estimated at approximately 8% of construction costs. Reserve budget item is approximately 10% of design.

⁵ Based on presumed start up in early 2010. Administrative and project management costs increases indicated for construction extending beyond 2009

⁶ Original budget estimated as 25% of total construction budget plus an additional \$1m and allowance for advance expenditures

⁷ Based on Board policy statement dated February 2004

Nacimiento Project Commission

February 24, 2005

Agenda Item IV.b – Environmental Permits

TO: Nacimiento Project Commissioners

FROM: Christine Halley, Project Engineer

VIA: Paavo Ogren, Deputy Director of Public Works

Date: February 12, 2005

County staff has established that the U.S. Army Corps of Engineers, by virtue of their Clean Water Act jurisdiction and federal status as “landowner” for Camp Roberts property, is the appropriate “Federal Lead Agency” for the project. The identification of a Federal Lead Agency is a key component of the processes necessary to obtain the required Federal project approvals under the Clean Water Act, the Endangered Species Act and the National Environmental Policy Act (NEPA). The Corps has determined that the San Francisco District will represent their agency’s regulatory interests. However, San Francisco’s real estate interests are handled by the Sacramento District. While San Francisco has assigned a project manager, our coordination efforts are focused on Sacramento’s role. Sacramento Corps staff have been contacted by Chris Clark of Crawford, Multari & Clark Associates and are working cooperatively to coordinate the Corps’ overall efforts on the project.

Boyle has contacted both the Federal Energy Regulatory Commission and the State Division of Safety of Dams regarding proposed soil sampling near the dam associated with the design of the proposed intake tower and pipeline. These contacts have been coordinated through the Monterey County Water Resources Agency, as that agency has spillway modifications under FERC and DSOD review also at this time. We established our point of contact with MCWRA and are coordinating rights-of-entry now.

An evaluation panel made up of County Public Works (Environmental), County Planning, City of Paso Robles, and City of San Luis Obispo staff reviewed statements of qualifications from eight environmental teams. Based on written submittals and on reference checks, the panel short-listed to two firms (URS and ESA), each of which will be interviewed on February 24th. From there, the panel will recommend negotiating a fee proposal with one of those firms to secure necessary permits, conduct design phase field surveying and habitat/archeological mapping, and to prepare numerous plans as required by EIR.

Refer to Agenda Item V.a regarding the process for forwarding recommendations for award of the various consultant contracts to the Board of Supervisors.

**Nacimiento Project Commission
February 24, 2005**

Agenda Item IV.c – Funding – Design Phase MOU

TO: Nacimiento Project Commissioners
FROM: Christine Halley, Project Engineer
VIA: Paavo Ogren, Deputy Director of Public Works
Date: February 12, 2005

A memorandum of understanding addressing payment for design phase costs from participant's reserves/cash flow was prepared by Fulbright & Jaworski, bond counsel. Bond counsel is revising that MOU based on comments received from County Counsel, then the MOU will be distributed to participants for execution. The County Board of Supervisors will also execute the MOU on behalf of the Flood Control District, signaling the availability of funds to hire the design team.

A sample reimbursement resolution will also be distributed to participants.

Nacimiento Project Commission
February 24, 2005

Agenda Item IV.d – Schedule Update

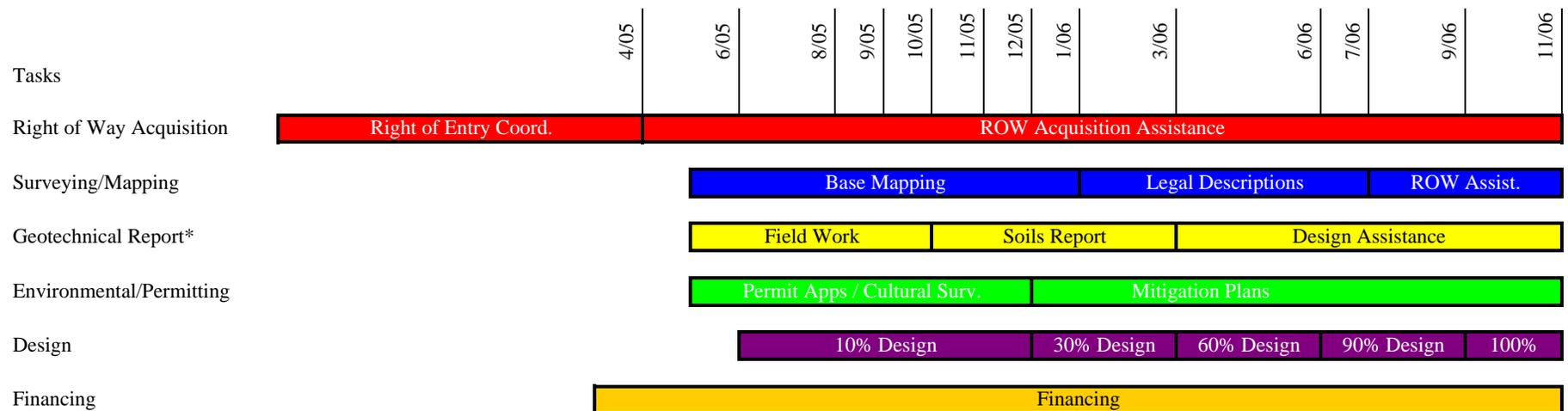
TO: Nacimiento Project Commissioners
FROM: Christine Halley, Project Engineer
VIA: Paavo Ogren, Deputy Director of Public Works
Date: February 12, 2005

The project schedule continues to be refined to reflect the sequence of design events and other efforts that are being identified during our preliminary project efforts and overall planning. You will see that selecting the design team is critical to advancing the project at this time. Allowing time to negotiate contracts with professional firms and agendaize those contracts on the County Board of Supervisor's agenda is expected to result in the initiation of design in the next few months – consistent with timing of the finance teams preparation to be able to sell Bond Anticipation Notes if the participating agencies choose that funding option instead of pay-as-you-go arrangements.

The attached schedule illustrates this updated sequence of events.

Nacimiento Water Project
Typical Project Components (Not Impacted by Biological Constraints)
DRAFT - Sequence of Events for Design Phase
February 17, 2005

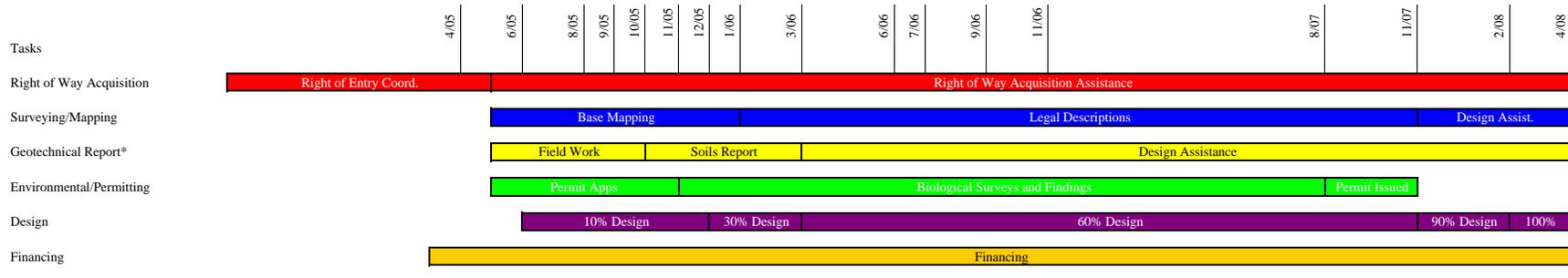
Anticipated Schedule for Typical Project Components



*Soils Report recommendations will be available to the designers prior to completion of the final Soils Report.

Nacimiento Water Project
 Stream and River Crossings
 DRAFT - Sequence of Events for Design Phase
 February 17, 2005

Anticipated Schedule for Streams and River Crossings



*Soils Report recommendations will be available to the designers prior to completion of the final Soils Report.

"Critical Path"



**Nacimiento Project Commission
February 24, 2005**

Agenda Item V.a – Design Team Assembly

TO: Nacimiento Project Commissioners
FROM: Christine Halley, Project Engineer
VIA: Paavo Ogren, Deputy Director of Public Works
Date: February 16, 2005

Recommendation

1. That your Commission adopt the revised Project Design-Construction Strategy, pursuing hiring a single design consultant for the project.
2. That your Commission approve that consultant contract award recommendations of the various evaluation panels are forwarded to the County Board of Supervisors, conditional upon the support of your Technical Support Group and provided that the estimated fees are within the amounts included in the design phase budget.

Discussion

In October 2004, your Commission adopted the Project Design-Construction Strategy outlining the procedure to follow in assembling the design team and bidding the project. At that time, the team contemplated seven construction contracts and up to five design contracts, with the intent to position the project to receive the most competitive bids. At their February 2005 meeting, the Technical Support Group confirmed that the construction contract approach is sound but advise that a single design consultant offers more advantages than retaining multiple designers. More background on the reasoning behind this proposed revised strategy is contained in the attached document. Overall, the change is a refinement to the strategy since the design will still be completed to accomplish the construction strategy.

So far, the County has received proposals/qualification statements from environmental firms, geotechnical consultants, and surveyors for important components of the project design. The relationship of various design team members is depicted in the attached organization chart and the status of the consultant submittals is:

Environmental Services – Eight firms submitted statements of qualifications in December 2004 for services relating to securing necessary permits, conducting design phase field surveying and habitat/archeological

mapping, and preparing numerous plans as required by the EIR. An evaluation panel made up of County, City of Paso Robles, and City of San Luis Obispo staff reviewed the submittals. Based on that review and on reference checks, the panel short-listed to two firms (URS and ESA), each of which will be interviewed on February 24th. From there, the panel will recommend negotiating a fee proposal with one of those firms.

Geotechnical Engineering Services – Eight teams submitted proposals for geotechnical services to span the entire 45-mile length of the project. Services include soils sampling, report preparation, interface with the designers, and review of bid packets for conformance with soils recommendations. An evaluation panel comprised of County staff, participant staff, and an additional outside agency is reviewing the proposals now and will develop their short-list during the week of February 14th.

Surveying and Mapping Services – Eight teams also submitted proposals for surveying and mapping services, also to span the entire length of the project. The scope of services encompasses base mapping for use by designers along with legal descriptions associated with easement acquisition. An evaluation panel comprised of County and participant staff is reviewing the proposals now and will develop their short list in mid-February.

Value Engineering Services – In prior Commission meetings, we discussed hiring an engineering team to provide overall design coordination such as system hydraulic calculations and pipe/pump sizing, surge analysis, etc. along with “value engineering” review of designer submittals. This would be an important coordination role in the event that numerous designers are retained for the project. With the Technical Support Group’s recommendation that a single designer be retained, however, the role of the Value Engineer would be redefined to that of a classic role of the Value Engineer, which is the review of design submittals with the intent of seeking cost-saving approaches. A revised request for proposals for “traditional” Value Engineering will be released pending Commission support for the revised strategy.

Design Engineering Services – A request for qualifications from design firms has been drafted and comments received from County staff and the Technical Support Group. It will be re-written to seek a single design firm pending Commission support for the revised strategy. The final request is expected to be released by the end of February with qualifications statements due in early April. From there, an evaluation procedure similar to the environmental services team will be followed.

Project Manager – Recruitment for the Project Manager position continues with the aid of a professional recruitment firm. Applications are in hand and the next round of interviews will be within the month.

Now that the evaluation panels for the various consultants have been assembled (including representatives from participants) and comments have been received on the remaining requests, recommendations for award of contract will soon follow. Rather than hold recommendations for award until the Commission's next meeting in April, the Commission is asked to support the recommendations of the various evaluation panels, provided that such recommendations are supported by the Technical Support Group and that the negotiated fees align with the current line item budget.

Other Agency Involvement/Impact

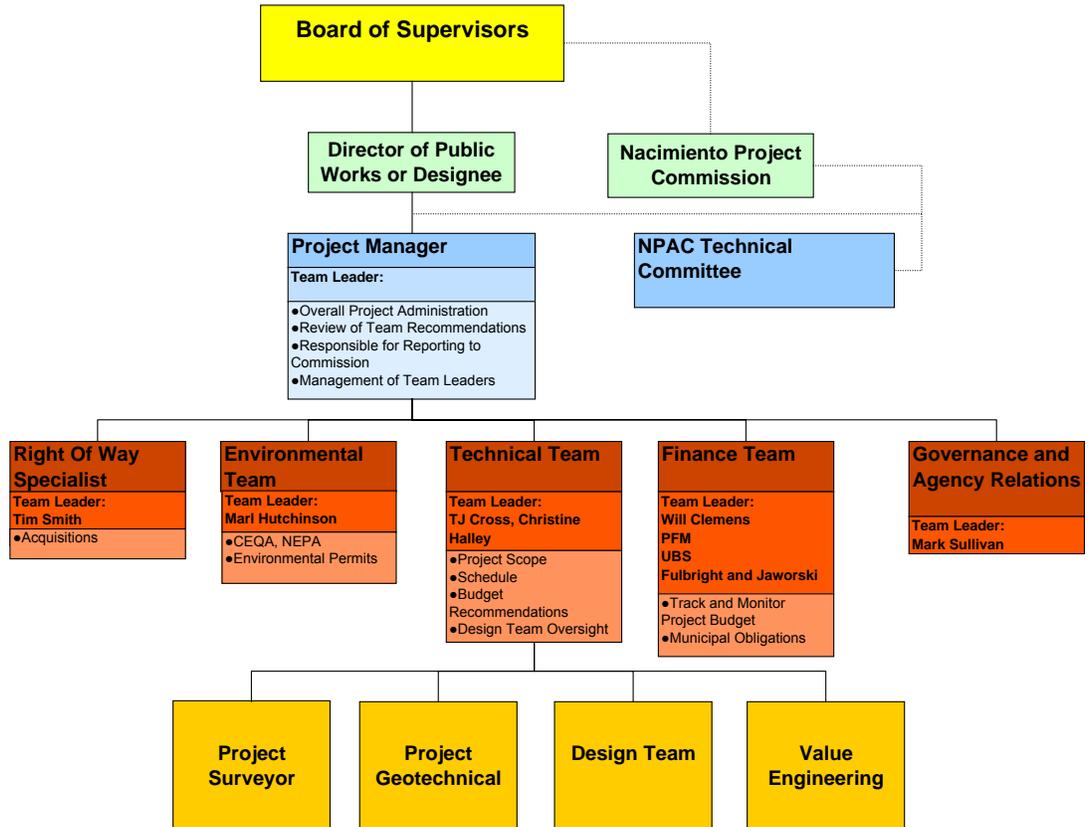
Staff members from participating agencies are participating in consultant selection and recommendations for award are reviewed with the Technical Support Group. In some cases, other local agencies who may consider participating in the Nacimiento project are also involved in the selection process.

Financial Considerations

Consultant services are budgeted as part of the design phase project budget. With Commission support, recommendations for professional services contracts will be forwarded to the Board provided that the negotiated fees are within the line item amounts stated in the current design phase project budget.

Attachment – Revised Project Design-Construction Strategy

Nacimientto Water Project Organization Chart



Nacimiento Water Project Project Design-Construction Strategy

Deleted: Delivery

Overview for Participants

Deleted: October 4, 2004

Revised February 16, 2005

Purpose: Present options for advancing the project through design and construction to a point where it is delivering water. Lay out approach for assembling project team.

As we embark on assembling the team of professionals that will design and build the Nacimiento Water Project, we do so following a deliberate path – one that positions us to *receive the most favorable construction bids*. After all, the most public money will be spent constructing the pipeline (80% of the \$150 million project budget) and perhaps the highest risks will be posed during construction. Some basic questions come to mind: Is it better to let one construction bid or to break the work into multiple contracts? If we proceed with multiple contracts, is it better to divide the work by pipeline unit or by discipline? Is the classic design-bid-build approach best for this project? The project team will focus on these overall project delivery strategies in the months ahead and let the recommended path be our guide for seeking design proposals.

Deleted: between now and the end of the year

The Nacimiento Project Commission adopted the initial Project Design-Construction Strategy in October 2004. Following that date, both County staff and the Technical Support Group commented on our approach to assembling the design team and recommended revisions to that initial strategy. Revisions herein focus on hiring a single design firm as opposed to multiple designers and to authorize classic value engineering for the project.

Deleted: Beginning in November 2003, Dave Hardan, Mike Nunley, and Christine Halley began a series of discussions regarding project delivery including conferences with other public agencies and interested consultants. Our research and consultation with project participant staff during September 2004 revealed the following.

Is the classic design-bid-build approach best for the Nacimiento Water Project?

The vast majority of San Luis Obispo County construction projects are done according to the classic design-bid-build approach that is outlined in the Public Contracting Code. This is not the only approach available to public agencies and we first set out to consider the merits of using an alternative approach for this project.

Design-build projects are those in which the designer teams with a licensed contractor to perform the work. This approach is advantageous on projects in which performance of one component (such as a pretreatment system) influences the design of subsequent components (such as filtration and disinfectant systems). It is also advantageous on complex mechanical projects when interface among components hinges upon a chosen supplier or when time is critical¹. Because the Nacimiento Water Project consists primarily of a pipeline with no outside driver pushing the timeline and because the County Public Works Dept. has little experience in this approach, requiring considerable extra coordination and legal input to successfully structure procurement documents along this line, design-build is not recommended for this project.

¹ There is some debate in the professional community as to whether design-build saves time as compared to the classic design-bid-build approach.

CM At Risk involves hiring the construction manager for a fixed price, the CM then contracts with licensed contractor(s) to build the project within the funds allocated. If actual costs are lower than forecasted, the CM makes a higher profit. If actual costs are high, the CM absorbs the overrun. The CM At Risk approach is appropriate when a fixed amount of money is available for construction and when the bidding climate is stable. In recent months, steel prices alone have risen more than 30% due to activities on the world trade market, rendering this bidding climate unstable. For this reason and, again, considering staff's unfamiliarity with this higher-risk construction arena, the CM At Risk approach is not recommended for this project.

The classic design-bid-build approach is one in which the technical attributes of the project are defined by a design engineer in a set of bid documents/technical specifications, the bid packet is distributed for bid on the open market, and the lowest responsive, licensed contractor is awarded the contract. This is the approach routinely used by the County and other public agencies on the Central Coast. Its disadvantage is the sequential nature of the steps to be taken, perhaps taking more time than, say, the design-build approach. Its advantage is the competitive nature of bidding, securing the lowest pricing, and public perception of fairness. This is the recommended approach for the Nacimiento Water Project.

Note that some elements of the project will be approached by issuing a performance specification such as for the tanks. In this case, it is customary for the designer to specify the performance criteria and the tank supplier to provide the design and fabrication details. Similarly, it will be advantageous to follow an alternate approach to the supervisory control and data acquisition (SCADA) system procurement.

Is it better to let one large construction bid or to break the project into several smaller contracts?

The advantage of proceeding with one large contract is having a single party with whom to administer the construction contract. Disadvantages include 1) risk of project completion resting on a single entity; 2) potential construction defect could span the entire 45 miles; 3) approach won't set the stage for sequential, competitive pipeline pricing; 4) many project elements (pumps, intake, controls) would be subcontracted at a marked-up price; and 5) local contractors unlikely to have bonding capacity to bid the project. For these reasons (especially competitive pipeline pricing), several smaller contracts are recommended.

The success of bidding the construction work in several contracts will hinge on sustained communication among team members and well-planned hand-off points between construction contracts. To ensure that these elements are in place, a single design firm with responsibility for overall project design is recommended along with value engineering review of designer submittals.

Deleted: designers, issuance of design guidelines for the project (such as a comprehensive hydraulic and surge analysis, common telemetric control system, etc.)

Is it better to divide the project by pipeline unit or by discipline?

We could bid construction contracts geographically, so to speak, such that one contractor would build, say, the intake tower, Pump Station No. 1, Camp Roberts tank and pump station, and pipeline Units A thru C1. The advantage would be that completion of a construction contract would constitute start-up of a working reach of the project. The disadvantage is that a single construction contract would embrace a variety of disciplines (specialty work at the intake tower, mechanical and electrical work at pump stations, earthwork at tank site, pipeline and control installation), requiring

Deleted: component is included in the proposed project delivery approach. The value engineer would be responsible for issuing these design guidelines and for seeking out points of coordination among the design and construction contracts.

both the designer and contractor to assemble teams competent in all these areas. Further, this approach would likely span environmentally sensitive reaches such that delays in one critical reach could delay completion of the entire contract. For this reason, it is recommended that the construction work be bid primarily by discipline. For example, all pump stations would be bid in a single packet even though they are dispersed along the pipeline. Also, all 36" diameter pipe will be bid in a single packet which, incidentally, represents the northernmost reaches of the project.

The proposed breakdown of construction contracts for the project (to be assembled by a single design team) is:

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Project Component			Bid Package Number²
Unit	Size	Component	-
A	36" dia	Pipe from Pump Sta No. 1 to Camp Roberts west property line	<u>1</u> (\$21.4 m)
A1	36" dia	Pipe from Camp Roberts west property line to Camp Roberts tank	
F1	2 MG	Rocky Canyon tank	<u>2</u> (\$1.6 m)
G2	2 MG	Cuesta Tunnel tank	
A1	4 MG	Camp Roberts tank	
A	2000 Hp ³	Intake tower and Pump Station No. 1 inc. in-station controls/alarms	<u>3</u> (\$16.6 m)
B	1600 Hp	Camp Roberts Pump Station inc. in-station controls/alarms	
F2	1100 Hp	Rocky Canyon Pump Station inc. in-station controls/alarms	
All	N/A	Telemetric control system	
All	N/A	Control Building	
A, C, G partial	-	River/creek crossings	<u>4</u> (\$6.4 m)
D partial	-	Tunnel reach	
C	30" dia	Pipe from Camp Roberts pump station disch. To Monterey Rd	<u>5</u> (\$16.5 m)
C1	30" dia	Pipe from Monterey Rd to Paso Robles turnout	
D	30" dia	Pipe from Paso Robles turnout to TCSD	<u>6</u> (\$16.7 m)
E	30" dia	TCSD to AMWC	
F	30" dia	AMWC to Rocky Canyon tank inlet	
G	24" dia	Rocky Canyon pump station disch to Route 58	<u>7</u> (\$13.8 m)
G1	20" dia	Route 58 to Cuesta Tunnel tank inlet	
H	20" dia	Cuesta Tunnel barrel (exist)	
H1	20" dia	Cuesta Tunnel to SLO WTP	

² Estimated construction value noted.

³ Horsepowers listed are total power requirements for active pumps and exclude the standby pump.

The first three proposed bid packages represent approximately 40% of the total estimated construction cost, allowing the team to forecast costs-to-complete per Article 2 of the participation agreements. These are also good project elements to prioritize in that they envelop aspects of the project for which it is hard to estimate costs accurately (i.e. the heavily regulated river crossings and the market-driven tunneling work) and when completed, will allow initial water deliveries to the northernmost participants. In other words, once these bid results are in hand, the team can more accurately forecast construction costs for the remainder of the project and begin water deliveries once the initial work is complete.

This is not to imply a planned delay between deliveries to North County agencies as opposed to deliveries south of Cuesta Grade. It is intended that the construction bids be awarded over a period of weeks and that construction proceed all the way to the San Luis Obispo turnout.

What needs to be done to assemble the project team?

As of February 2005, right-of-way acquisition services are under contract and proposals are in hand for geotechnical and surveying services. Environmental consultants will be interviewed on February 24th. Once we are in agreement on a revised project delivery approach, requests for proposals/qualifications for the design services will be distributed.

Deleted: priority designers (A, B, and C) should

Deleted: Other professional services to be secured include right-of-way specialists, geotechnical services, base mapping, and environmental/permitting support. Our recommended approach

Deleted: to procuring these services and the cash flow needed for design phase activities will be outlined at an upcoming meeting.

Prepared by
Dave Hardan and Mike Nunley, Boyle Engineering Corp.
Christine Halley, TJCross Engineers

Nacimiento Project Commission
February 24, 2005

Agenda Item V.b – Local Property Tax Shift Relation to Nacimiento Contracts

TO: Nacimiento Project Commissioners

FROM: Paavo Ogren, Deputy Director of Public Works

Date: February 16, 2005

Recommendation

SUBJECT: Review of State of California 2004-05 Budget; Local Property Tax Shift; Relation to Nacimiento Contracts

Recommendation

That your Commission review and discuss the attached information and support proposed the attached Amendment to AB 2115, Chapter 610 Statutes of 2004.

Discussion

The 2004-05 budget approved by the State of California included the adoption of Section 97.72 of the Revenue and Taxation Code (attached) which modifies property tax allocations for special districts throughout California. Nacimiento Commissioners were informed at your December 9, 2004 meeting, that the San Luis Obispo County Flood Control and Water Conservation District property tax allocations are being reduced by the State of California from about \$2.1 million annually to about \$580,000 annually, or a loss of about \$1.5 million per year. The State Tax “shift” is supposed to be for two years, which will result in lost property taxes for the District of about \$3.0 million. Provisions of Proposition 1A, approved by California voters in November 2004, would allow the State to continue the tax shift after the two-year window if appropriate emergency determinations are made by the State legislature. Subsequent year shifts would be repaid at some future date under the requirements of Proposition 1A.

As a result of the State’s budget action, and with calculations from State staff (received by the District in late November), the Board of Supervisors needed to provide immediate direction to the County Auditor, who is responsible for administering the property tax allocations. Attached is the December 14, 2004 agenda item that was approved by the Board of Supervisors, as recommended. That agenda item describes the policy basis for those recommendations. In addition, the tax shifts have been found to impact certain multi-purpose special districts (such as Flood Control Districts) greater than many of the other special districts, and a legislative amendment has been proposed to offset what is considered an unintended consequence of the budget action. In simple terms, we believe that a few dozen Districts were impacted similar to our Flood Control District with tax shifts that resembled our 72% loss and support the Santa Clara Valley Water District’s proposed legislative amendment (attached). In essence, the proposed

amendment would reverse the penalty incurred by special districts with both enterprise and non-enterprise funds and would treat those districts as though they were separate entities. If this were to occur, the impact on Nacimiento Fund property taxes could be significantly reduced although the actual amount would not be known until the State calculations were adjusted. The proposed legislation would not increase tax impacts on other special districts.

Relationship to Article 17.B.5 of the Nacimiento Project Water Entitlement Contracts

The property taxes allocated to the Nacimiento Fund of the District are identified in the Water Entitlement Contracts and generally considered as “soft revenues” supporting project efforts. As “soft revenues”, they are applied as credits to costs that are first allocated to the Participants. The specific costs that the tax revenues are intended to cover is also limited by the contracts (the details of which will be reviewed at your Commissions April 2005 meeting). In essence, the taxes are considered “soft revenues” because they are subject to re-allocations by the State (which occurred) and because the private bond markets that fund Municipal Obligations for projects cannot rely on the property taxes for repayment of debt. By necessity then, the contracts allocate all project costs to the Participants, thereby creating certainty that debt can be repaid, and property taxes reduce Participant costs to the extent that the property tax revenues are actually received. Since the use the property taxes for the Nacimiento Project, when received by the Nacimiento Fund, will be reviewed in greater detail at the Commission’s April meeting, the remainder of this item focuses on the tax allocation process and the relationship to the Entitlement Contracts.

The following Articles of the Contracts apply:

Article 17 - Contract Payments

Sub-article (B) - Participant Credits against Contract Payments

Sub-article (B)(5) - ...credits for property taxes...

Article 17

The substance of Article 17 is that it allocates 100% of the project costs to the Participants. These provisions are necessary so that municipal bonds can be obtained to fund the project. Without contractual assurance that 100% of the costs will be paid, the credit worthiness of the project would be jeopardized and funding would not be possible.

Sub-Article (B)

The substance of Sub-Article (B) is that after 100% cost allocations, certain credits are defined and applied to project costs, to reduce Participant Contract Payments, *if applicable*. Five such *potential* credits exist for varying reasons. The fifth identified credit relates to property taxes.

Sub-Article 5(B):

“If, in any Fiscal Year, the Nacimiento Water Fund of the District receives its allocated portion of the *ad valorem* taxes levied on the real property within the County of San Luis Obispo under the authority of Article XIII A, Section 1(a) of the California Constitution, then the District shall apply said apportioned amount received by the District to the reduction of Reserved Capacity Construction Cost Component and the District shall continue to do so in each Fiscal Year in which the District receives such apportioned amounts up to and until the said Reserved Capacity Construction Cost Component is paid. The District shall credit to the Participant the Unit Percentage Share of said apportioned tax proceeds received by the Nacimiento Water Fund of the District, less any amounts (i) which the District is obligated to pay under the terms of the Master Water Contract and/or (ii) any amounts which are not received or retained by the District because of the operation of the Community Redevelopment Law (California Health and Safety Code Sections 33000 *et seq.*) or any other applicable law.”

Review of Article 17(B)(5) is clearly based on a conditional “if statement.” It specifically applies to property taxes that might be allocated to the Nacimiento Water Fund of the Flood Control District. The question becomes, then, did the Board of Supervisors have the authority to act on the December 14, 2004 agenda item? We believe that clearly the Board of Supervisors has the sole authority to take the action of December 14, 2004 as a result of the re-allocation of property taxes enacted by the State budget.

The attachment summarizes the allocation process and will be reviewed during presentation of this item at your Commission meeting.

Consistency with Contractual Intent

While the contract language of Article 17(B)(5) preserves the Board of Supervisors authority to act in the case of re-allocations enacted by the State, the language of Article 17(B)(5) does not distinguish between re-allocations that are enacted by the State versus those that the Board may need to consider acting on behalf of the Flood Control District. During contract negotiations, the intent that was discussed (from our perspective at least) could be described as “barring any changes in the property tax allocations overall, the intent was that the District would not modify the methodology of allocating property taxes to the Nacimiento Fund.” While that intent would arguably restrict the District Board’s action more than the legal language of Article 17(B)(5), we believe the action of December 14, 2004 was still consistent with the intent of the Article. We believe that the legal language of Article 17(B)(5) is the best language that could be developed for the contracts because it is virtually impossible to envision all the

factors that might be considered when the Board wrestles with its authority. Future mandates from State and Federal Governments, affecting the Flood Control District, could also impact the District's budgets. Recognizing the intent of discussions during contract negotiations is, nevertheless important, in case future events develop that were not anticipated during contract negotiations and the need develops to consider both contract language and intent.

Other Agency Involvement/Impact

Santa Clara Valley Water District is working with Assemblywoman Sally Lieber to deal with the fact that AB 2115 (as interpreted by the State Controller's Office) penalizes agencies that have both enterprise and non-enterprise functions.

Financial Considerations

The property taxes allocated to the Nacimiento Fund, barring the action that resulted from the State's 2004-05 budget, would have been over \$1.6 million for the two year period. While undesirable, the impact does not affect the project's overall ability to proceed.

These are the sections of the Revenue and Taxation Code that contain the special district reduction requirements adopted in the California State 2004-05 Budget

97.72. Notwithstanding any other provision of law, for each of the 2004-05 and 2005-06 fiscal years, all of the following apply:

(a) (1) (A) (i) Except as otherwise provided in clauses (ii) and (iii), the total amount of ad valorem property tax revenue, other than these revenues that are pledged to debt service, otherwise allocated for each of those fiscal years to each enterprise special district shall be reduced by the lesser of the following:

(I) Forty percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(II) An amount equal to 10 percent of that district's total revenues for the 2001-02 fiscal year, from whatever source, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(ii) The total amount of ad valorem property tax revenue otherwise allocated for each of those fiscal years to each enterprise special district that is a transit district shall be reduced by 3 percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(iii) The total amount of ad valorem property tax revenue otherwise allocated for each of those fiscal years to an enterprise special district that also performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, nonenterprise functions other than fire protection or police protection shall be decreased by both of the following, not to exceed 10 percent of a district's total revenues from whatever source, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report:

(I) Forty percent of the amount of ad valorem property tax revenue of the district's enterprise functions for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(II) Ten percent of the amount of ad valorem property tax revenue of the district's nonenterprise functions for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(B) If an enterprise special district is located in more than one county, the auditor of each county in which that enterprise special district is located shall implement that portion of the total reduction, required by subparagraph (A) with respect to that district, determined by the ratio of the amount of ad valorem property tax revenue allocated to that district from the county to the total amount of ad valorem property tax revenue allocated to that district from all counties.

(2) The Controller shall determine the amount of the ad valorem property tax revenue reduction required by paragraph (1) for each enterprise special district in each county. The Controller shall then determine whether the total amount of ad valorem property tax revenue reductions under paragraph (1) and Section 97.73 is less than three hundred fifty million dollars (\$350,000,000). If, for either the 2004-05 or 2005-06 fiscal year, the total of the amount of these reductions is less than three hundred fifty million dollars (\$350,000,000), the total amount of ad valorem property tax revenue allocated to each enterprise special district, other than an enterprise special district that is a transit district, shall be

reduced by an additional amount equal to that district's proportionate share of the difference, provided that the total reduction under this section for a district shall not exceed 10 percent of that district's revenue from whatever source for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report. If, as a result of this 10-percent limitation, any portion of the difference remains unapplied, that remaining portion shall, as many times as necessary, be applied in proportionate shares among those enterprise special districts, other than transit districts, for which the 10-percent limitation has not been reached, until a three hundred fifty million dollar reduction (\$350,000,000) has been applied. The Controller shall, on or before October 25, 2004, notify the Director of Finance of the reduction amounts determined under this subdivision. The Director of Finance shall, on or before November 12, 2004, notify each county auditor of the allocation reductions required by this paragraph and Section 97.73.

(b) That amount of ad valorem property tax revenue that is not allocated to an enterprise special district as a result of subdivision (a) shall instead be deposited in the county Educational Revenue Augmentation Fund and shall be allocated as specified in subdivision (d) of Section 97.3.

(c) For purposes of this section, all of the following apply:

(1) "Enterprise special district" means a special district that performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, an enterprise function. "Enterprise special district" does not include a fire protection district that was formed under the Shade Tree Law of 1909 set forth in Article 2 (commencing with Section 25620) of Chapter 7 of Division 2 of Title 3 of the Government Code, a local health care district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code, or a qualified special district as defined in Section 97.34.

(2) With respect to an enterprise special district that also performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, a police protection nonenterprise function with certified peace officers, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a fire protection nonenterprise function, "the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year" does not include ad valorem property tax revenue of that district for fire protection or police protection nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(3) For purposes of this section, "revenues that are pledged to debt service" includes only those amounts required as the sole source of repayment to pay debt service costs in the 2002-03 fiscal year on debt instruments issued by an enterprise special district for the acquisition of fixed assets. For purposes of this paragraph, "fixed assets" means land, buildings, equipment, and improvements, including improvements to buildings.

(d) For the purposes of this section, if a special district's financial transactions do not appear in the 2001-02 edition of the State Controller's Special Districts Annual Report, the Controller shall use the most recent data available for that district.

(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any

successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

97.73. Notwithstanding any other provision of law, for each of the 2004-05 and 2005-06 fiscal years, all of the following apply:

(a) (1) (A) The total amount of ad valorem property tax revenue, other than those revenues that are pledged to debt service, otherwise allocated for each of those fiscal years to each nonenterprise special district shall be reduced by 10 percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(B) (i) Notwithstanding subparagraph (A), for the Laguna Niguel Community Service District in the County of Orange, the reduction described in subparagraph (A) shall be 4 percent rather than 10 percent.

(ii) If the district described in clause (i) is not dissolved before July 1, 2006, for each of the 2006-07 and 2007-08 fiscal years, the auditor shall reduce the total amount of ad valorem property tax revenue, other than those revenues that are pledged to debt service, otherwise allocated to that district for each of those fiscal years by 6 percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(C) If a nonenterprise special district is located in more than one county, the auditor of each county in which that nonenterprise special district is located shall implement that portion of the total reduction, required by subparagraph (A) with respect to that district, determined by the ratio of the amount of ad valorem property tax revenue allocated to that district from the county to the total amount of ad valorem property tax revenue allocated to that district from all counties.

(2) The Controller shall determine the amount of the ad valorem property tax revenue reduction required by paragraph (1) for each nonenterprise special district in each county and notify the Director of Finance of these amounts on or before October 25, 2004.

(b) That amount of ad valorem property tax revenue that is not allocated to a nonenterprise special district as a result of subdivision (a) shall instead be deposited in the county Educational Revenue Augmentation Fund and shall be allocated as specified in subdivision (d) of Section **97.3**.

(c) For purposes of this section, all of the following apply:

(1) (A) "Nonenterprise special district" means a special district that engages solely, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, in nonenterprise functions, and a qualified special district as defined in Section **97.34**.

(B) Notwithstanding any other provision of law, "nonenterprise special district" does not include any of the following:

(i) A fire protection district that was formed under the Shade Tree Law of 1909 set forth in Article 2 (commencing with Section 25620) of Chapter 7 of Division 2 of Title 3 of the Government **Code**.

(ii) A police protection district formed pursuant to Part 1

(commencing with Section 20000) of Division 14 of the Health and Safety **Code**.

(iii) A fire protection district formed under the Fire Protection District Law of 1987 (Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety **Code**) or a fire protection district formed under the Fire Protection District Law of 1961, or any of its statutory predecessors, and that existed on January 1, 1988.

(iv) Any library special district, including, but not limited to, the following:

(I) A county free library system established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part 11 of Division 1 of Title 1 of the Education **Code**.

(II) A unified school district and union school district public library district established pursuant to Chapter 3 (commencing with Section 18300) of Part 11 of Division 1 of Title 1 of the Education **Code**.

(III) A library district established pursuant to Chapter 8 (commencing with Section 19400) of Part 11 of Division 1 of Title 1 of the Education **Code**.

(IV) A library district in unincorporated towns and villages established pursuant to Chapter 9 (commencing with Section 19600) of Part 11 of Division 1 of Title 1 of the Education **Code**.

(v) A memorial district formed pursuant to Article 1 (commencing with Section 1170) of Chapter 1 of Part 2 of Division 6 of the Military and Veterans **Code**.

(vi) A mosquito abatement district or a vector control district formed pursuant to Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety **Code**, or any predecessor to that law.

(vii) The Glenn County Pest Abatement District and the East Side Mosquito Abatement District formed pursuant to Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety **Code**.

(2) With respect to a nonenterprise special district that performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, nonenterprise functions and police protection services with certified peace officers, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal **Code**, or nonenterprise functions and fire protection services, "the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year" does not include ad valorem property tax revenue of that district for fire protection or police protection nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(3) With respect to a nonenterprise special district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources **Code** that performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, nonenterprise functions and police protection services with certified peace officers, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal **Code**, or nonenterprise functions and fire protection services, "the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year" does not include total expenditures net of total revenues by that district for fire protection or police protection nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(4) For purposes of this section, "revenues that are pledged to debt service" includes only those amounts required as the sole source of repayment to pay debt service costs in the 2002-03 fiscal year on debt instruments issued by a nonenterprise special district for the acquisition of fixed assets. For purposes of this paragraph, "fixed assets" means land, buildings, equipment, and improvements, including improvements to buildings.

(d) For the purposes of this section, if a special district's financial transactions do not appear in the 2001-02 edition of the State Controller's Special Districts Annual Report, the Controller shall use the most recent data available for that district.

(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS

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TO: Board of Supervisors of the San Luis Obispo County

FROM: Wendy Crawford Hall, Administrative Services Manager

VIA: Paavo A. Ogren, Deputy Director of Public Works - Administration 

DATE: December 14, 2004

SUBJECT: Recommended Property Tax Reductions Required for Special Districts as a Result of the State of California Budget Package for Fiscal Year 2004-2005

Recommendation

That your Honorable Board, acting as the Board of Supervisors for all affected County Special Districts approve the ad valorem Property Tax reductions totaling \$1,692,935, as illustrated in Exhibit "A".

Discussion

As part of the 2004-05 approved budget for the State of California a tax shift to transfer \$350,000,000 of the ad valorem property tax revenues from special districts was approved. The calculations for the tax shift that contain the special district reduction requirements are set forth in the Revenue and Taxation Code 97.72 and 97.73.

The State Budget legislation, as well as the tax calculations recently provided by the State staff, however, do not provide sufficient detail to calculate impacts to specific funds within the impacted special districts. Consequently, your Board's discretion, and direction, is needed for staff to implement the tax-shifts adopted by the State. Budgetary implications will be presented to your Board after informing applicable advisory committees on these State budget impacts.

The formula for calculating the tax reduction impact includes multiple steps. First, at least 40% of ad valorem property tax revenues was targeted from "enterprise" special districts and 10% from the "nonenterprise" districts (the "40/10 rule") - based on tax revenues reported to the State Controller in FY 2001-2002. In no event was the loss to be greater than 10% of total revenues for each district. If this calculation did not generate the required \$350,000,000 (and it did not), then additional steps calculating additional shifts of the ad valorem property tax revenues allocated to each of the enterprise special districts was called out in the budget legislation. The subsequent calculations, however, did not provide protection for non-enterprise activities, of those

special districts that were overall considered enterprise districts. For example, the San Luis Obispo County Flood Control and Water Conservation District has both enterprise and nonenterprise activities. Zone 3 of the District is an enterprise activity covering the Lopez Dam, Reservoir, and water supply system. As a result of its enterprise activities, the District is classified as an enterprise District and the State's final calculations have significant impacts on the District's non-enterprise activities as well as the enterprise activities. In total, the Flood Control District will lose approximately \$1.5 million of its estimated \$2.1 million in annual tax revenues.

Exhibit "A" also identifies the tax impacts on the other Board governed special districts. To the extent that the State Budget legislation does not identify the detailed impact on activities within a particular district, staff recommendations reflected in Exhibit A are based on: a) the total tax shift required by the State; b) compliance with the "40/10 rule"; c) transfer of all enterprise activity taxes – consistent with the legislative intent; d) transfer of taxes for non-enterprise activities without mandated programs; and e) preserving revenues for regional programs to the greatest extent possible.

Other Agency Involvement/Impact

The Auditor-Controller's Office, the State Controller's office, and the State Department of Finance. Public Works staff has requested the State's tax shift calculations to review them for consistency with State Budget legislation. State staff has denied this request. Staff will continue to pursue administrative avenues at this time to obtain the calculations.

Financial Considerations

The financial impact of this tax shift is significant in many of the Board governed special districts. Recommended budget adjustments that will be needed will be prepared while considering whether offsetting revenues exist, whether reserves can maintain program efforts during 2004-05, and/or whether program reductions are needed. These recommendations will be brought to your Board for action after review with the appropriate advisory committees.

Results

Board direction is needed at this time so that staff can distribute tax revenues in accordance with State Budget requirements.

Attachment

File: All districts listed on Exhibit "A"

Reference: 04DEC14-C-11

Property Tax Reductions
San Luis Obispo County Dependent Special Districts

San Luis Obispo County Flood Control and Water Conservation District

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Estimated Impact	% of Total Budgeted Revenues
0643	SLO Co Flood Control	744,767	35.6%	Remainder	\$211,778	31.98%
0647	Nacimiento Water Contract	822,295	39.4%	100%	\$822,295	95.11%
0651	Flood Control Zone 1	42,445	2.0%	\$3,631	\$3,631	5.64%
0652	Flood Control Zone 1A	9,056	0.4%	\$789	\$789	7.35%
0654	Flood Control Zone 3	171,987	8.2%	100%	\$171,987	3.49%
0662	Flood Control Zone 9	298,717	14.3%	100%	\$298,717	101.72%
	Total	2,089,267	100.0%	\$1,509,197	\$1,509,197	
	Required State Tax Shift Amount	1,509,197	72.2%			

San Luis Obispo County Service Area No. 1's

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0723	CSA #1	5,655	8.0%	\$1,352	\$1,352	2.45%
0724	CSA #1A	23,294	32.8%	\$7,435	\$7,435	7.64%
0725	CSA #1B	14,285	20.1%	\$4,506	\$4,506	33.19%
0726	CSA #1C	5,281	7.4%	\$1,802	\$1,802	32.93%
0727	CSA #1D	22,434	31.6%	\$7,435	\$7,435	32.24%
	Total	70,949	100.0%	\$22,530	\$22,530	
	Required State Tax Shift Amount	22,530	31.8%			

San Luis Obispo County Service Area No. 7's

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0741	CSA #7	29,745	16.4%	\$2,310	\$2,310	7.97%
0742	CSA #7A	136,352	75.1%	\$25,415	\$25,415	4.68%
0743	CSA #7B	15,451	8.5%	\$1,155	\$1,155	3.96%
	Total	181,548	100.0%	\$28,880	\$28,880	
	Required State Tax Shift Amount	28,880	15.9%			

San Luis Obispo County Service Area No. 10's

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Estimated Impact	% of Total Budgeted Revenues
0755	CSA #10	113,668	77.2%	Remainder	\$66,511	63.19%
0675	CSA #10A	33,581	22.8%	100%	\$33,581	9.40%
	Total	147,249	100.0%	\$100,092	\$100,092	

Property Tax Reductions
San Luis Obispo County Dependent Special Districts

Required State Tax Shift Amount	100,092	68.0%			
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San Luis Obispo County Service Area No. 12

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0761	CSA #12	18,176	100.0%	\$17,177	\$17,177	5.52%
	Total	18,176	100.0%	\$17,177	\$17,177	
Required State Tax Shift Amount		17,177	94.5%			

San Luis Obispo County Service Area No. 16

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0773	CSA #16	22,300	100.0%	\$6,607	\$6,607	29.84%
	Total	22,300	100.0%	\$6,607	\$6,607	
Required State Tax Shift Amount		6,607	29.6%			

San Luis Obispo County Service Area No. 23

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0694	CSA #23	15,163	100.0%	\$6,303	\$6,303	54.80%
	Total	15,163	100.0%	\$6,303	\$6,303	
Required State Tax Shift Amount		6,303	41.6%			

San Luis Obispo County Nipomo Lighting

Fund	Special District	FY 2004-2005 Estimated Tax Revenues	% of Tax Revenue	Recommended Tax Reduction	Actual Impact	% of Total Budgeted Revenues
0687	Nipomo Lighting	25,297	100.0%	\$2,149	\$2,149	7.31%
	Total	25,297	100.0%	\$2,149	\$2,149	
Required State Tax Shift Amount		2,149	8.5%			

Amendment to AB 2115, Chapter 610 Statutes of 2004

SECTION 1. Section 97.72 of the Revenue and Taxation Code is amended to read:

97.72. Notwithstanding any other provision of law, for each of the 2004-05 and 2005-06 fiscal years, all of the following apply:

(a) (1) (A) (i) Except as otherwise provided in clauses (ii) and (iii), the total amount of ad valorem property tax revenue, other than these revenues that are pledged to debt service, otherwise allocated for each of those fiscal years to each enterprise special district shall be reduced by the lesser of the following:

(I) Forty percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(II) An amount equal to 10 percent of that district's total revenues for the 2001-02 fiscal year, from whatever source, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(ii) The total amount of ad valorem property tax revenue otherwise allocated for each of those fiscal years to each enterprise special district that is a transit district shall be reduced by 3 percent of the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(iii) The total amount of ad valorem property tax revenue otherwise allocated for each of those fiscal years to an enterprise special district that also performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, nonenterprise functions other than fire protection or police protection shall be decreased by both of the following, not to exceed 10 percent of a district's total revenues from whatever source, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report:

(I) Forty percent of the amount of ad valorem property tax revenue of the district's enterprise functions for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(II) Ten percent of the amount of ad valorem property tax revenue of the district's nonenterprise functions for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(B) If an enterprise special district is located in more than one county, the auditor of each county in which that enterprise special district is located shall implement that portion of the total reduction, required by subparagraph (A) with respect to that district, determined by the ratio of the amount of ad valorem property tax revenue allocated to that district from the county to the total amount of ad valorem property tax revenue allocated to that district from all counties.

(2) The Controller shall determine the amount of the ad valorem property tax revenue reduction required by paragraph (1) for each enterprise special district in each county. The Controller shall then determine whether the total amount of ad valorem property tax revenue reductions under paragraph (1) and Section 97.73 is less than

three hundred fifty million dollars (\$350,000,000). If, for either the 2004-05 or 2005-06 fiscal year, the total of the amount of these reductions is less than three hundred fifty million dollars (\$350,000,000), the total amount of ad valorem property tax revenue allocated to each enterprise special district, other than an enterprise special district that is a transit district, shall be reduced by an additional amount equal to that district's proportionate share of the difference, provided that the total reduction under this section for a district shall not exceed 10 percent of that district's revenue from whatever source for the 2001-02 fiscal year, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report. If, as a result of this 10-percent limitation, any portion of the difference remains unapplied, that remaining portion shall, as many times as necessary, be applied in proportionate shares among those enterprise special districts, other than transit districts, for which the 10-percent limitation has not been reached, until a three hundred fifty million dollar reduction (\$350,000,000) has been applied. Notwithstanding the foregoing, for Fiscal Year 2005-2006, the reduction in ad valorem property tax revenue otherwise allocated to a special district that includes both enterprise and nonenterprise functions shall not exceed an amount equal to the amount of reduction that would be applied if calculated separately for that District's enterprise and nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special District Annual Report including any subsequent corrections to the Report. The Controller shall, on or before October 25, 2004 for Fiscal Year 2004-2005, and on or before October 25, 2005 for Fiscal Year 2005-2006, notify the Director of Finance of the reduction amounts determined under this subdivision. The Director of Finance shall, on or before November 12, 2004, notify each county auditor of the allocation reductions required by this paragraph and Section 97.73.

(b) That amount of ad valorem property tax revenue that is not allocated to an enterprise special district as a result of subdivision (a) shall instead be deposited in the county Educational Revenue Augmentation Fund and shall be allocated as specified in subdivision (d) of Section 97.3.

(c) For purposes of this section, all of the following apply:

(1) "Enterprise special district" means a special district that performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, an enterprise function.

"Enterprise special district" does not include a fire protection district that was formed under the Shade Tree Law of 1909 set forth in Article 2 (commencing with Section 25620) of Chapter 7 of Division 2 of Title 3 of the Government Code, a local health care district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code, or a qualified special district as defined in Section 97.34.

(2) With respect to an enterprise special district that also performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, a police protection nonenterprise function with certified peace officers, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a fire protection nonenterprise function, "the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal

year" does not include ad valorem property tax revenue of that district for fire protection or police protection nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(3) For purposes of this section, "revenues that are pledged to debt service" includes only those amounts required as the sole source of repayment to pay debt service costs in the 2002-03 fiscal year on debt instruments issued by an enterprise special district for the acquisition of fixed assets. For purposes of this paragraph, "fixed assets" means land, buildings, equipment, and improvements, including improvements to buildings.

(d) For the purposes of this section, if a special district's financial transactions do not appear in the 2001-02 edition of the State Controller's Special Districts Annual Report, the Controller shall use the most recent data available for that district.

(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

**Nacimiento Project Commission
February 24, 2005**

Agenda Item V.c – Federal Lobbyist

TO: Nacimiento Project Commissioners
FROM: Christine Halley, Project Engineer
VIA: Paavo Ogren, Deputy Director of Public Works
Date: February 12, 2005

Recommendation

That your Commission:

- A) Direct staff to research proposals from federal lobbyists with specific success on Water Resource Development Act appropriations and
- B) Consider formation of a sub-committee to support lobbying activities, or, decide that the Commission as a whole will support lobbying activities.

Discussion

Federal funding may be available (appropriated) for a portion of the proposed Nacimiento Water Project if the project can be “authorized” under the Water Resources Development Act (WRDA). Staff is corresponding with representatives from Congressman Thomas’ office (refer to attached materials) to provide them with information that they are requesting of the project and to gain a better understanding of what federal interest may exist. While the Congressman’s staff has indicated support for Nacimiento, in an effort to pursue such funding and gain support of other federal representatives, lobbyist services can provide benefits.

The County of San Luis Obispo is currently working to retain a federal lobbyist to represent them on several projects and programs including the Nacimiento Project. Those services can be considered as general lobbying support, but will include efforts specifically on the WRDA and Nacimiento. The Nacimiento Project is not being asked to financially support those efforts - although a portion of existing Nacimiento Fund reserves (\$30,000), which are discretionary for the Board of Supervisors, are intended to help pay for the County’s federal lobbying efforts.

In addition to County lobbying support, the Commission may consider retaining a project lobbyist with specific experience in securing Water Resources Development Act funds. In that event, the Commission may consider lobbyist proposals separate from the overall County efforts, funded by the Project and therefore ultimately by the Participants.

The Commission should also consider appointing a subcommittee to work with staff on lobbying efforts. If support in Washington seems possible, it is extremely important that local elected officials meet with elected federal officials. Whether our local representation is a sub-committee or the full Commission, direction from the Commission is important at this time.

Coordination of lobbying efforts will be done with an emphasis on coordinating efforts with the work of Congressman Thomas' office to champion the project. In any event, project representatives (Commissioners and others) will be effective in representing this local project and are likely to be called upon to discuss the issue with our elected representatives at both the state and federal level.

Other Agency Involvement/Impact

Participating agencies will be involved in such lobbying efforts.

Financial Considerations

The Nacimiento Fund cost share for the County federal lobbyist is not a cost to the Nacimiento Project nor the Participants. The additional cost of a lobbyist with specific success on Water Resource Development Projects would be a project cost if approved by the Commission after your review of staff research, if that direction is provided.

San Luis Obispo County Flood Control and Water Conservation District

Nacimiento Water Project

Project Description:

A water resource development project that will convey up to 15,570 acre feet of water annually from an existing reservoir to communities in San Luis Obispo County California.

Benefits:

- **Economic value of community development** is approximately equivalent to ***\$20 billion*** of residential housing.
- **Diversifies water supplies** for communities that are ground water-dependent or otherwise reliant on limited supplies.
- **Benefits agriculture** by preserving inexpensive groundwater for agriculture by lessening competition from industrial and municipal demand.
- **Water quality improvements to consumers.**
- **Water quality improvements to the environment** by reducing salt loading from waste water treatment operations.
- Based upon **pro-active water management planning decisions** that ward off costly water rights challenges.
- **Supports numerous General Plan Elements including housing.**

San Luis Obispo County Flood Control and Water Conservation District

Nacimiento Water Project

The Nacimiento Project is "Ready to Proceed"

Schedule

➤ Water Entitlements Established	1959 (completed)
➤ Environmental Certification (California) Approved	2004 (completed)
➤ Project Contracts Executed	2004 (completed)
➤ Direction to "Carry-Out"	2004 (completed)
➤ Design and Permitting	2005/06
➤ Bid and Initiate Construction	2006/07
➤ Construction	2007/10

Costs

Total Project Costs	\$150 million
Cost per Acre Foot of Water (Untreated) - annualized	\$1,450 (as subscribed)
Cost per Acre Foot if Fully Subscribed - annualized	\$892 (*)

Project Participation (acre feet per year – afy)

Paso Robles	4,000 afy
San Luis Obispo	3,380
Atascadero	2,000
Templeton	<u>250</u>
Subscribed	9,630 afy (*)
Unsubscribed	<u>6,120</u> afy
Total	<u>15,750</u> afy

(*) – Note: Communities that have subscribed have contractually agreed to underwrite the unsubscribed portion of the project, at a 63% increase in cost, even though they represent only 65% of the urban population – thus dedicating current revenues to long-term future needs.

Supplemental Information for Congressman Thomas' Information Packet

Project Owner: San Luis Obispo County Flood Control and Water Conservation District, California

Project Director: Paavo Ogren, County of San Luis Obispo pogren@co.slo.ca.us

Project Engineer: Christine Halley, TJCross Engineers cmhalley@tjcross.com

February 10, 2005

Background:

Since 1959, San Luis Obispo County, California, has held entitlement to 17,500 acre-feet per year of water from Lake Nacimiento. A 45-mile pipeline is now planned to deliver Lake Nacimiento water to communities where it is needed. The route for this pipeline has been studied, the environmental review and financial planning processes completed, and the project is now proceeding into the detailed engineering and design stage in preparation for construction, slated to begin in 2006.

Exercising San Luis Obispo's entitlement in the lake has been a key element of that County's water planning over the past 4+ decades. Deliveries from Lake Nacimiento to urban areas along the Salinas River corridor and to San Luis Obispo's coastal communities have long been recognized as a vital means of supplying this growing area. Nacimiento water will increase the reliability of the water supplies for participating communities as well as benefit the entire area by reducing the use of ground water, extending groundwater reserves for agriculture.

The Nacimiento Water Project will be the largest single project that San Luis Obispo County has ever undertaken. Total project costs are projected at \$150 million and when finished, the facilities will include 45 miles of pipe ranging in diameter from 20-36 inches; three tanks; three pump stations; and a multi-port intake tower at the lake. The cities of Paso Robles and San Luis Obispo, Atascadero Mutual Water Company, and Templeton Community Services District have are all participating in the project.

The project Environmental Impact Report was certified by the County Board of Supervisors in January 2004. This report contains a detailed description of the project, with pipeline alignment maps and other exhibits and can be accessed at:

Home Page:

www.nacimientoproject.org

Project Description & Maps (Environmental Impact Report):

www.nacimientoproject.org/final/Description.pdf

Corridor alignment on USGS Maps:

www.nacimientoproject.org/alignmentunitmaps12-30-04.pdf

www.nacimientoproject.org