



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

**CITY COUNCIL MINUTES**

**Tuesday, July 1, 2008 7:30 PM**

**MEETING LOCATION: PASO ROBLES LIBRARY/CITY HALL  
CONFERENCE CENTER, 1000 SPRING STREET**

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**PLEASE SUBMIT ALL CORRESPONDENCE FOR CITY COUNCIL PRIOR  
TO THE MEETING WITH A COPY TO THE CITY CLERK**

**7:30 PM – CONVENE REGULAR MEETING**

**CALL TO ORDER** – Downstairs Conference Center

**PLEDGE OF ALLEGIANCE**

**INVOCATION** – Led by Patrick Sheean

**ROLL CALL** Councilmembers John Hamon Gary Nemeth, Duane Picanco, Fred Strong, and Frank Mecham

**PUBLIC COMMENTS - None**

**AGENDA ITEMS TO BE DEFERRED (IF ANY) - None**

**PRESENTATIONS– None**

**PUBLIC HEARINGS**

1. **Appeal of Conditional Use Permit 07-001 (Downtown Brewing Co.)**  
R. Whisenand, Community Development Director

By unanimous voice vote on a motion by Councilmember Strong, seconded by Councilmember Picanco, the City Council continued discussion an application filed on behalf of the Downtown Brewing Company appealing conditions of approval associated with CUP 07-001 (Planning Commission Resolution No. 08-020; APNs 009-106-015, 016, 017 and 009-103-012, 013). The item was continued to the August 5, 2008 Council meeting.

**2. Code Amendment 08-001 Floodplain Management Ordinance**

R. Whisenand, Community Development Director

By unanimous voice vote on a motion by Councilmember Strong, seconded by Councilmember Picanco, the City Council continued the public hearing of an amendment to the City's Floodplain Management Ordinance (Chapter 21.14 of the Zoning Code) to comply with the most recent FEMA regulations for participation in the National Flood Insurance Program. The item was continued to the July 15, 2008 Council meeting.

**3. Urban Water Management Plan**

D. Monn, Director of Public Works

The City Council held a final Public Hearing and adopted the 2005 Urban Water Management Plan (UWMP). Iris Priestaf, Todd Engineers presented the staff report.

Mayor Mecham opened the public hearing. Speaking from the public was Mike Gibson and Kathy Barnett. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Hamon, seconded by Councilmember Nemeth, moved to adopt Resolution No. 08-095 approving the Final 2005 UWMP, and directing staff to file this Plan with the California Department of Water Resources.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham

NOES:

ABSTAIN:

ABSENT:

**4. Proposed Water Rate Structure and Water Capacity Charge**

D. Monn, Director of Public Works

The City Council selected a revised water rate structure, authorized staff to proceed with property owner and rate payer notification, and considered water capacity charges. Christine Halley and Jim Throop presented the staff report.

Following the presentation from staff, the Council recessed for 10 minutes at 8:35 PM and reconvened at 8:45 PM.

Mayor Mecham opened the public hearing. Speaking from the public was Beth Quaintance with the Salvation Army, Carl Hansen, William Tuck, Jerry Bunin, with Home Builders Association, Vince Vanderlip, Dale Gustin, Ken T? , Pasqual Padilla, Kathy Barnett, John Borst, Tom Flynn, Paso Robles Cemetery Board of Trustees, Jerry Greene, Tom Roush, Greg Rachunuk, Phil Dirks. There were no further comments from the public, either written or oral, and the public discussion was closed.

Councilmember Strong moved to select the variable (or, market) rate structure and the motion failed for lack of a second.

Councilmember Nemeth, seconded by Councilmember Hamon, moved to adopt Resolution No. 08-096 that identified the fixed-variable water rate structure, and authorized the initiation of the Proposition 218 procedures to send out public notices regarding the proposed water rate structure.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham  
NOES:  
ABSTAIN:  
ABSENT:

Councilmember Nemeth, seconded by Councilmember Hamon, moved to continue the proposed water capacity charge discussion to the August 19, 2008 Council meeting.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham  
NOES:  
ABSTAIN:  
ABSENT:

#### **CONSENT CALENDAR**

Mayor Mecham called for public comments on Consent Calendar items. There were no comments from the public, either written or oral, and the public discussion was closed.

5. Approve City Council minutes of June 17, June 18, and June 19, 2008
6. Approve Warrant Register: Nos. 77950—78145 (06/13/08) and 78146—78311 (06/20/08)
7. Receive and file Advisory Body Committee minutes as follows:  
Library Board of Trustees meeting of May 8, 2008  
Parks & Recreation Advisory Committee meeting of March 11, 2008  
Promotions Coordinating Committee meeting of February 27, 2008
8. Adopt Resolution No. 08-097 approving the Paso Robles Waste Disposal rate adjustment by the Consumer Price Index of 3.2%, pursuant to the August 2006 exclusive franchise agreement.
9. Adopt Resolution No. 08-098 awarding a bid for patrol rifles to the low bid contractor, Rock River Arms, Incorporated
10. Adopt Resolution No. 08-099 authorizing a one-year agreement with the Paso Robles Unified School District to share the cost of a police officer assigned to work as a School Resource Officer.

Consent Calendar Items Nos. 5-10 were approved on a single motion by Councilmember Strong, seconded by Councilmember Nemeth, with Councilmember Picanco abstaining on Warrant Register Item No. 078096, and Mayor Mecham abstaining on Item No. 8, and Warrant Register Item No. 078251.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham  
NOES:  
ABSTAIN:  
ABSENT:

## DISCUSSION

### 11. Agreement for Participation in Regional SWAT Team

L. Solomon, Chief of Police

The City Council authorized an agreement for the City to participate in the San Luis Obispo Regional Special Weapons and Tactics Team, and related agreements. Expenses to support the Police Department SWAT team are included in the current budget. The formation of the Regional SWAT team will not require additional funds.

Mayor Mecham opened the public hearing. There were no comments from the public, either written or oral, and the public discussion was closed.

Councilmember Hamon, seconded by Councilmember Strong, moved to authorize an agreement for the City to participate in the San Luis Obispo Regional Special Weapons and Tactics team (Regional SWAT), and to sign subsequent agreements, as approved by the City Attorney.

Motion passed by the following unanimous roll call vote:

AYES: Hamon, Nemeth, Picanco, Strong, and Mecham  
NOES:  
ABSTAIN:  
ABSENT:

## CORRESPONDENCE

Responses to J. Borst questions submitted at the June 17, 2008 Council Meeting

1. Groundwater Rights – Urban Water Management Plan
2. Educational Outreach participation

## COUNCIL COMMENTS (Including oral reports on conferences attended)

Councilmember Strong reported on recent League of California Cities committee meetings.

### ADJOURNMENT:

#### Social

Friday, July 4, 2008  
Independence Day Celebration  
at Barney Schwartz Park

#### Meetings

Thursday, July 10, 2008  
Adjourned Regular Meeting Interview Advisory Body Applicants, at 7:00 PM, at  
Library/City Hall Conference Center, 1000 Spring Street

Tuesday, July 15, 2008

Regular Meeting, at 7:30 PM, at Library/City Hall Conference Center, 1000 Spring St

Submitted:

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Deborah D. Robinson, Deputy City Clerk  
Approved: July 15, 2008



# CITY OF EL PASO DE ROBLES



## URBAN WATER MANAGEMENT PLAN

Public Hearing  
July 1, 2008  
Todd Engineers



# Urban Water Management Plan

- Water Supply and Demand
- Water Shortage Contingency Plan
- Water Demand Management Measures

# Water demand is projected to double.

- From 7,414 acre-feet per year in 2005 to 16,400 acre-feet per year in 2025





# Groundwater supply is limited.

- Groundwater levels are declining
- Declines are especially prevalent in the sub-basin that serves the City
- Localized groundwater declines have greatly impacted the City's water production capability



## The City's reliance on the groundwater basin continues to increase.

- Overall Declines of 3,300 acre-feet per year from 1997 to 2006 or a total of 29,800 acre-feet
- In 2007, City groundwater basin pumping reached 4,103 acre-feet.



# Unable to Meet Peak Demands

- In the near term, the City is responding with well work, irrigation management, and public outreach
- In the long term, the City is developing two new water supply sources



## **The City will import 4,000 afy of Lake Nacimiento water by 2010.**

- A new source to meet seasonal + long-term demand
- Independent of local groundwater
- Reliable in drought
- Reduced water hardness for City customers, with water quality benefits to groundwater and recycled water



## The City is planning for water recycling.

- A new source to meet irrigation demand and release potable water for higher uses
- Reduces peak summer demands for potable water
- Reliable in drought



## Conclusions

- The City is facing increasing water demands.
- Summer peaking is a near-term problem and places the City at risk.
- A portfolio of water strategies is needed.
  - Groundwater
  - Lake Nacimiento
  - Water recycling for irrigation
  - Water conservation

# For more information

- [www.PasoRoblesWaterProject.com](http://www.PasoRoblesWaterProject.com)
- 2005 Urban Water Management Plan
- *Summary of Key Findings*  
(provide in CC Agenda packet and available on the above website)
- or visit the City library



# CITY OF EL PASO DE ROBLES







## URBAN WATER MANAGEMENT PLAN

Public Hearing  
July 1, 2008  
Todd Engineers





# Urban Water Management Plan

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- Water Supply and Demand
  - Water Shortage Contingency Plan
  - Water Demand Management Measures
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A photograph of a vibrant rainbow arching over a cityscape, likely Sacramento, California, under a cloudy sky. The city buildings and greenery are visible in the distance.

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# City of El Paso de Robles Water Rates and Capacity Charges

July 1, 2008

Jim Throop, Admin Services Director  
Christine Halley, Water & Utilities Engineer




# Water Supply in 1990's

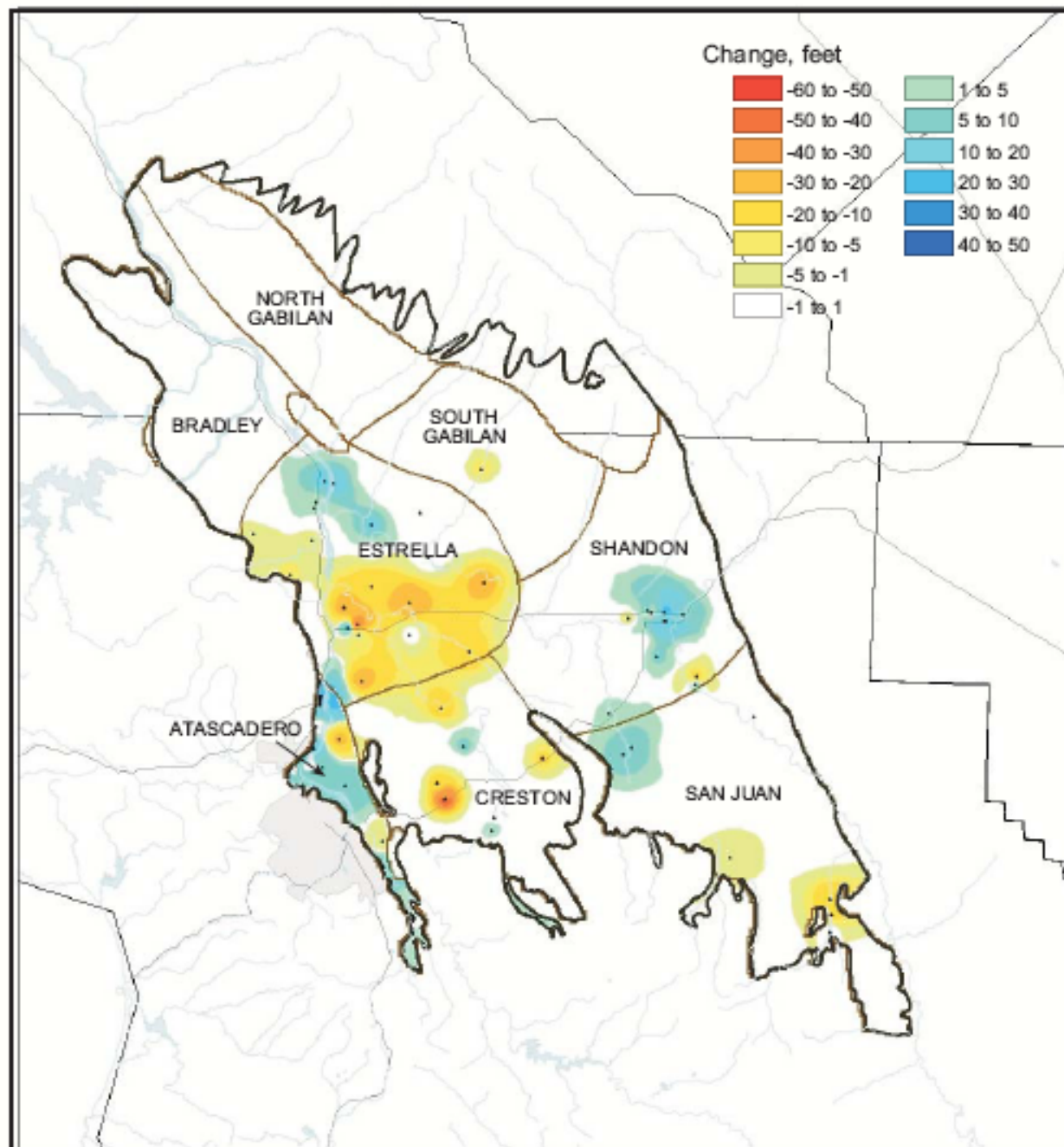
- 100% well water
- Drill-as-you-go
- High water usage
- Very low water rates  
(lowest in State)

*Photo courtesy of Stephen Wallace*



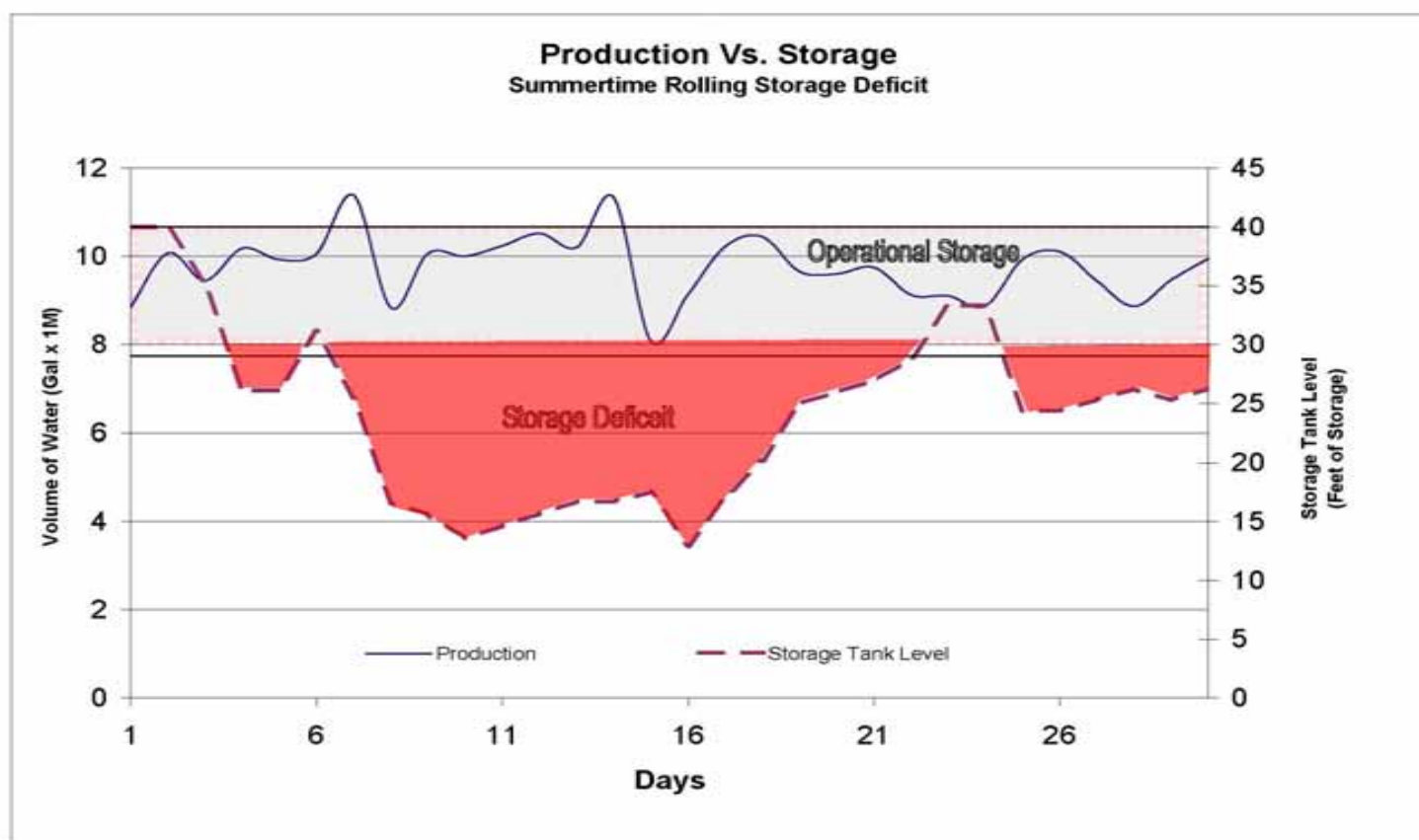
# 2002 Turning Point

- Paso Robles Groundwater Basin Study concluded basin approaching overdraft
  - Pumping levels dropping
  - Water rights actions
  - Nacimiento feasibility established
  - Water quality study 02/03
- 



# Paso Robles Water Today

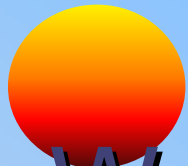
- Tough to meet summertime demands
- Staffed for basic operations
- Nacimiento on the way



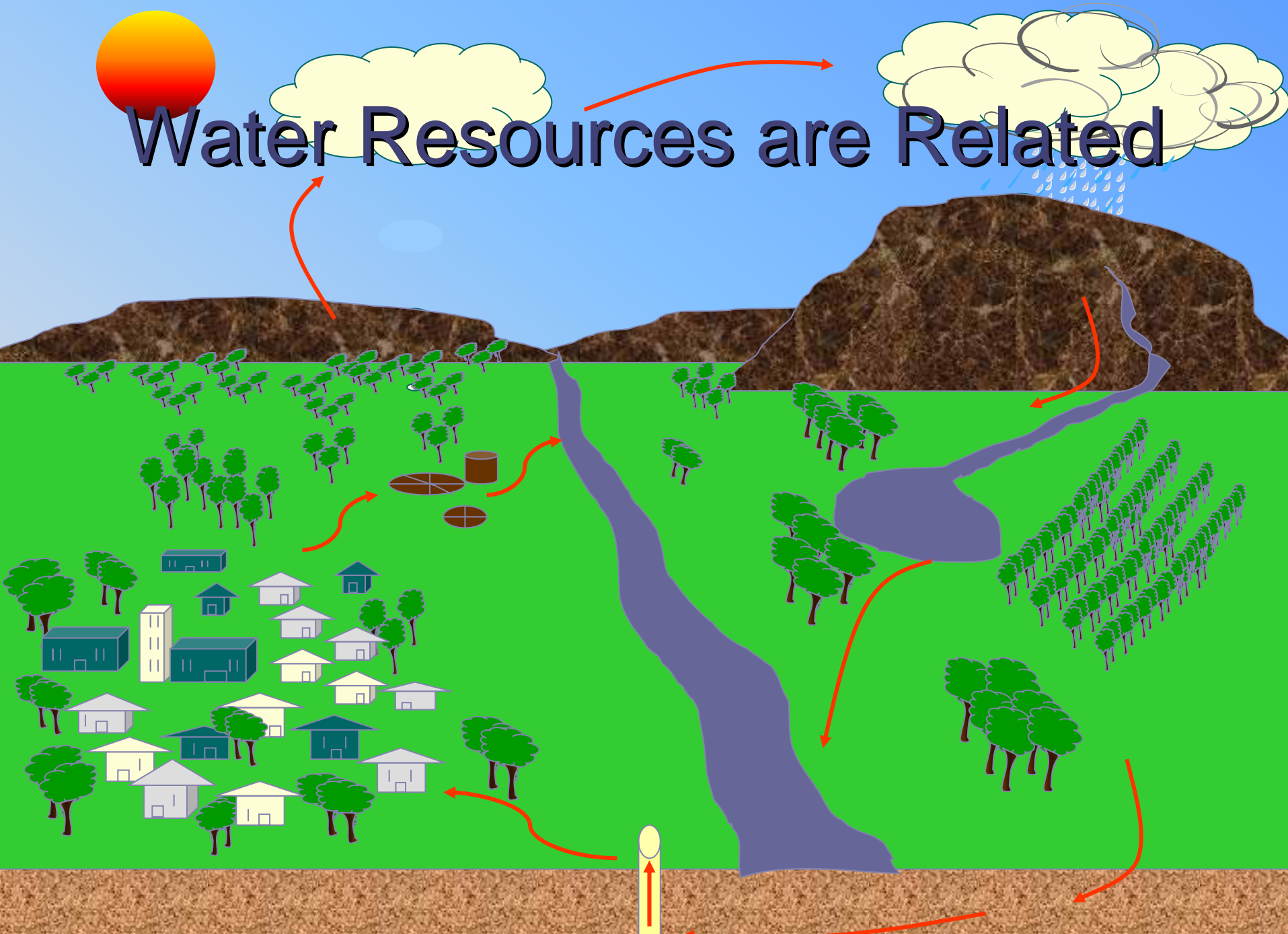
# What Lies Ahead



- System upgrades needed now
- General Plan projects 44,000 pop.
- Aging infrastructure needs maintained



# Water Resources are Related




# Water System Improvements

- Nacimiento deliveries
- Distribution system improvements
- Staff for treatment plant and system maintenance






# Key Findings

- Debt service on Nacimiento Water Project must be covered
  - Annual water operations cost expected to double
  - Water treatment plant financing
  - Provide staffing to meet regulator and customer expectations
- 



# 2008 Water Rate Study

- Current water rate is \$18 fixed rate (Naci) + \$1.28 per HCF
  - All pay same fixed rate regardless of meter size
  - Lifeline rate now in place
- 

# Alternative Rate Structures

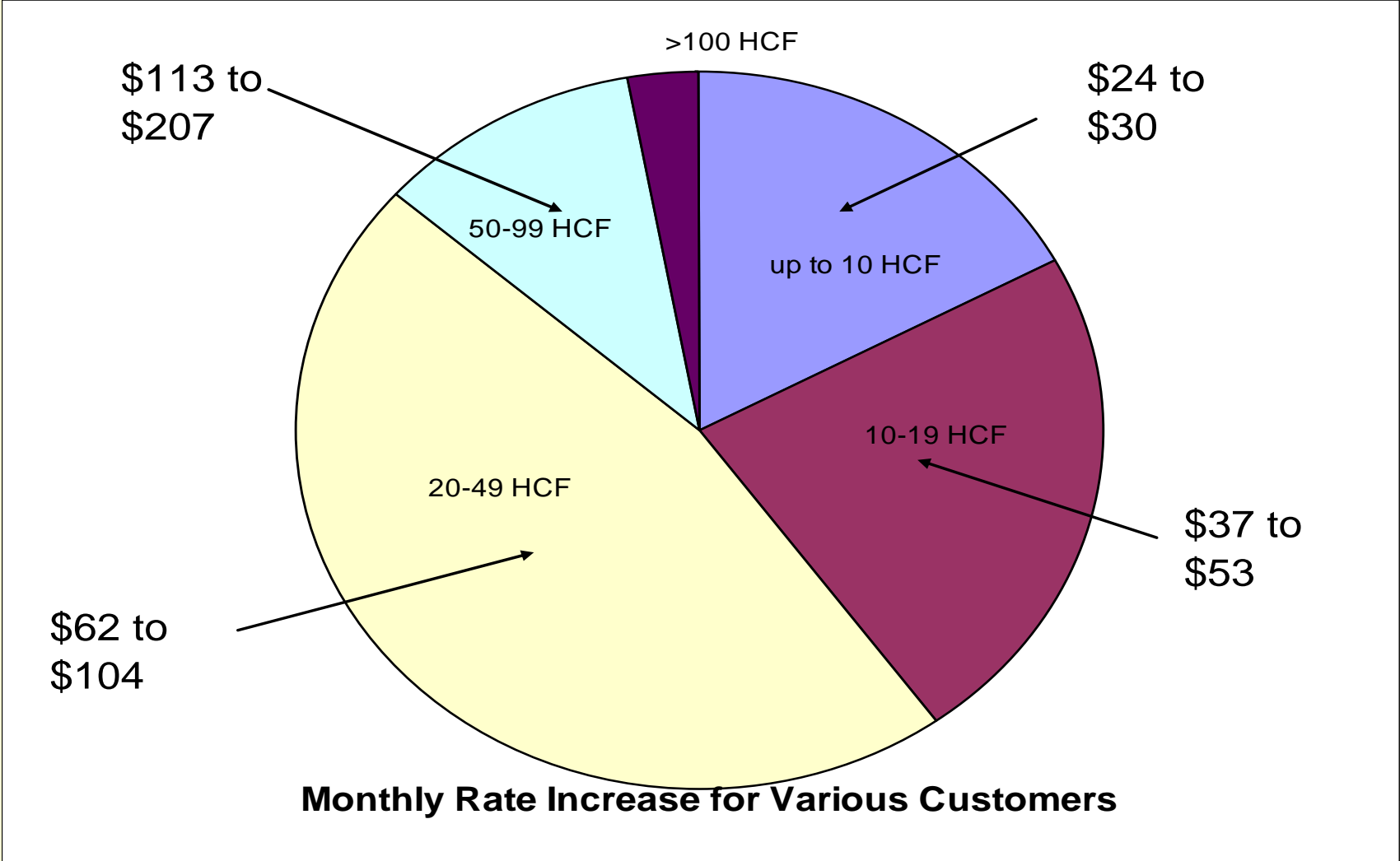
- All fixed
- All variable
- Combination



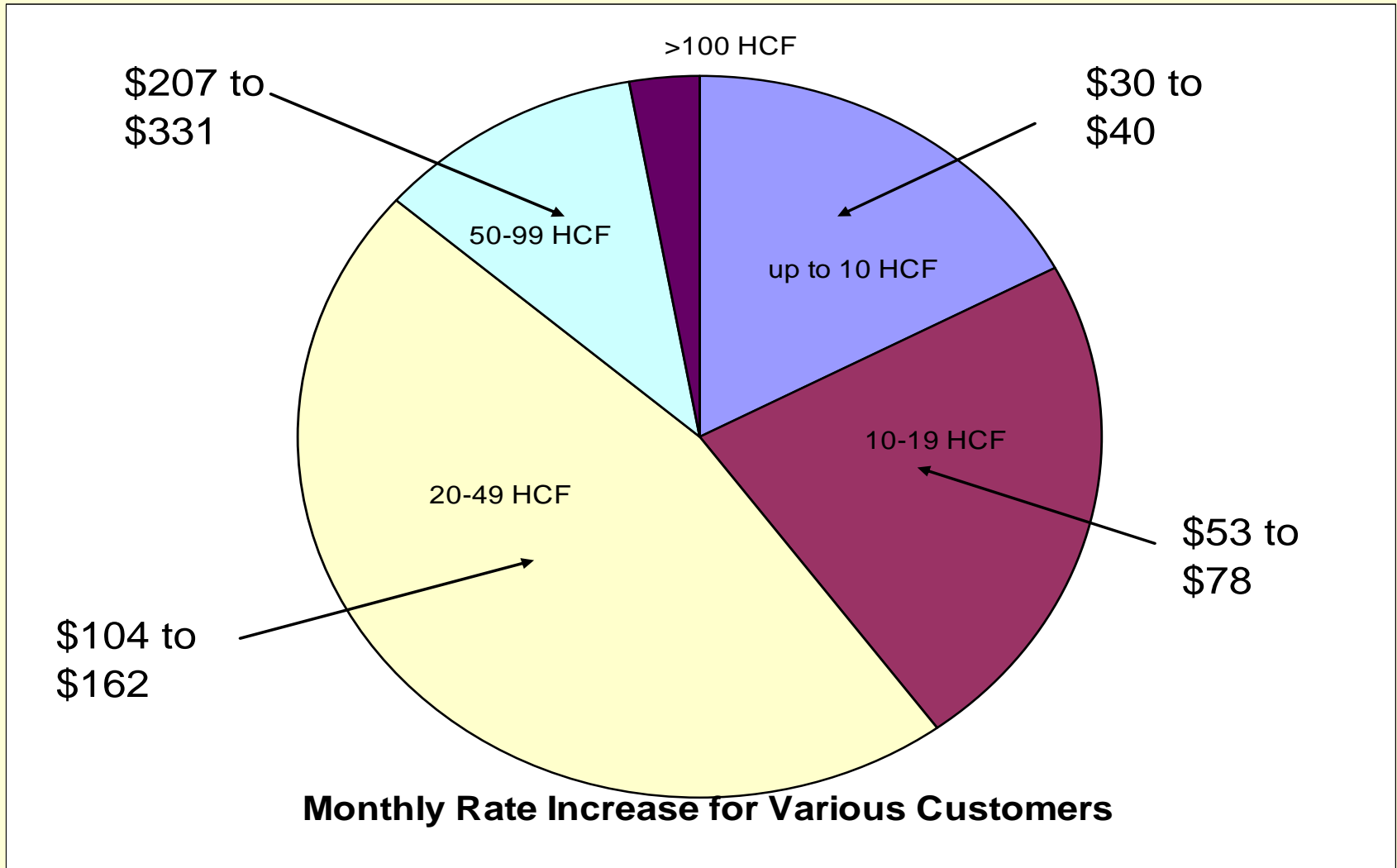
# Proposed Rate Structure

		Proposed Monthly Service Charge				
Meter Size (inches)	Current Rate	January '09	January '10	January '11	January '12	January '13
<b>5/8" &amp; 3/4"</b>	<b>\$18</b>	<b>\$18.00</b>	<b>\$19.98</b>	<b>\$22.48</b>	<b>\$24.95</b>	<b>\$24.95</b>
1"	\$18	\$25.2	\$27.97	\$31.47	\$34.93	\$34.93
1-1/2"	\$18	\$32.40	\$35.96	\$40.46	\$44.91	\$44.91
2"	\$18	\$52.20	\$57.94	\$65.18	\$72.36	\$72.36
3"	\$18	\$198.00	\$219.78	\$247.25	\$274.45	\$274.45
4"	\$18	\$252.00	\$279.72	\$314.69	\$349.30	\$349.30
6"	\$18	\$378.00	\$419.58	\$472.03	\$523.95	\$523.95
8"	\$18	\$522.00	\$579.42	\$651.85	\$723.55	\$723.55
		Proposed Consumption Charge (\$/HCF)				
<b>Usage Rate</b>	<b>\$1.28</b>	<b>\$2.56</b>	<b>\$4.22</b>	<b>\$4.86</b>	<b>\$5.00</b>	<b>\$5.15</b>
<b>Usage Rate for Households</b>						
0-5 HCF	\$1.28	\$2.18	\$3.59	\$4.13	\$4.25	\$4.39
> 5 HCF	Same as Usage Rate above					

# 2009 Adjustments

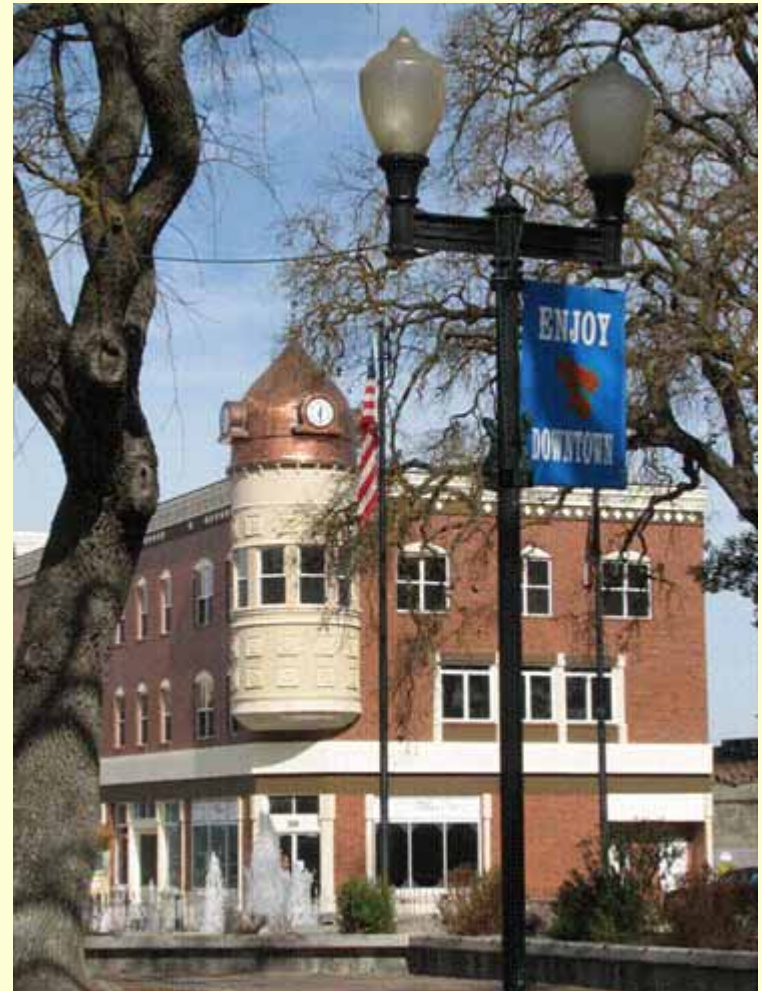


# 2010 Adjustments



# 2008 Connection Fee Study

- Current connection fee is \$9,119 per residence
- Proposed rate is \$17,386 per residence
- Larger meters pay proportionally more



# New Development Impacts

🍷 1/2 Nacimiento supply

🍷 1/2 water treatment plant

🍷 100% additional supply costs




# Proposed Capacity Charges

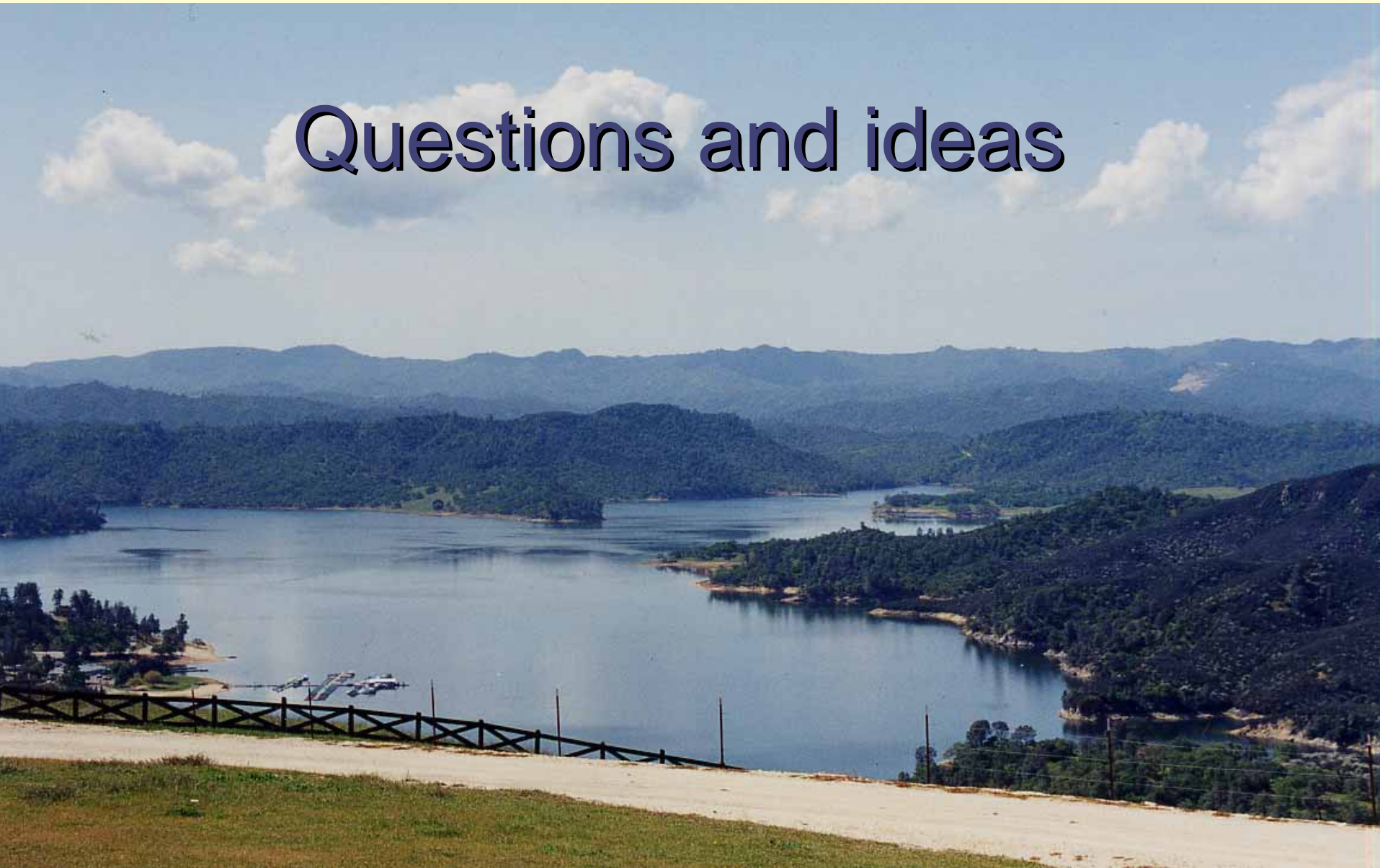
Connection Size	Current Charge as of	Proposed Charge as of		
	July 1, 2008	January 1, 2009	January 1, 2010	January 1, 2011
5/8" and 3/4"	\$9,119	\$17,386	\$21,719	\$28,687
1"	\$15,226	\$29,035	\$36,271	\$47,812
1-1/2"	\$30,364	\$57,895	\$72,324	\$95,625
2"	\$48,601	\$92,667	\$115,762	\$152,999
3"	\$97,292	\$173,860	\$217,190	\$286,874
4"	\$152,002	\$289,825	\$362,056	\$478,123
6"	\$303,914	\$579,475	\$723,894	\$956,246
8'	\$486,280	\$927,195	\$1,158,274	\$1,529,994
10"	\$699,100	\$1,332,985	\$1,665,196	\$2,199,366



# Conclusion

- Nacimiento supply and treatment plant needed to meet customer demands
  - Move toward supply ownership
  - Secure better quality supply
  - Set revenues to fund capital projects
- 

# Questions and ideas



Jim App on 6-16-08 says:

"The actions of the City Council current and past are entirely consistent with their duty and voter vested authority. Further, **capital project** decisions are not subject to Proposition 218 provisions." (Source: Letter to NF: pasorobleswaterproject.com)

**Yet California Government Code Section 53750 states:**

*For purposes of Article XIII C and Article XIII D [Proposition 218] and this article:*

*"Assessment" means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service, that is imposed to pay the **CAPITAL COST** of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service provided.*

"Benefits" of the Nacimientto Water Project's capital cost have been published in Oct. 2007 and Jan. 2008 Paso Robles water mailers. Briefly, the alleged benefits are to: diversify supply, increase reliability, enhance quality, and meet demand. Assessments may in reality be special taxes if the property assessed receives no special benefit beyond that received by the general public. (Knox v. City of Oakland, supra, 4Cal, 4th at pp. 142-143.)

The Nacimientto pipeline and a new City water treatment plant are **CAPITAL** projects, and as such require a ballot vote under Proposition 218 to authorize funding.

**The choice is clear, have Mr. App and the City Council members comply with Proposition 218 law!!!**

visit [www.paso218.org](http://www.paso218.org)

# **Applying Prop 218 Law: A Capital Cost Example**

## **Salinas Valley Water Project Engineer's Report, Jan. 2003**

Download at [http://www.mcwra.co.monterey.ca.us/welcome\\_svw\\_p\\_n.htm](http://www.mcwra.co.monterey.ca.us/welcome_svw_p_n.htm)

***Page ES-1 reads as follows:***

### **Executive Summary**

This Engineer's Report has been prepared to describe the technical basis for a new assessment that would, if passed, **fund the capital and operation and maintenance costs** of the recommended Salinas Valley Water Project (SVWP). The Salinas Valley Water Project includes:

- Operation and maintenance of the existing reservoirs;
- Construction of the Nacimiento Dam Spillway Modifications; and
- Construction of the Salinas River Diversion Facility.

The Monterey County Resources Agency (MCWRA) would implement the project to meet the water supply goals of the Salinas Valley, which include:

- Halting seawater intrusion;
- Continuing conservation of winter flows for recharge of the Salinas Valley basin through summer releases;
- Providing flood protection;
- Improving long-term hydrologic balance between recharge and withdrawal; and
- Providing a sufficient water supply to meet water needs through the year 2030.

The purpose of this Engineer's Report is to document an assessment methodology developed by MCWRA for a special assessment that could fund the proposed project. This report includes a general description of the project, documentation of the assessment methodology, delineation of the zones of benefit, and the proposed assessments. **Proposition 218 requires this type of report in order to provide voters with factual information needed to decide whether or not to approve a new special assessment.**

### **Project Description**

The proposed project consists of three distinct components that will meet the identified project goals. The three project components are:

- Operation and maintenance of the existing reservoirs;
- Construction of the Nacimiento Dam Spillway Modifications; and
- Construction of the Salinas River Diversion Facility.

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Like in the Salinas Valley Water Project example, the Nacimiento water pipeline and proposed water treatment plant are **capital costs** (being a structural addition to Paso Robles' present water system) and as such, [a ballot vote, not a majority protest procedure, is required on City funding decisions under Proposition 218 law.](#) Assessments may in reality be *special taxes* if the property assessed receives no special benefit beyond that received by the general public. (Knox v. City of Oakland, supra, 4Cal, 4th at pp. 142-143.) If the alleged benefits to "diversify supply," "increase reliability," "enhance quality," and "meet demand" can't be shown in an Engineer's Report, then funding the capital cost requires a special tax and 2/3 voter approval.

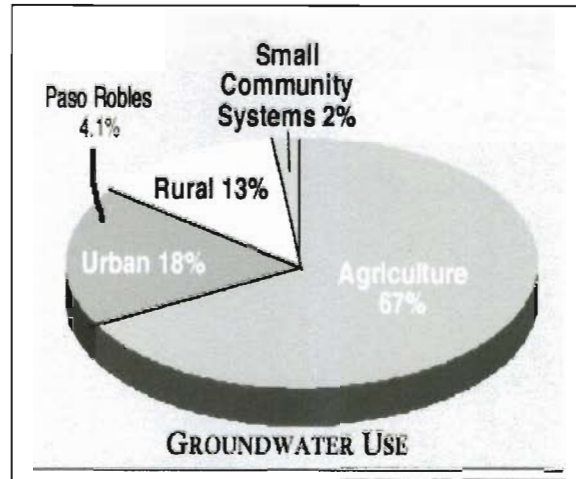
# Nacimientto Water Rates UNFAIR TO CITY RESIDENTS

visit [www.paso218.org](http://www.paso218.org)

## Water Pumped from Paso Robles Groundwater Basin\*--

Paso Robles Total: 3,400 AFY  
(acre feet per year)  
Basin Total: 83,000 AFY

City's % of Basin Total =  
 $\frac{3400}{83,000} = .041 = 4.1\%$



Nacimientto Water Project Cost to City to maintain Basin's 30.5 million acre feet of water storage:

\$11.08 million x 30 years = \$332,400,000\*\*

**Paso Robles' "fair share" (4.1%) of NWP cost based on City's March 2008 mailer:**

\$332,400,000 x .041 =

\$13,628,400

City Water Customer's "fair" share of \$13,628,400 based on 10,267 connections is \$44.25 a year or **\$3.69** monthly for 30 years (versus City's 2011-12 proposed \$143 aver. monthly bill for 25 HCF.\*\*\*)

**Just say NO to the Nacimientto water rates**

References: \*Paso Robles City March 2008 Water Mailer and June 2008 Water Rate Study;

\*\*Includes City's cost of NWPipeline plus interest, and the expense of a new water treatment plant, and their operation.

\*\*\*Annual increases in billing rate will continue after FY 2011-12.

**A Critique of the Paso Robles Water Rate Study** by J. Borst, PhD July 1, 2008  
**On page 2 of Agenda item 4 (CC meeting 7/1/08) Mr. Monn makes the following statement:**

*For the water capacity charges, the recommended charges would pay for one-half of the City's current entitlement in the Nacimientto Water Project and one-half of the proposed water treatment plant costs.*

**What do the numbers from the water rate study say about his claim:**

Total revenue needed in FY 2011-12 to cover the cost of service according to page 29 is **\$18,159,719**. Yet the numbers from the water rate study suggest that capacity charges will *not* be paying for ½ of the City's water project costs as Monn states. On the contrary, City water customers are being asked to pay for the FULL entitlement (4000 afy) and water treatment plant, and more!

**As an example, using the charges for single family residences *only*, here's why this is the case:**

On page 17 of the water rate study it states 25 hundred cubic feet of water was the average customer per month use in 2007. Using that average we can then determine anticipated total revenues for the City in FY 2011-12. Referring to the chart on page 3 of the water rate study report is the water rate structure for 2011-2012. For 2011 the **Fixed flat rate** is **\$22.48** and the **Variable rate** is **\$4.86**; and for 2012 the rates are **\$24.95** and **\$5.00**, respectively. Rates for 6 months of each charge apply for FY 2011-2012.

**To calculate total revenue for FY 2011-12 we do the following:**

First, we need to get the total \$ monthly cost per customer. Multiply the average water use per month, 25, by  $\$4.86 + \$5.00 \div 2$  to get the average monthly variable rate cost:  $25 \times \$4.93 = \$123.25$ . Then add to it the monthly fixed/flat service charge,  $\$22.48 + 24.95 \div 2 = 23.72$ . This then comes to a monthly customer cost of  $\$146.97$  ( $\$123.25 + 23.72$ ). Subtract the difference between rates for the first 5 units used (i.e.,  $\$3.70$ ) from  $\$146.97$  and you get  $\$143.27$  a month per customer.

Second, to get the yearly cost per customer we now must multiply  $\$143.27$  times 12 months. This comes to a yearly cost of  $\$1719.24$ .

Third, to get the approximate total revenue collected from all city water customers we multiple the number of customers expected to exist in FY 2011-12 (9957 current customers + 60 more customers in 2009-10 + 100 more in 2010-11 + and 150 more in 2011-12 = 10,267) times  $\$1719.24$ . Consequently, total revenue planned for collection in FY2011-12 comes to **\$17,651,437** ( $10,267 \times \$1719.24$ ). Or, to use the figure of 30 as the monthly customer usage stated by Mr. Monn in his report, repeating the same procedure above results in a total FY 2011-12 revenue of **\$20,811,620** (or  $\$168.92$  a month per customer).

**Given the above, the conclusion is** new development capacity charges are **NOT** paying for one-half of the City's current entitlement in the Nacimientto Water Project and one-half of proposed water treatment plant costs. **Water customers are being asked to pay the full cost of the entitlement and water treatment plant. That is, if total revenue of \$18,159,719 is needed in fiscal year 2011-12, and that amount is collected entirely from water customers' monthly billings, new development in effect, by way of capacity charges, has NOT contributed ½, if anything. This conclusion raises two disturbing questions:** One, just what will be done by the City with those capacity charges collected if development is not paying ½ the costs (~\$3.6Mil or \$5.5Mil w/O&M)? There appears to be no accounting for it given what water customers are being asked to pay. And second, will the revenues collected from customer billings (not to mention adding capacity charge revenues) exceed the cost to provide the water service? Based on FY 2011-2012 numbers, and certainly with additional bill paying water customers (every 300 more after FY 2011-2012 means at least \$515,000 yearly in new revenue), it appears to be the case -- now and in the future.