

NEWBERRY COMMUNITY SERVICES DISTRICT

Established 1958

Board Minutes
July 24, 2018

Call the meeting to order. 6:08 p.m.

Pledge of Allegiance

President Springer asked all present to rise, face the flag and recite the Pledge of Allegiance.

Roll Call.

Present:

President Springer
Vice President Deel
Director Clark
Director Paulsen

Absent: Director Shaw

Also Present : Board Secretary Jodi Howard ,District Treasurer Kerri Zurcher, Asst. Fire Chief Lanier & Rogers and Field Rep. for Lovingood Christian Guntert, members of the public.

1. Approval of the Agenda

Motion Director Deel to approve as presented. Seconded Director Clark

Vote: **Unanimous**

Motion Passed

2. Public Comments:

a. **General Public-** Wayne Snively- Against buying the Ray Jackson property. Says the property wasn't totally cleaned up.

Ted Stimpfel –Agreed with Wayne Snively poor parcel to purchase without clean up clearance. Requested the board release Kiewit funds again for solar.

*** Community Reports**

County Supervisor Lovingood Representative- Christian Guntert –County has endorsed a new website: Vision4safety.com. You can get Hunting and Shooting maps from Mohave Narrows & Calico.

Sheriff – Report attached on website

3. Consent Items

a. Approval of Minutes

b. Bills Paid and Presented for Approval

Motion Director Deel approve consent items as presented waive reading. Seconded Director Paulsen. Director Clark recused himself from vote and left the room.

Vote: Yes- Director Deel, Director Paulsen, Director Springer

Recuse: Director Clark

Motion Passed

4. Matters Removed from Consent Items

5. Reports

A. General Manager- Absent

B. Staff- Director Deel gave CSD Luncheon Report

6. Agenda Items- Discussion/Possible Action

a. Approval of FY 2018/19 Budget With Corrections

Motion Director Deel Accept as amended and move \$400.00 from 1012.8 to 1008.0 Lafco. Seconded Director Paulsen.

Vote: Unanimous

Motion Passed

b. Write a letter to the judge on the Adjudication regarding the plight of the effect of the ramp-down on Newberry CSD and other parties who started at the low end of the Base Annual Production-

Motion Director Deel send proposed letter as amended to judge and anyone else who needs it. Seconded Director Paulsen.

Vote: Unanimous

Motion Passed

c. . Proposing we write a letter responding to State of California Department of Fish and Wildlife's letter of July 9, 2018. They had the same concerns regarding the water use Shifting from the West side of the Calico-Newberry fault to the East side of the same fault.

We are also proposing that the pumping rights be held by the Dagget and Newberry CSDs. These are the agencies most directly concerned with this project.

Motion Director send proposed letter with corrections. Seconded Director Paulsen.

Vote: Yes- Director Deel, Director Clark, Director Paulsen. **No-** Director Springer

Motion Passed

d. Can the CSD legally spend money contributed by Kiewit Pacific Co. to fight the construction of the proposed Solar Projects?

Motion Director Deel CSD consult Attorney about spending Kiewit money to fight the solar projects. Seconded Director Paulsen.

Vote: Yes- Director Deel, Director Springer, Director Springer. **No-** Director Clark

Motion Passed

e. Improvement to Parks & Recreation.

Motion Director Paulsen to table this item to next meeting. Seconded Director Clark

Vote: Unanimous

Motion Passed

f. Buying of Real Estate for Parking.

Motion Director Clark to table this item to next meeting. Seconded Director Paulsen

Vote: Unanimous

Motion Passed

7. Old and New Business- Voter Packets

8. Adjournment- 8:02 p.m.

Board Secretary

Board President



101 Parkshore Drive, Suite 100, Folsom, CA 95630 [916] 983-8000

DAVID W. McMURCHIE
dmcmurchie@mcmurchie.com

VICKI E. HARTIGAN
vhartigan@mcmurchie.com

August 22, 2018

Board of Directors
Newberry Community Services District
30884 Newberry Road
Newberry Springs, CA 92365

Dear Members of the Board of Directors,

You have asked me to analyze and address the nature and extent of permissible expenditures that your community services district may make of revenues received by your District from Kiewit Pacific Co. ("Kiewit") arising out of the settlement of a conditional use permit dispute between Kiewit, the District, an organization known as CEQA-NOW, and several other individuals.

The Settlement Agreement dated November 5, 2004, is signed by all of the parties mentioned above. The Agreement specifically provides that the District and all other parties appealing the issuance of a Conditional Use Permit to Kiewit for the Fort Cady Road Quarry will withdraw all appeals and cease all opposition to the Permit in exchange for payment by Kiewit to the District of the sum of \$350,000. The Agreement specifically provides that such amounts shall be distributed by the District in the sum of \$20,000 for emergency services and \$330,000 "to be used at the discretion of the CSD for the benefit of the community."

The District is a community services district formed and operating pursuant to the provisions of the Community Services District Law at Government Code Section 61000 et seq. (the "CSD Law"). The provisions of that law define the powers of your District, and the purposes, services and facilities it is authorized to provide. Government Code

Section 61000 specifically defines those services and facilities which a community services district is authorized to provide. A community services district may not provide any services or facilities that are not expressly enumerated in Section 61100. Of the numerous services and facilities described in that section, your District has been authorized by its formation documents and San Bernadino County LAFCO to provide the following services and facilities: water for District and fire protection purposes; fire protection; streetlighting; park and recreation; and sewer services. Should your District wish to exercise the power to provide additional services and facilities described in Section 61100, your District would have to petition for and receive LAFCO approval to exercise those powers pursuant to Section 61106. Community services districts are not authorized to provide electricity, except in very limited circumstances which are not applicable to your District pursuant to the provisions of Section 61102.

Your first question asks whether the District can spend funds it receives from non-tax revenues such as donations, contributions, or the Kiewit settlement funds for any purposes other than those services and facilities that your District has been specifically authorized to provide pursuant to the CSD law. The answer to that question is "No". The source of revenues to your District is irrelevant with respect to the authorized purposes, services and facilities for which such revenues can be expended by the District. Your District is limited to expending all of its revenues, whether from taxes or other sources, to accomplish its authorized purposes and provide its authorized services and facilities as specified above. For example, Section 61116 authorizes your District to accept any revenue, money, grants, goods, or services from any other person, but only for any lawful purpose of the District as described in the CSD Law.

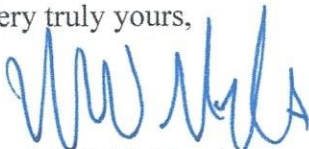
My understanding is that the District has been asked by one or more local residents to expend proceeds of the Kiewit settlement to take legal and other action to oppose county approval of two solar projects to be located in or near the District. You have asked whether such an expenditure of the Kiewit settlement funds by the District is permissible under the provisions of the CSD Law. The answer to that question is also "No". Such an expenditure of public funds by the District to oppose a solar electrical project is not specifically authorized by any provisions of the CSD Law. Section 61102 provides that the provision of electricity, and any issues surrounding electricity services, are not within the express powers of your District. The District has no power to expend any of its public funds, regardless of the source of such funds, for any purpose other than providing those services and facilities which it has been specifically authorized to provide, and performing those administrative functions such as budget preparation and approval, holding of public meetings, compliance with the Public Records Act, and the other administrative and operational functions described in the CSD Law.

Any expenditure of District funds for any purpose, service or facility which the District does **not** have the express power to provide in the CSD Law is arguably an unconstitutional gift of public funds. Any expenditure of public funds by a public agency for a purpose, service or facility that it is not authorized by law to provide is considered by the law to be a gift, since no authorized public purpose of the public agency is being served in making the payment.

Finally, I understand that a contention is being made that the Kiewit settlement proceeds are actually trust funds, held in trust by the District as the trustee, for distribution as the other parties to the settlement see fit. The Kiewit Settlement Agreement is clear that the settlement funds are to be paid to the District, to be distributed **at the discretion** of the District for the benefit of the **community**, not just the parties to the settlement agreement. The settlement agreement contains no language regarding the establishment of a trust, the naming of and appointment process for a trustee, a listing of beneficiaries of the trust funds, or authorized purposes of distribution of the trust funds. The lack of any written evidence that the settling parties intended the settlement proceeds to be governed by the provisions of a trust will make it very difficult to prove that such a trust actually exists and was intended by all of the parties executing the settlement agreement. The express language of the settlement agreement specified above supports the conclusion that the settlement funds were to be paid to the District, as its property, for distribution for the benefit of the entire community in the discretion of the District. Since the express language of the settlement agreement is clear, a court will likely not permit parol, or oral, evidence regarding an allegation that a trust was intended to be formed by that settlement agreement. Even if such a trust agreement can be legally proved, the District has no legislatively granted authority to act as the trustee of such a trust, or to disburse trust funds, as the trustee, for purposes other than those specifically granted to the District by the CSD Law as discussed above.

Should you have any questions regarding the foregoing, please don't hesitate to contact me.

Very truly yours,



David W. McMurchie
MCMURCHIE LAW

Kiewit Pacific Question

In 2004 to settle an "Appeal To Board of Supervisors Regarding Planning Action" by Newberry CSD, CEQUA-NOW, and certain individuals, Kiewit Pacific Co. donated \$350,000 to Newberry Springs Community through the Newberry CSD (see attached letter of Settlement Agreement). \$20,000 of this money was designated for emergency services and the balance to be used at the "discretion of the CSD" for the benefit of the community. The \$20,000 was used for the Newberry Volunteer Fire Department. Portions of the \$330,000 were used at various times for the community. There is a balance of \$138,206 (in a CD) left.

Currently, the CSD is being asked by several people to approve spending money from this account for defending the community from proposed solar projects. Their premise is that since this is not Tax money, it is not restricted as to how it can be spent. We are not sure this is allowed.

A legal analyst advised that a CSD can only spend money in areas sanctioned by our powers: Park & Recreation, Street Lights, Fire Department, Water, & Sewer Services (see letter dated May 26, 2015 attached).

- 1) Can we spend money received from donations, contributions, any funds other than tax dollars outside those powers?
- 2) If law allows the CSD to spend donations, contributions, any funds other than tax dollars outside our powers, is there anything in the Kiewit Pacific agreement that would prohibit this spending as suggested by Mr. Fred Stearn (Item 8, letter attached)?

Thank you.

Le Hayes

General Manager



LAFCO

**Local Agency
Formation Commission**
for San Bernardino County

215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490
909.383.9900 | Fax 909.383.9901
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

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Special District

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Special District

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JAMES RAMOS
Board of Supervisors

DIANE WILLIAMS
City Member

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STEVEN FARRELL
Special District

JANICE RUTHERFORD
Board of Supervisors

SUNIL SETHI
Public Member

ACQUANETTA WARREN
City Member

STAFF

KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
Assistant Executive Officer

MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

May 26, 2015

Robert Berkman, President
CEQA-NOW
P.O. Box 368
Newberry Springs, CA 92365

RE: Newberry Springs

Dear Mr. Berkman:

LAFCO received your letter dated May 4, 2015 requesting LAFCO staff to provide responses to questions regarding the Newberry Community Services District ("District"). Your letter lists seven items. The narrative which follows provides my response to those questions:

1. I am not aware of any law, rule, or regulation that would prohibit a special district from taking a position on subjects beyond its authorized powers. However, the active provision of a service or the spending of funds on functions beyond its authorized powers would be in violation of State Law.
2. Currently, pursuant to the *Rules and Regulations of the Local Agency Formation Commission for San Bernardino County Affecting Functions and Services of Special Districts*, the District is authorized by LAFCO to provide the functions of water, fire protection, streetlighting, park and recreation, and sewer services (a copy of this information is available on our website at: http://www.sbcounty.gov/uploads/LAFCO/Publications/LAFCO_Policy_and_Procedure_Manual_10_2014.pdf). The District is not a retail water provider; rather it utilizes water from its own wells for its facilities and for fire protection purposes. Although authorized sewer service, the District does not actively provide the service but has been authorized the function to allow it to plan for a sewer collection and treatment system for the future.

The District is not authorized by LAFCO the function of library services pursuant to Government Code Section 61100(k). Currently, the County Library system would be the entity to apply for a grant to build a local library, as the entire Newberry Springs community is within the

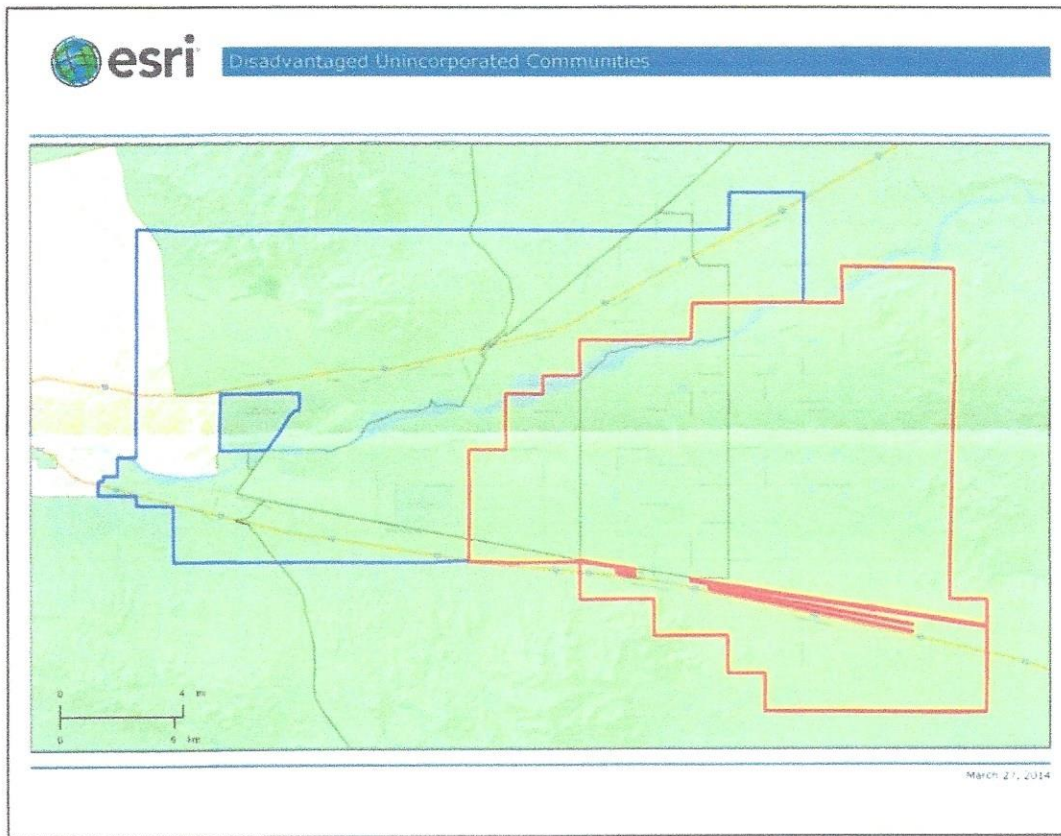
May 26, 2015

County Free Library system which receives a share of the one percent ad valorem property tax to support this service. Therefore, to apply for a grant to build a local library would be beyond the District's purview.

It is not clear from your letter what you mean by "blight" so it is difficult to provide a response. If it relates to dealings with abandoned property, the County's Land Use Services Department has a program to address those matters. However, a community services district does have the ability to provide graffiti abatement services. Currently, the District is not authorized by LAFCO the function of graffiti abatement services pursuant to Government Code Section 61100(q) but the Helendale CSD does provide this service. You may wish to contact that district for additional insight into how such a function would operate.

Should the District desire to actively provide additional services permitted under CSD Law such as library or graffiti abatement, it requires LAFCO approval (Government Code Section 61106 {CSD law} and 56824.10 {LAFCO law}).

3. The map below is taken from LAFCO's January 2015 service review for the Daggett, Newberry, and Yermo Community Services Districts. The map plots the areas that meet the criteria of a Disadvantaged Unincorporated Community ("DUC" - territory that constitutes all or a portion of a community with an annual median household income that is less than 80% of the statewide annual median household income) which are shaded in green. The map overlays the DUC designations with the Newberry CSD sphere (red outline) and the combined sphere for Daggett CSD and Yermo CSD (blue outline). As shown, the entire Newberry Springs community is classified as a Disadvantaged Unincorporated Community.



4. As stated in the January 2015 LAFCO special study LAFCO staff would support the annexation of the District's territory to the San Bernardino County Fire Protection District and the transfer of the existing property tax support for these operations from the district if the resources were sufficient to provide a comparable service. While there are benefits to regionally providing fire protection services and potential economies of scale that could be achieved, the special study identified that there is not sufficient revenue available from the Newberry Springs area to support such a change

Further, County Fire is currently transitioning from manning its stations from paid-call personnel to full-time personnel. That change in circumstances would make the scenario of annexing the Newberry Springs community to County Fire more unlikely.

5. LAFCO does not have any information regarding the District applying to the Bureau of Land Management to acquire recreational park land or grants.
6. No question was provided to Item 6.
7. The County of San Bernardino Department of Community Development and Housing administers a wide range of programs. Many of these programs are

Letter to Robert Berkman
May 18, 2015

funded through the U.S. Department of Housing and Urban Development (HUD)
Community Development Block Grant (CDBG).

Should you have any questions on this letter, please feel free to contact my office at
(909) 383-9900 or by email at lafco@lafco.sbcounty.gov.

Sincerely,



KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM/MT

cc: Ron Frame, Senior Field Representative, First Supervisorial District
Le Hayes, General Manager, Newberry Community Services District
Ms. Kayrl Morris, President, Newberry Springs Family Center
Ms. Vickie Paulsen, Newberry Springs Property Owners Association
Newberry Springs Community Alliance

March 3, 2018

SUBJECT: THE TWO SOLAR PROJECT APPLICATIONS IN AND AROUND NEWBERRY SPRINGS

TO WHOM IT MAY CONCERN:

There has been much controversy about how to deal with the two unwanted solar projects which threaten this community. Various well-meaning concerned citizens have made suggestions, none of which I wholly agree with. My thoughts are as follows:

- 1--The California Environmental Quality Act protections were designed for a community where, in this case, the County, has the community's best interests at heart. That isn't the case in this instance. The County Supervisors are firmly lined up with the bad guys.
- 2--So in this case, the California Environmental Quality Act (CEQA) isn't going to save Newberry Springs from adverse environmental impacts. See Public Resources Code, Division 13, Section 21002.1 (c) If economic, social or other conditions make infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency if the project is otherwise permissible under applicable laws and regulations.....

So, if Supervisor Lovingood wants to site a live bombing range in Newberry Springs, CEQA can't by itself stop it from happening.
- 3--There are County Development Code laws which each proposed solar project would violate. They are at Section 84.29.035 which recites 31 requirements that a proposed commercial solar energy facility must comply with. All 31 requirements. I can guarantee you that the County Land Use Services Department now knows that neither project can meet all 31 requirements.
- 4--Probably no environmental law-suit against San Bernardino County has a fair chance in our County court system. Think federal court system. Think Clean Air Act.
- 5--The Morongo Basin and Lucerne Valley industrial solar groups are impressive. Seek their advice as to strategy.
- 6--A civil rights complaint from the Newberry Springs Community Services District to the U.S. Department of Justice, Civil Rights Division, claiming a denial of our civil rights, as a small rural, economically disadvantaged community, would not cost a dime. We could claim environmental racism, and seek protection under Title 42, Section 1983, et seq. That would stir up some media attention. You could mention in the complaint that Judicial Watch, in February, 2017 issue of The Verdict rates San Bernardino County as one of three most corrupt governments in U.S.A.
- 7--In a May 15, 2015 letter to Robert Berkman, LAFCO Executive Officer, Kathleen Rollings-McDonald states "...the spending of funds on functions beyond its authorized powers would be in violation of state law." This is reference to the Newberry Community Services District.

March 3, 2018
TO WHOM IT MAY CONCERN
Page 2

8--The Kiewit Pacific Co. settlement agreement with Newberry Springs CSD, dated November 5, 2004, in which \$350,000 was paid to our CSD under duress by Kiewit, in my opinion set a trap to get their money back in the next to last two paragraphs on page two of that agreement, whereby they could sue to retrieve the settlement money if spent by the CSD in violation of the laws of California.

Probably by now one or the other of the solar project applicants have been in touch with Kiewit Pacific Co. Their moles are here.

9--I know casually the president of an international public relations firm who is a long-time owner of vacant land in Newberry Springs. He might have some media ideas.

10--Would it be possible to get some very well educated local people involved in this issue? Debra Hughson is the Science Officer at the National Park Service. Liana Aker is a project manager biologist at Fort Irwin. There may be others quietly living here.

11--If she could find the time to do so, Karen Gray might be a good project leader and spokesperson for the community. Whoever it is needs a good education and strong leadership qualities.

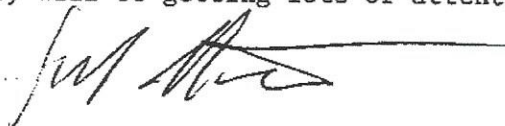
12--There will be "moles" in any project opposition group that is established. Standard procedure for an adverse-industry project.

13--Keep in mind that County Land Use Services staff is probably on our side, but under heavy pressure from Lovingood and Ramos to violate their professional standards.

On another subject, the prospective developers of a \$300 million resort/entertainment project at Lake Dolores, with whom I've been in contact with since last May are now overseas attempting to round up needed investors. Who knows if they will be successful, but if they do it, this community will be getting lots of attention.

Sincerely,

Fred Stearn





KIEWIT PACIFIC CO.

A Kiewit Company

Harvard Road & I-15/P.O. Box 339
Newberry Springs, CA 92365
(760) 257-3434 Phone
(760) 257-3535 Fax

November 5, 2004 Final Version

Newberry Springs Community Services District
P.O. Box 206
Newberry Springs, CA 92365
(760) 257-3613
(760) 257-4713 Fax

Attn: **Wesley Sperry**

Re: **Fort Cady Quarry Conditional Use Permit
Settlement Agreement**

On September 23, 2004 Kiewit Pacific ("Kiewit") was unanimously granted by the Planning Commission of the County of San Bernardino the necessary approvals for a sand and gravel operation with asphalt and concrete batch plants, such project to be known as the "Fort Cady Road Quarry," which action was based upon a new Mining Conditional Use Permit and Reclamation Plan 2004M-03 which includes a Mitigated Negative Declaration and the Mitigation and Monitoring and Compliance Program for DSN 04 012291 SAMR 01 (collectively the "Permit").

On October 1, 2004 the Newberry Springs Community Service District (the "CSD") and an "informal association" of individuals and landowners known as "CEQA-NOW" and Gavin Erasmus, Fred Stearn, and Wayne Snively as individuals (individually and collectively known as "Appellants") filed an "Appeal To Board of Supervisors Regarding Planning Action" alleging various deficiencies in the County of San Bernardino Planning Commission's granting of the Permit based on land use and environmental concerns. Kiewit disputes the Appellants contentions based on a number of factual and procedural factors.

In an effort to amicably resolve the Appellants various issues and in order to more efficiently utilize both private and governmental resources by avoiding further disputes and without admitting any liability, Kiewit and Appellants agree that in exchange for the following additional measures, the Appellants (Newberry Springs Community Services District, their directors and assigns, and CEQA-NOW, their members, directors and assigns) will withdraw all appeals and cease all opposition to the Permit:

1. Kiewit in its desire to contribute to the overall well being of the community and as a new community business with the support from the CSD shall contribute to the community through the CSD a donation in the amount of \$350,000. This donation

An Equal Opportunity Employer

- shall be distributed by CSD in the sums of \$20,000 for emergency services and \$330,000 to be used at the discretion of the CSD for the benefit of the community.
2. Kiewit will asphalt pave to County road standards Fort Cady Road from National Trails Highway to the Fort Cady Quarry entrance prior to the start of initial hauling operations under the permit.
 3. Kiewit will address haul route noise concerns by adhering to Condition No. 30 of the Permit.

Concurrently with receipt of the payment set out under #1 above, the Appellants will immediately deliver to Kiewit addressed to the Clerk of the Board of Supervisors stating that Appellants are withdrawing all opposition to the Permit and requesting that the Clerk remove the matter of the appeal from the Board's Calendar.

Appellants agree that in consideration for the above Agreement, they will release and settle any objection or opposition specifically and only to the County's consideration, approval and issuance of the Permit. **This release does not release any future claims as to compliance with the terms of the Permit and the Section 1542 release set out here is specifically limited to future claims arising only from those matters released.** In consideration of this Agreement, Kiewit hereby waives any rights that it may have to commence legal action against Appellants as a result of the filing of the appeals. Section 1542 of the California Civil Code states.

'A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.'

Kiewit Pacific and Appellants acknowledge that each has been represented and advised by legal counsel in the negotiation, preparation and execution of this Agreement and have executed this Agreement without coercion. Each of the persons executing this Agreement specifically acknowledges they have the authority to bind the party on which this agreement is executed by them.

Should any part of this Agreement be declared by the courts or otherwise, to be rendered unenforceable, the validity of the remaining parts shall be severable and not affected thereby.

Should any action or proceeding be brought by Kiewit or the CSD against each other arising out of or relating to or seeking the interpretation for enforcement of the terms of this Agreement, the prevailing party, as decided by the court, shall be entitled to the recovery of reasonable attorneys' fees and costs, including the costs of expert witnesses and consultants.

This Agreement shall be interpreted under the laws of the State of California.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Handwritten signatures: Wayne S. Bureley, and others]

Wayne S. Bureley 11/05/04

liability for such fees and costs in any such action is limited to Kiewit or the CSD, as the case may be; and A-NOW and its members as individuals are excluded from liability for any such fees and costs.

11/05/04
Page 2 of 3

- shall be distributed by CSD in the sums of \$20,000 for emergency services and \$330,000 to be used at the discretion of the CSD for the benefit of the community.
2. Kiewit will asphalt pave to County road standards Fort Cady Road from National Trails Highway to the Fort Cady Quarry entrance prior to the start of initial hauling operations under the permit.
 3. Kiewit will address haul route noise concerns by adhering to Condition No. 30 of the Permit.

Concurrently with receipt of the payment set out under #1 above, the Appellants will immediately deliver to Kiewit addressed to the Clerk of the Board of Supervisors stating that Appellants are withdrawing all opposition to the Permit and requesting that the Clerk remove the matter of the appeal from the Board's Calendar.

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Kiewit Pacific and Appellants acknowledge that each has been represented and advised by legal counsel in the negotiation, preparation and execution of this Agreement and have executed this Agreement without coercion. Each of the persons executing this Agreement specifically acknowledges they have the authority to bind the party on which this agreement is executed by them.

Should any part of this Agreement be declared by the courts or otherwise, to be rendered unenforceable, the validity of the remaining parts shall be severable and not affected thereby.

Should any action or proceeding be brought by Kiewit or the CSD against each other arising out of or relating to or seeking the interpretation for enforcement of the terms of this Agreement, the prevailing party, as decided by the court, shall be entitled to the recovery of reasonable attorneys' fees and costs, including the costs of expert witnesses and consultants.

This Agreement shall be interpreted under the laws of the State of California.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Handwritten signatures: John M. McEwen, Justice, Wayne S. Bruneau]

Any liability for such fees and costs in any such action is limited to Kiewit or the CSD, as the case may be; and CEQA-NOW and its members as individuals are excluded from liability for any such fees and costs.

11/05/04
Page 2 of 3

THIS WAS SPINEL BELOW THIS LATE REVISION

Ellen Johnson
Ellen Johnson, President, Newberry Community Services District

Attest:

Phyllis Coffey (acting Secretary)
Secretary of the District

Fred Stearn 11-05-04
Fred Stearn for CEQA-NOW in his capacity as President of CEQA-NOW and also in his capacity as a private individual

Gavin Erasmus
Gavin Erasmus, Member of CEQA-NOW and as private individual

Wayne J. Snively 11/5/2004
Wayne Snively, Member of CEQA-NOW and as a private individual

John Welch
John Welch, Project Manager
Kiewit Pacific Co.

Policy Title: General Fund and Surplus Reserve Policy

Policy Number: 3030

3030.1 General Fund

This policy establishes the level of reserves required to maintain financial stability for operating expenses for the District on a day-to-day basis.

3030.1A General Fund Operating Reserves

The minimum balance of General Fund Operating Reserves will be no less than 5 times the amount of the District's highest month of expenses for the previous Fiscal Year.

3030.1B Use of General Funds

General Funds can be used at any time to meet the needs of District operations.

3030.1C Procedure for Monitoring General Funds

District Treasurer to routinely review and reconcile General Fund account, assess balances and report to Board of Directors during General Meeting, as necessary. District Treasurer can make recommendations for transfers to accommodate for shortages, as necessary, however no action on transfers may be taken without Board approval.

3030.1D End of Fiscal Year Review

District Treasurer to make final recommendation no later than annual September General Meeting as to amount of Surplus Funds that can be distributed to Surplus Reserves and Fire Department Reserves based on end-of-year balances of previous Fiscal Year budget.

3030.2 Surplus Reserves

This policy established the procedure for maintaining and distributing District Surplus Funds to establish District's credit worthiness and adequately provide for:

- Funding Capital Improvements and Infrastructure Replacement
- Cash Flow Deficiencies
- Loss of Significant Revenue Sources, i.e. Property Tax Receipts
- Economic/Financial Hardships
- Local Disaster/Catastrophic Event

3030.2A Funding Surplus Funds Reserve Account

Surplus Funds Reserve Account to be funded by Board Approved transfer on recommendation from District Treasurer from General Fund Account within 90 days of end of Fiscal Year

3030.2B Withdrawing from Surplus Funds Reserve Account

Surplus Funds Reserve Account can be utilized through Board Approved transfer to General Fund Account to accommodate for the following conditions:

- Capital Expenditure
- General Fund Falling Below Required Limits as outlined in Policy 3030.1A
- Unexpected Legal Fees
- Emergency Expenditures

3030.3 Fire Department Surplus Reserves

This policy established the procedure for maintaining and distributing District Fire Department Surplus Funds to build reserves for Fire Department specific expenditures, including but not limited to:

- Station/Bunk House Capital Expenditures and Expansion
- Vehicle Purchase
- Emergency Vehicle Repairs
- Non-Budgeted Emergencies

3030.3A Funding Fire Department Surplus Funds Reserve Account

Fire Department Surplus Funds Reserve Account to be funded by Board Approved transfer on recommendation from District Treasurer from General Fund Account within 90 days of end of Fiscal Year based on end-of-year balance of previous year's Fire Department budget.

3030.3B Withdrawing from Fire Department Surplus Funds Reserve Account

Fire Department Surplus Funds Reserve Account can only be utilized through Board-Approved transfer to General Fund Account to accommodate for expenditures outside of the current year approved budget.

August 5, 2018

Newberry CSD
PO Box 206
Newberry Springs CA 92356

To whom it may concern,

My name is Angela Hayes. I am the daughter-in-law of Le Hayes, General Manager for Newberry CSD. I came to visit with Le on Tuesday July 31, 2018 for several days. During our time together we talked about many things. If you ever had the pleasure of meeting Le Hayes, you know he knew a little bit about almost everything. Through the years he worked at Newberry CSD he spoke very highly of several people he worked with. This includes Jodi Howard, Daphne Lanier, and Rylan Lanier. I have had the pleasure of meeting all three of these people and I found them to be everything Le said they were: smart, kind, and intelligent people.

On Friday August 3, 2018 I found Le in the middle of a medical emergency. Without going in to details, the situation was dire and I needed to call 911. I can tell you it felt like it was an eternity before help arrived due to the location of Le's house in relation to medical aid facilities. If you have ever experienced a medical emergency then you may know the agony of waiting for help. I was so thankful that the first responders were Daphne and Rylan Lanier! I knew they would do their very best to help him!

Daphne and Rylan took charge of the situation; quickly assessed what was needed, and sprung in to action. I was holding Le's hand while they did their very best to assist him. My heart broke when they told me where the ambulance was coming from. It was so far away for such a life or death situation. Their professionalism in the face of adversity was astounding! I can't imagine how they were feeling trying to help their friend and coworker. I can tell you that they were amazing and I had every confidence in them!

Although I do not know all of their names, I thank all of the other responders who tried to help him. Everyone that assisted was doing their very best to help my dad even though the outlook did not look good. It is so hard to accept but Le did not survive his trip to the hospital. Daphne and Rylan stayed with me for hours. Jodi Howard and her son Tyler came to the house to be with me as well. Le's people have become our family's people. Daphne, Rylan, Jodi, and Tyler cared for Le and he would thank them if he were here today.

I had to sit down and write this letter. I want you to know that Le Hayes thought the world of his coworkers, Daphne, Rylan, and Jodi, and my family does as well! I want you to know that I cannot thank them enough and I am forever indebted to them for their assistance, courage, and care of our father. For their assistance and care of myself, I'm still reeling from their generosity and kindness. It is rare to find people in this world so giving.

Your community is lucky to have them! I have the utmost confidence in them! I am not sure if you have a system for honoring or recognizing their dedication to your citizens but I hope so. They deserve to be noticed. There is a quote that in summary says in scary situations look for the helpers, you will always find people helping. We were blessed Daphne and Rylan were sent to help us. We were blessed Jodi and Tyler came to be with us. Thank you for taking the time to read this.

Yours sincerely,



Angela Hayes

REGIONAL MEETINGS

COUNTYWIDE PLAN OUTREACH

2ND ROUND
SEPTEMBER 2018



COUNTYWIDE PLAN
OUR COUNTY - OUR FUTURE



PLANNING THE FUTURE

Your participation is needed to guide the future of your community and the county. The County is hosting a second round of regional open houses that will include a formal presentation and opportunities to hear your feedback on draft goals and policies, community actions, and the land use map.

- Presentation (*begins 30 minutes after open house start time*)
- Draft County Policy Plan (*goals and policies*)
- Draft Community Plans / Action Guides*
- Draft Land Use Map
- Other policy & information maps

These events are part of an ongoing outreach process that has included 75 community and regional meetings and hundreds of surveys and public comments. This public input led directly to substantial changes to the draft documents and maps. Thank you for continuing to participate to improve your community and county!

* Draft Community Plans were renamed Community Action Guides based on public input.



REGIONAL OPEN HOUSES

1 JOSHUA TREE
Sept 10 | 5:30 to 7:30 pm
Joshua Tree Community Center
6171 Sunburst Ave

2 NEWBERRY SPRINGS
Sept 11 | 6 to 8 pm
Newberry Springs CSD
30884 Newberry Rd

3 LUCERNE VALLEY
Sept 12 | 6 to 8 pm
Lucerne Valley Community Center
3187 Old Woman Springs Rd

4 RUNNING SPRINGS
Sept 18 | 6 to 8 pm
Hootman Senior/Comm Center
2929 Running Springs School Rd

5 BIG BEAR CITY
Sept 19 | 6 to 8 pm
BBA Regional Wastewater Agency
121 Palomino Dr

6 PHELAN
Sept 20 | 6 to 8 pm
Phelan Community Center
9463 Sheep Creek Rd

7 ONTARIO
Sept 24 | 10 am to noon
De Anza Community Center
1405 S. Fern Ave

8 RIALTO
Sept 24 | 6 to 8 pm
County Behavioral Health Dept.
850 E. Foothill Blvd

9 YUCAIPA
Sept 26 | 10 am to noon
Yucaipa Community Center
34900 Oak Glen Rd

CAN'T ATTEND? YOU CAN VIEW THE DRAFT LAND USE MAP ONLINE NOW.
OTHER MATERIALS WILL BE AVAILABLE ONLINE BY LATE AUGUST 2018.
COUNTYWIDEPLAN.COM