

**To The Board of Directors of the Goleta Water District:  
Objections to the changes in the District's Agricultural Account Policies as set  
forth in the Agenda Memorandum scheduled for consideration by the  
GWD Board at a meeting set for November 8, 2005.**

**I. INTRODUCTION-----LACK OF NOTICE AND FIDUCIARY DUTIES OF THE DIRECTORS OF THE GWD**

The author of these comments is an agricultural water user for over 15 years whose farm is located in the west conduit of the Goleta Water District (herein after District).The undersigned is also a retired attorney who has had over 35 years of experience as a civil litigator with a large international law firm which is headquartered in Los Angeles, California.

I have been closely monitoring for approximately the past year the District as to its activities which have related to issues of the pricing of water and the budget of the District. I have attended during this year almost all of the District's Board of Directors meetings when the discussion of the budget and pricing of water have been considered. I have also attended several meetings of the various committees of the Board when the above issues were on the agenda.

I am also a member of the Citizens Rate study Committee which was appointed by the Board to make recommendations on the District's rate structure.

I have had a continuing concern and complaint about the processes of the staff of the District and the Board as to the lack of prior notice and the providing of adequate information concerning various key issues involving the budget process and the possible fixing of new rates for water. These complaints and objections are equally applicable to the upcoming Board of Directors meeting scheduled for this Tuesday, the 8th of November during which the new agricultural account policies and the amendment of the District Code will be considered. The mailed notice of the meeting did not have the Agenda Memorandum attached and the agricultural customers had to go to the District's website to obtain a copy. As the District must know, not all of the agricultural customers (herein after "farmers") have computers or email addresses. In addition the proposed changes which are applicable to each farmer are based on a schedule of the last 13 years of average use by that farmer and that the individual schedule were not provided by the mailed notice or on the website. I have received many inquiries from farmers asking me what their individual schedule was showing as to their own baseline amount. I have had to advice them to contact the District's office to obtain a copy since they were not in my possession. In addition, no notice of the meeting had been given to the other customers of the District or to the members of the Citizens Rate Study Committee. Finally, I an unaware of any notice of the meeting on the 8<sup>th</sup> being published in any of the local newspapers.

The proposed changes will have an affect on all of the customers of the District and everyone should have received a mailed notice of the meeting to consider the proposed changes. The above omissions appears to be a conscious attempt by the District to put thought the radical changes in the pricing of agricultural water without the process being subject to public comments or scrutiny. This type of process is in violation of all concepts of fairness and justice when serious public issues are to be possibly radically changed by a Board of Directors .The members of the Board are elected and responsible for the welfare of its customers and acting as trustees in the of administration of a monopoly of a vital resource needed by ever member of the community. If there is nothing to hide, the Board of Directors should welcome public discussion and input. The notices sent to farmers and the website of the District does not include the prior written comments to the various drafts of proposals generated by the District over the past few months. These written comments had been submitted by me and the law firm of Hatch and Parent on the pending issues. All of the customers of the District should be given access to these previously submitted comments on the District's website.

There is no emergency or compelling timing issues which require immediate action by the Board of Directors .The proposed creation of the water budgets based on past use is not even to take effect until January 2007 As to be set forth and explained below, there are many questionable conclusions in the Agenda Memorandum which are based upon what appears to be opinions and pure speculation The recommendations involve actions by the Board which will have immediate and ever lasting affects to all customers and will impact and be contrary to many of the long held and strong wishes of the entire community and contrary to the public policy of both the State and County of Santa Barbara. The members of the Board have a high fiduciary duty to all of the District's customers for a thoughtful analysis of all relevant facts which impact on the staff's various recommendations. The work of the staff in formulating the various recommendations have been a work in progress for many months and there is no basis for any rapid rush to judgment by Board on the multitude of proposed Amendments of the District's Code as set forth in the Agenda Memorandum. The Board should require the persons who prepared the prior draft reports and the Current Agenda Memorandum to supply full and adequate information so that the questions set forth below by the undersigned and by other customers, can be fully discussed and considered before any vote is taken by the Board on the issues raised in the Agenda Memorandum.

Most of the information and issues presented in the Agenda Memorandum are relevant to the continuing deliberations by the Citizens Rate Study Committee and the issues should be referred to them for further study and recommendations. The Citizens Rate Study Committee was initially created by the Board early this year to specifically study the issues of rates for all customers, including agricultural water rates. There now appears to be an effort by the staff and possibly some members of the Board, to have a rush to judgment concerning the issues and thus avoid any consideration of the crucial questions presented. The Citizens Rate Study Committee had a meeting on Tuesday, October 18<sup>th</sup> and during the course of the meeting the members were told that they were not going to be allowed to consider agricultural water issues. This decision was announced without any explanations as to why they were not to be considered. Several of the members of the Committee with whom I have communicated and I feel that it is necessary to look at agricultural rates in order to evaluate the rates for other customers in the District. It is interesting to note that in the Agenda Memorandum it complains that no one has made any proposals to cure the alleged problem of increasing future use of water by farmers, and yet the very group in the very best position to make constructive recommendations have been told at the last second its is not to consider the issues. Something is very wrong with how the Board is trying to manipulate the deliberations and effectiveness of the Citizens Rate Study Committee. It is like the convicted murder of his parents telling the court that it should have mercy on him because he is now an orphan!

I have studied the issues extensively, and as more fully set below have concluded that there are no facts to support any claim that farmers have been and will continue to increase their water use and that in addition there is going to be a water shortage at the end of 20 or 30 years. Since there are no real problems which must be solved, there is no need to make any changes concerning the pricing of water to the farmers.

**II. THE USE OF A WATER BUDGET BASED UPON AN AVERAGE OF 13 YEARS PRIOR WATER USE WILL GUARANTEE THE ELIMINATION OF FARMING IN THE GOLETA VALLEY.**

The Agenda Memorandum professes a desire of the District to preserve local farmers. If this goal is true, then there is the problem of the unintended consequence of the proposal to adopt a water budget baseline using the average water use for the prior 13 years as the base line amount for the budget amount. The use of the average amount will mean that over a period of several years a farmer will exceed the baseline amount in several of these years and be subject to the higher above base line water rates. A few years of being over the baseline amount, with the cost of water being charged at the urban rate, and with the water costs being such a large percentage of his production costs, the farmer will be out of business. Thus, the only conservation effect of a tiered pricing system, since the local farmers do not waste water, is to put the farmer out of business and in the future he would use no water and the water will be available for greater urbanization. It is hoped this is not the result the Board wishes to accomplish and the definition of water conservation that the Board wishes to adopt.

It is instructive to note that the Agenda Memorandum and the second draft report are completely silent as to any information as to the anticipated amount of annual water conservation which will be accomplished by instituting the recommended tiered system of pricing. The tiered system is not based upon raising more revenue for the District and its only alleged validity is to reduce overall use of water. Since the facts are undisputed that the local farmers are the State's leader in water conservation and no rational farmer just uses water for the sake of increasing his cost of production, there will most likely be no or at best a very little decrease in water use because of the pricing change except for the farmers who are driven out of business.

In my request for information from the District on the actual use of agricultural water, I received on November 1<sup>st</sup> a 10 year schedule from then showing water use from 1995 to 2004 on a calendar year basis. Since I do not have data for the water use for the proposed 13 year period, I must use this 10 year period to show the effect of the proposed changes on the local farmers. The following example will treat the entire District as being one farmer who will be subject to the provisions of the water budget.

YEAR	AMOUNT OF WATER USED
1995	2456 A/F
1996	2314 A/F
1997	2913 A/F
1998	1814 A/F
1999	2495 A/F
2000	2348 A/F
2001	2019 A/F
2002	2889 A/F
2003	2444 A/F
2004	2953 A/F

The total acre feet of water used for the above 10 year period was 24,717 a/f or an average of 2,471 A/F per year. Therefore the water budget baseline amount would be the 2,417 A/F of water per water use in future years. The example assumes that in the next 10 years the water use will be exactly the same as that used in the corresponding prior years, i.e. in the year 2005 the use would be 2456 a/f and in 2006 the use would be 2314 a/f etc. In addition it is assumed that the weather patterns and all of the farming practices and types of crops remained completely unchanged for the years starting in 2005 and continuing 10 years until the year 2014. Using the above example, the farmer would be over the base line amount in 4 of these future years. These over years in the future would correspond with the usage of water in 1997, 1999, 2002, and 2004. The table below will show the approximate extra costs of water to the farmer in these years.

YEAR	A/F OVER BASELINE	COST OF A/F	EXTRA COST
1997	442	\$1,023	\$452,166
1999	24	\$1,023	\$24,552
2002	418	\$1,023	\$427,614
2004	482	\$1023	\$493,086
			-----
			\$1,397,418 *

\*The above calculations ignore the one acre foot increase at recreational rates and assume no increase in the urban rate for the 10 year period.

THE ABOVE EXAMPLE CLEARLY SHOWS THE OPERATION OF THE PROPOSAL WILL BE THE END OF FARMING IN THE GOLETA VALLEY.

**III. THE CREATION OF A WATER BUDGET WITH A BASELINE AMOUNT BASED UPON THE AVERAGE WATER USE FOR THE PRIOR 13 YEAR PERIOD IS CAPRICIOUS AND ARBITRARY.**

The Agenda Memorandum and the staff’s second draft recommend the Board to institute a tiered rate structure and to use as a baseline the average water usage for the period from 1992 to 2004. As the first draft report dated August 15<sup>th</sup> correctly stated, setting a proper baseline amount will be a “daunting Task.” It is still daunting.

The recommendation is to use a time period of the last 13 years which the staff alleges represents “current irrigation practices.” Using the last thirteen year period to represent today’s irrigation situation requires a great leap of logic. The types of crops have greatly changed on a great number of the farms. New plantings of trees from three or four years ago are now maturing and will start requiring substantially greater volumes of water now that they are coming into production. The requirements for the different types of crops that the State is recommending to the local farmers have different growing patterns than prior crops. The timing of irrigation is much different for the crops that need water in the winter versus the crops that need water in the summer which thus creates a different pattern of irrigation practice. Today farming is not the same as farming thirteen years ago and in many cases the actual operators or owners of the farms have changed contrary to the assumption of the staff. There has been many farmers speak at prior recent meetings telling story after story about how things have changed in their own individual farms. All of this compelling evidence has been completely ignored per the recommended proposals. The assumptions set forth in the report were made by none farmers who have no personal knowledge of the actual local farming practices and who apparently have no interest in learning and using the facts which currently exist.

In addition there is the crucial unspoken assumption in using the average for the 13 year period is that there will be similar weather patterns in the future. The unavoidable fact of farming in the Goleta Valley is that the amount of water used by farmers is primarily driven by the weather. When during the year does it rain, how many inches of rain received in each storm ,how many hours did it rain, how much sun during the year, how much wind, how many days of low the humidity levels ? The local farmers do not become bad farmers from one year to the next year because their annual use of water changes. They are always good farmers, but their total water use greatly fluctuates year to year because of the weather! If the proposal is adopted by the Board, the farmers will be punished because of the occurrence of weather events over which they have no control. There is a complete lacking of any fairness is having such a rate structure since the farmers have no control over the use of the water. Remember, the District has the facts that the local farmers do not waste water.

**IV. THE PROPOSED CHANGES IN PRICING OF AGRICULTURAL BY GOING TO A WATER BUDGET BASED UPON THE AVERAGE WATER USE FOR A PRIOR 13 YEAR PERIOD IS BEING PROPOSED WITHOUT ANY ANALYSIS OF THE CONSEQUENCES ON THE CHANGES. THE CLEAR CONSEQUENCES WILL BE THE ELIMINATION OF MOST LOCAL FARMERS!**

The staff, at page 14 of the second draft report, delves into the quicksand of incentive pricing of water which is also currently being studied by the Citizens Rate Study Committee. The fact that the Board gave the project to the Citizens Committee shows the complexities involved and the importance of the analysis. Unfortunately the draft report devotes only three short paragraphs to the description of the issue and the staff's proposed solution by using a tiered rate structure with water budgets. The Agenda Memorandum does not add any light on the subject other than to state at page 9:

“The proposal is intended to act as a disincentive to permanent, long-term use of water by Agricultural, in amounts above the historic use water budget.”

Thanks to the tutoring given by Dr. Chesnutt, it is clear to the undersigned as a member of the Citizens Committee that the issues of incentive pricing are many, complex and they are subject to substantial disagreements among the experts in the field .Even Dr. Chesnutt in a published article entitled:” Revenue Instability induced by Conservation Rates, which he distributed to the members of the Citizens Committee, specifically covers the effectiveness of Incentive pricing. At page 56 of the article the following statements are made

“The applicability of the law of demand to water has been much disputed for several good reasons. Foremost is the fact that water demand, especially in the short run, responds negligibly to changes in price.” His article goes on to state later in the discussion:” Second, controversy has surrounded the idea of demand responsiveness because it is difficult to observe how water demand has changed in response to water rates,” He concluded his discussion on the topic by stating:” the implications of potential demand response are critical –rate analysis confronts a moving and uncertain target unless they know the magnitude of demand response.”

In discussing the difference between a uniform rate structure, which is the present pricing structure of the District, and the block structure, which is the method advocated by staff in the second draft, Dr. Chesnutt states:

“Uniform rate structures can be easier to plan for—their use requires only average (mean) values for water demand. Quantifying the revenue variable of block rates however is generally more involved. Revenue planning with block rates requires knowledge of the distribution of water demand.”

The above discussion clearly shows that there is great uncertainty in trying to fix different rate schemes. Since to predict how price will affect both the amount of water consumed and the corresponding revenue generated, there must be an analysis of the demand showing how the specific group of customers will respond to various price changes. The Agenda Memorandum and the draft reports give no such information or analysis.

Clearly in the case of the local farmers, who are the state's leaders in water conservation practices, they will have no ability to stop using water because of higher prices since by definition they are not currently wasting water. They must continue to irrigate their crops since the weather patterns have extended periods of little rainfall during the year and thus have only two choices when the water budget pricing causes an increase in their water costs. They can stop watering their crops or pay the higher urban rate and hope the prices for their produce will be high enough to avoid bankruptcy caused by the higher water costs. It is a loser's game and eventually the farmers will guess wrong and be forced out of business.

The Agenda Memorandum and the second draft do not even give lip service to the above issues and problems and does not supply any guidance to the Board as to how the right decisions are to be made by them. It is almost deemed as a matter of law that if a fiduciary Board is acting without sufficient facts and proper technical analysis of the issues, their decisions are deemed capricious and arbitrary. Of course when an institute acts in a capricious and arbitrary fashion and the decisions are the cause of economic harm, the institution can be held legally responsible for any economic harm caused by their decisions.

The Board made a very prudent decision in creating the Citizens Rate Study Committee to study both urban rate structures and the pricing of agricultural water. As stated above, there is no emergency situation presenting itself and the Citizens Committee is studying these same issues working hand in hand with the experts hired by the District to render advice on the subjects. Unfortunately a few weeks ago, without any explanations, the Management Committee of the Board announced to the Members of the Citizens Committee that the issue of pricing of Agricultural was being removed from the Committee's agenda. Why does the District want to avoid any thoughtful input on these issues?

Dr. Chesnutt, in another published article which he provided the Citizens Committee, entitled Conservation Rates in the Real World, states in defining the term conservation as follows:

“Conservation has several definitions. One simple working definition equates water conservation with reduced water use. This definition is too simple, however, to provide useful guidance. The drawback is that it is absolute; any and all reductions in water use are supported by the definition, and these reductions are not evaluated according to other standards. Some practices that decrease water use can be undesirable, particularly if the water-use reductions unnecessarily impair consumers' lifestyles or come at the expense of other valued resources. Practices that reduce water use and squander other valued resources cannot be considered conservation –oriented. The concept of water conservation should take into account the effect on the mix of all resources.”

I apologized for the above lengthy quote from Dr, Chesnutt's article, but his analysis is directly on point concerning the situation facing the Board concerning agricultural water conservation pricing. He says it much clearer than I could ever state it and since the Board has hired him as the best expert money can buy in the area, it is best the Board and the public hear his exact words. **PUTTING FARMERS OUT OF BUSINESS IS NOT AN ACT OF CREATING A WATER CONSERVATION PRICING SCHEME! IT IS NOT A SOCIALLY DESIREABLE RESULT PER THE DISTRICT'S OWN EXPERT.** Hasty and uninformed decisions in this area should not be made by the Board. The community will not be able to recover from any mistakes concerning the future of agricultural in the Goleta Valley. Once gone from the community because of high water costs, farming will be gone forever.

**VI. THE CURRENT AND THE PROPOSED NEW WATER SERVICE CHARGES ARE CONSTRUCTED FOR THE SOLE PURPOSE OF KEEPING LOCAL FARMERS FROM OPENING UP NEW LAND TO PRODUCTIVE USE FOR GROWING OF CROPS.**

The proposal to the Board is that it changes the method of charging for new agricultural water meters described as a new water supply charge. The theory stated behind such a charge is that new customers should cover some of the costs of the District in its acquisition of State Water. There is nothing inherently wrong in such a concept, but the current and the proposed new service charge for agricultural water has not and will not accomplish the above stated goal. There is a need for a change of how the new water supply charge is computed and charged. History has established that as an economic matter in all the years the new water supply charge has been in effect no revenues have been generated except for one isolated customer, who owns a large agricultural operation and for undisclosed reasons, opted to pay the new water charge. The District in its prior discussions has recognized that the purchase was an anomaly and states that it probably will not be repeated. Accordingly, the extremely high price of \$25,475 per a/f will not generate any new revenue for the District. Its only effect will be to completely deter any future development of farming operations. The District as a matter of public policy and the wishes of its customers, as will be discussed below, should be encouraging new farming operations. The current amount of the new service charge is acting to the contrary. If the District really wishes to recover some of the costs of State Water for new agricultural meters, they should substantially lower the per a/f charge. Possibly some people will be able to pay for a new meter at the lower rate and everyone wins. The District receives some revenue and the community benefits from having more farming.

For the District to keep the existing high new water service charge is a clear message that the true policy of the District is to keep out all new farming operations and to keep all existing operations as small as possible. With the continuation of this policy eventually such farm lands will become urbanized. As will be set forth below, the Board's actions will speak louder than words their words!

I have been advised that the other local water Districts have the same wish to recover some of their costs for State Water, but their new water supply charges are much lower than the charges being required by the District. This is an issue that needs to be investigated.

The present language concerning the agricultural new water supply charge being based upon expanding actual acreage used for irrigation has been used and understood by the District's Board members and the customers for many years. The operation of the current provision on the new water supply charge was openly discussed by Director Dewitt at a recent meeting. He has been directly involved with the operations of the District probably longer than anyone in the universe and was speaking from personal knowledge. He clearly stated the new water supply was to be charged only if an existing farmer was substantially expanding the actual acreage he wished to farm. As long as the farmer did not expand his irrigated acreage and was merely using more water on his existing acreage, the new water supply charge was not applicable. Legal Counsel for the District stated that the above did not work since in effect it did not restrict a farmer's water use on his existing irrigated acreage. Legal Counsel at the meeting also stated certain crops could not be allowed to be grown by the farmers since they could use too much water. He used the stupid example of growing rice. This dialogue shows the otherwise unarticulated position of legal Counsel and some of the District's staff that the real goal of the proposed changes is to do everything possible to attempt to control and limit the use of water by local farmers.

The factual rationale in the Agenda Memorandum for a change in the new water supply charge is basically the District was misled by the local farmers that their needs for additional water were full satisfied in the 90's and the District acted on such input. The above contention lacks any credibility. What rational farmer would ever state in a time after the ending of a drought that all farmers water needs were adequately covered. I was here farming during that time period and no one ever asked me about my future water needs, I have spoken to many farmers who were here during that time period and they know nothing of said representations. The content of said alleged representations has no credibility since they lack what is termed in the law as being presented without foundation. For said contention to even be considered as possible evidence a party making the contention must independently establish certain preliminary facts concerning the contentions. These requirements are who made the statements, the dates the statements were made, were the statements made with the personal knowledge of the declarants or were the declarants authorized to make the statements, is there any writing memorializing the statements ? The above is not exhaustive of how a proper foundation must be established. The best I find presented in the Agenda Memorandum is that at some time in the 90's, an unidentified person or persons, at an unidentified occasion or occasions , at an unidentified place or places, with no information as to the names of those unidentified person or persons or whether any such person or persons had personal knowledge or any authorization to make any statements on behalf of Goleta's farmers, made some vague statements that are now being interpreted to mean that all of the Goleta Valley farmers were fully satisfied with their future water supplies. Such an important decision should be somewhere memorialized by some writing, but none has been produced. The alleged decisions by the local farmers would not make it as being credible even on the cheapest of the current TV legal shows. The authors of The Draft reports and the Agenda Memorandum, in addition are attempting to use these alleged statements by the local farmers as to their need for no additional water as the reason for saying the current farmers are now all using expensive State Water and thus one way or another must pay for it.

**VII. THE STAFF OF THE DISTRICT HAVE STATED THAT THE NEED FOR CHANGES IN HOW AGRICULTURAL WATER IS TO BE PRICED IS BECAUSE THE HISTORY OF INCREASED USE OF WATER BY THE FARMERS AND THAT THE FARMERS CAN NOT BE ALLOWED TO CONTINUE THIS INCREASE OF TOTAL USE OF WATER INTO THE FUTURE. THIS PREMISE FOR A CHANGE IS COMPLETELY UNSUPPORTED BY THE FACTS OF PAST WATER USE AND THE ACTUAL FACTS ESTABLISH THAT TODAYS FARMERS ARE ACTUALLY USING LESS WATER.**

The undersigned, since the inception of the various proposals for changes in the pricing of agricultural beginning with the proposal dated August 15, has been seeking the factual data concerning the historical use of water by Goleta farmers. None of this information had ever been previously supplied in the written materials prepared by the District and all of my prior efforts to have voluntary disclosures were futile. I was denied this information even though I was requesting it as a member of the Citizens Rate Study Committee. Accordingly, starting a few weeks ago I had to resort to filing formal written requests for production of Public Records pursuant to the provisions of the Government Code. When my first request for some Public Records was summarily rejected by the Board, I had to advise the Board I was going to file a civil action in the local Superior Court to compel the production of the records. The Board then provided the records and has provided some additional records I have requested. My various requests for Public Records have produced the information to be disclosed and discussed on the next page.



Building upon the above speculation which was based upon a complete misstatement of the facts, the staff in the draft report justifies the proposed change in pricing of agricultural water with the following conclusion:

”In summary, the District has not planned for any expansion of agricultural use. It is now recognized THAT THERE HAS BEEN EXPANDED AGRICULTURAL USE, AND WITHOUT BETTER REGULATION, and THERE WILL CONTINUE TO BE EXPANDED AGRICULTURAL USE.” Draft page 12 (emphasis added)

Therefore the sole factual premise for a need for a change of the pricing of agricultural water is because of an alleged total increase of farmer’s water consumption in the past and this alleged increasing water use was being projected into the future. The above premise is a myth created without any factual basis! It has been concocted to create an alleged problem that must be supposedly cured by creating water budgets for each farmer which will have the consequences of driving most farmers out of business. Shame on whoever created this false argument and then tried to hide the facts, greater shame on those who would accept this false argument without attempting to do any verification of the facts and the most shame on those who are now asking the Board of Directors to act upon false information.

The District’s staff in their flash slide presentations at recent meetings on the above issue of water consumption of farmers always showed its limited water consumption figures on a calendar year basis to avoid having any data on the fiscal year ending 6/30/05 which includes the rains of this year. This way of reporting water consumption is unusual because for other reports the District uses the figures of water consumption on a fiscal year basis. This procedure is used in the Isla Vista Water Assessment, The Water Rate Study and Financing Plan of July 1997 done by the consulting firm of Montgomery and Watson, the District’s 2006 budget, all of the District’s annual financial reports, and The Continuing Disclosure Annual Report concerning the District’s \$47,000,000, certificate of participation issued in 2003. The use of reporting water use on a fiscal year basis gives a truer picture of actual consumption for a twelve month period since the effect of the annual winter rains are part of the figures. The winter rains can start in late October and continue until March. To cut off the figures for analysis on December 31 does not allow the affect of the later months to be considered in the amount of water use by the farmers. The District does not like or want to disclose to the public the fact that the farmers’ water consumption for the last fiscal year dropped 24.9 % from the consumption level of the prior fiscal year. In fact for the current fiscal year the farmers’ water consumption for July and August has decreased about 10% from the same months in the prior year. The above facts clearly do not support the myth of a pattern of run away increased of historical and future water consumption by the farmers! It is difficult to sell a myth if the underlying facts are to the contrary.

Why is there a decrease of total water consumption by the farmers over the last decade and what does the future hold about a change of water use in the future? I believe the facts show that several important factors are the cause of the actual decrease in past water use by local farmers. First the Goleta Valley farmers have been found to be among the very top of the nation’s farmers when it comes to conserving water and over the years they have adopted the most efficient methods of irrigation.

The District's own expert, Amy Vickers and Associates, was hired to do an exhaustive and in depth survey of all water usage in the District and she made a written Report dated June 30, 2005 to the Board. The expert reached the following conclusion about use of water by the local farmers:

“Only about 5 percent of agricultural irrigated acreage in the District's service area depends on conventional sprinkler (primarily hand move) systems, with over 95% of irrigated acreage utilizing the highly water efficient micro irrigation (spray and drip) systems, as shown on figure 2-29. In contrast to the U.S. national average with only 4% of agricultural acreage using micro irrigation, the District's farmers are FAR MORE ADVANCED WHEN IT COMES TO EFFICIENT IRRIGATION.”(Emphasis added)

The District itself proclaimed at recent meetings that the local farmers are leaders in the state at conserving water. Water is like liquid gold to the Goleta farmers. With the continuing rising costs for labor, fertilizer, fuel and water, no farmer can afford to waste a drop of water.

Another factor in the historic drop in farmers' water usage is that the total number of farmers is decreasing. Per the Montgomery Watson report, in 1997 the District had 211 agricultural customers. Report page 1-1 .From reading the District's current materials it is difficult to tell the exact number of actual customers since many farmers have several different meters. It appears that the current number of customers is approximately 164. The total number of active local farmers is significantly fewer because all of the inefficient farmers have had to give up farming because of losing money in their operations. The testimony received from a great number of farmers at the recent meetings sponsored by the District showed that there are many more farmers because of rising costs are upon the brink of giving up their operations. Because of the policies of the District concerning the current new water charge, which was discussed above, there has been and most likely will be no new farming operations started up in the District.

Based upon the above facts, there is no justification for any argument or claim that the total amount of agricultural use of water will increase in the future. Accordingly, there is no need to radically chance the pricing of agricultural by the creation of an artificial water budget baseline for each farmer.

**VII. THE FACTS CLEARLY SHOW THAT THE BOARD, BY CAREFUL PAST PLANNING, HAS MADE THE CORRECT DECISIONS TO PROVIDE AN AMPLE FUTURE SUPPLY OF WATER FOR ALL CUSTOMERS FOR DECADES.**

The saying is that if there is no problem, do not try to fix anything is fully applicable to the current situation concerning the use and pricing of agricultural water. In addition to no issue of increased total water use by the farmers in the future, the fact is that there is no future lack of water supply issues. The members of the Board of Directors and the members of the Citizens Rate Study Committee are well aware of the water supply situation for the District. However the general public is probably completely in the dark as to the facts. The current Agenda Memorandum failed to refer to the supply situation in any specific manner other than to make general statements concerning the various sources of supply. The Agenda Memorandum, just like the prior draft proposals, for some inexplicable reason ignores the District's March 2005 Water Supply Assessment for the Isla Vista Master Plan. Initially the existence and contents of the Water Supply Assessment was not disclosed o the Citizens Rate Study Committee until I raised objections and eventually I had to supply copies to the members.

The Water Supply Assessment was prepared in conjunction with a well respected consulting firm and its preparation was mandated by law. The Assessment has a very detailed analysis of all the sources of supply and how they could be allocated over the next 20 years. It even factored in a 5.3% growth factor for increased use of agricultural water during the time period covered. The analysis took into consideration periods of drought and the assumption was made that every piece of undeveloped land in the District would be fully built out in accordance with all current zoning. Needless to state, using these assumptions is an extremely conservative approach to take in the analysis in determining the future need for water in the District. It seems that even if future growth in the next decade makes the Goleta Valley look like a miniature Orange County, the District will have ample supply of water for everyone.

The Assessment stated as its conclusion:

**“A COMPARISON OF THE AVAILABLE WATER SUPPLIES AND DEMANDS, INCLUSIVE OF THE ISLA VISTA DEVELOPMENT, INDICATE THAT THE DISTRICT WILL HAVE ADEQUATE SUPPLIES TO MEET DEMANDS THROUGH THE YEAR 2025 ASSUMING FULL BUILD OUT OF ALL AVAILABLE LAND.”**

This Assessment, being the very most recent report on the subject of water supply and certified by the Board as being true and correct in every aspect, is conclusive that there are no supply of water issues which justify the claiming of an immediate problem concerning the need to restrict the immediate use of agricultural water by imposing water budgets which is an economic club to stop local farming.

In addition, as set forth in the above Water Supply Assessment analysis, is the fact that the District has currently stored and unused ground water reserves of over 30,000 acre feet of water. This amount of currently unused source of water, per the District's own published literature, could in an emergency be the supply for one third of the entire District's water needs for a period of 10 years! The above estimate of 30,000 acre feet needs to be revised upward since it was made before the heavy rains of this last year which allowed the District to inject free spill water from Lake Cachuma into the ground water supply. The water injection used spill water from the lake through the end of this May and thus increased the previously stated amount of 30,000 acre feet of storage. I have requested this information as to the new amount of stored groundwater at the last Board of Director's meeting and no person at the meeting could or would give me an answer to the amount of currently stored groundwater.

The District during this Tuesday's meeting should give an update of the District's best estimate as to how much more ground water is now available over the old 30,000 acre feet estimate. The district keeps detailed records on the amount of injected water and the data should be readily available for purposes of a complete and accurate disclosure of the current water supply situation at Tuesday's meeting. The public and the members of the citizens Rate Study Committee have the right to this information and it should be disclosed.

Another source of supply of water which is not factored into the available source of supply in the March assessment is the completely unused ground water in the Goleta West Groundwater basin. The yield from this source would be approximately 440 acre feet annually, but is not considered because of the alleged high levels of total dissolved solids which would require high cost membrane treatment for urban use. This source of water can not be completely ignored for several reasons. First, with the ongoing development of water treatment techniques and the lowering of costs of new treatment techniques, at some point in the future it might be cost effective to treat and use said water for urban customers. In addition, this water even in its current state is suitable for use solely as agricultural water. Since this source of water is suitable for irrigation and is located in the Western section of the District, it could in an emergency situation be linked into the west conduit which currently is using untreated Lake Cachuma water purely for irrigation purposes. Many farmers operating in the west section of the District use this groundwater from their private wells to irrigate their crops.

Finally, there has been no disclosure of the full status of the availability of additional State Water. The stated position of the District is that it has no additional sources of water available to it. This has been the effect of various statements made to members of the Citizens Rate Study Committee. This is not the full and correct story concerning the availability of State Water. First of all, there is the recent news paper story about the Carpinteria Water District having extra state water it wishes to sell and it is negotiating to sell some of it to a private company for use in the Lompoc area. Based upon what I believe is a reliable source, I have been advised that other Water Districts on the State Water system have extra water to sell. The same source has advised me that the County of Santa Barbara itself has 12,000 a/f of state water allocation which it does not use and which can be available for future sale. Apparently the Montecito Water District also has an excess amount of State Water. Because of the time pressures in preparing these objections, I have not had time to personally verify all of the above facts on State Water. If the above facts are accurate, there should be no claim that in the foreseeable future for the next 20 to 25 years the District will not have adequate water for all of its customers.

THUS, THERE ARE NO CURRENT WATER SUPPLY PROBLEMS THAT NEED CURING!

**VIII. THE PUBLIC FULLY SUPPORTS THE CURRENT SPECIAL PRICING OF WATER FOR FARMERS SINCE THE CONTINUING OF AGRICULTURE IN THE COMMUNITY IS A VERY HIGH COMMUNITY PRIORITY.**

There are no problems with the public concerning the special pricing given to farmers. It is no secret that the Board historically has fixed a special low rate for agricultural water. Without the special low rate for agricultural water all farmers would have become extinct from the District years ago. The working relationships between the farmers and the District have been under the circumstances remarkably good over the years and hopefully will remain so into the future. During the years of drought the farmers' fully cooperated in the rationing of water at great personal economic sacrifice. Urban users stopped watering their lawns and washing their cars, the farmers had to watch their trees and other crops die and their ability to earn a living suffer. The number of farmers has been dramatically decreasing recently because of the increasing costs of production which is applicable to all local farmers. In the last 8 years the number of farmers has shrunk about 25%, going from approximately 211 in 1987 down to approximately 162 today. If the current water pricing changes are adopted as proposed, the number of farmers will diminish to a point of not having any type of significant farming presence in the community.

The staff of the District has repeatedly advised the Board that the District's farmers are the models for water conservation in the entire state! The District's own expert reported just a few months ago that the local farmers are among the best in the entire country at using water efficiently. There have been no contentions by the staff of the District that the local farmers are wasting water. Farmers treat water like liquid gold since it is absolutely vital to the crops and is such a high percentage of their total costs of production. Every drop of water saved brings a farmer closer to maybe making a small profit from his operations. All farmers in the District are being squeezed by the lower prices for their products due to new foreign competition, especially in the avocado industry.

The high cost of local land and the Board's pricing of new agricultural meter fees insure that no available vacant land will be placed into agricultural production in the future. The economic pressures are building for commercial and residential uses of all existing land, including existing agricultural properties that due to high production costs and low prices for their products are losing money. The agricultural that currently exists is not going to increase in the number of new operations and what we have now is all that will be there in the future. The new water charge already instituted by the District is an effective road block to allowing new agriculture to start in the District and is geared to stopping any existing farmers from trying to expand their existing operations. I am personally aware of several farms that have unused acreage which could be planted but for the high new water supply charges.

The community is well aware of the above facts and has made it known loud and clear that keeping local agricultural as a significant part of the Goleta Valley is a very high priority. No one wants the area to be developed into an Orange County type community.

The users of the District's water have without equivocation backed the Board past and recent actions on the special pricing of agricultural water which has the effect of increasing their own monthly water bills by a few dollars at worst. Even the recent rate increase of 8% for all users except agricultural users, which was increased 5%, has been accepted by the urban customers as appropriate. The community wishes to pay to continue the benefits of a significant farming presence. This assumption is not based upon the unsupported speculation of the undersigned. The above assumption was confirmed by information discussed at the Finance Committee of the Board at its meeting last month which I attended. During the course of the meeting, which was a review of the current financial statements plus a draft of the audited statements for the last fiscal year, Director Evans asked the staff who were participating in the meeting what has been the response to the most recent rate increases. Mr. Ford, the District's chief financial officer responded with words to the effect that there have been no oral or written objections to the recent rate increases and the very few calls were in the nature of questions concerning interpretation of the bills. Mr. Walsh, the District's general manager, apparently fully agreed with Mr. Ford's statements since he remained silent during the discussion. It is hoped that a significant number of non farmers will attend the Board meeting on the 8<sup>th</sup> and let the Board hear their views on the important need to do everything appropriate to preserve local agricultural.

The County of Santa Barbara, in a letter dated October 20,2005, has advised the District that the public policy of the county, because of the many benefits provided by the farmers, was to encourage agricultural and the District should takes these facts into consideration in changing water rates for farmers.

ACCORDINGLY, THE ABOVE FACTS CONCLUSIVE ESTABLISH THERE ARE NO PROBLEMS WITH THE CUSTOMERS OF THE DISTRICT IN HAVING THE BOARD FIX WATER RATES FOR AGRICULTURAL AT A SPECIAL LOW RATE THAT SHIFTS SOME OF THE COSTS OF AGRICULTURAL WATER TO THEIR OWN MONTHLY BILLS! Since there are no problems on the both the alleged future increase of water use by farmers and enough water for the future supply of water for agricultural use, and there are no problems with the public allowing a special low rate for agricultural water, there are no problems to be fixed! NO PROBLEMS, NO NEED FOR FIXING.

**IX. THE LOSS OF A SIGNIFICANT NUMBER OF FARMERS WILL ADVERSELY AFFECT THE RATES OF ALL CUSTOMERS AND THE REVENUE STABILITY OF THE DISTRICT.**

Any changes for a higher rate to increase the cost of Agricultural water are not intended to create greater total revenue for the District. Of course, if the cost of agricultural water is priced at a higher level, many agricultural users will be forced out of business and the loss of revenue from these former customers will have to be made up by increased rates to the other classes of customers. Indeed, it is beyond question that if all customers were charged the same rate, almost all agricultural users would be immediately forced out of business with an even greater loss of total revenue to the District. The other classes of customers would have to cover these lost revenues. No where in the draft report or the Agenda Memorandum is there any mention of this problem on the consequences of lost Agricultural users? Other water districts in the state have increased their water rates to a level which caused the local farmers to turn off their irrigation systems and allowed their crops to die. Do the customers of the District and the Board wish to have a repeat of the disaster to Agricultural users and the community which occurred in Northern San Diego County where the price of agricultural water caused almost every farmer to go out of business The "Good Land" would cease to exist to the detriment of everyone in the community!

The proposed change in the District's Code will ,as discussed above create great revenue instability for the District with the great fluctuations in the amount of bills to farmers. The use of a baseline water budget amount for each individual farmer will create the foreseeable great fluctuation of revenue for the District since the amount of the water use over the water budgets will occur towards the end of the calendar year. The amount of these additions costs to the farmers will be impossible to predict by the District in its May budget preparation. The District is a not for profit and thus if it has a sudden increase in revenue, the rates for all customers should be adjusted downward the next year for all customers. This type of annual rate adjustments, based upon the most recent budget forecasting effort of the District, will be very difficult to handle properly.

The Citizens Rate Committee has been well schooled by the District's expert, Dr. Thomas Chesnutt, on the importance for the District to have revenue stability in its year to year budgets and operations.

**X. THE DISTRICT HAS ALREADY ADOPTED A WATER CONSERVATION RATE BY BILLING AGRICULTURAL WATER BASED ON THE VOLUME ACTUALLY USED.**

The Agenda Memorandum set for consideration on the 8<sup>th</sup> is based upon the second draft report previously submitted to the Board by the District's staff. The draft report at page 9 discusses USBR Requirements and states that the District must develop a "rate structure that promotes conservation for not only urban customers, but agricultural customers as well". The Citizens Rate Study Committee is engaged in that exact process of studying rate structures as these comments are being written. Two months ago the Citizens Committee members were given a presentation on rate structures by a Dr. Thomas W. Chesnutt, an expert retained by the District to assist the Committee in gathering information concerning conservation and water rates for both urban and agricultural users. Dr. Chesnutt provided several valuable pieces of information which the undersigned feels should be shared with the Board and the public. The most significant information is that the current rate structure of the District, because the main portion of the amount of the monthly bill is based on the volume of water used charged at the specified rate, is considered an appropriate conservation rate structure. Thus if the current rate structure for billing of agricultural water were retained as it now exists, the USBR requirements would be satisfied. The Agenda Memorandum fails to disclose this crucial fact! NO PROBLEM, NO NEED TO FIX.

**XI. THE ISSUE FOR DECISION ON THE PRICING OF AGRICULTURAL WATER DOES NOT DEPEND ON THE COST OF AGRICULTURAL WATER, BUT IS A POLICY DECISION BY THE BOARD OF DIRECTORS ON WHETHER THE DISTRICT PROTECTS AND HELPS THE FARMERS OR USE AGRICULTURAL WATER TO HELP URBANIZATION.**

The second draft report devotes a section on a discussion on Agricultural Water Rates and the cost of water. This issue is alleged to be under an on-going study which may determine the appropriate cost of service. The study has been going on for many months according to information that the undersigned has received by attending various Board meetings but there is no timetable given for its completion. However, it is deemed by the undersigned to be irrelevant as long as the general community is willing to absorb the costs of the special low rate for agricultural water. Why should anyone spend time on such an exercise if there is no use for the data?

If for some reason the Board decides to consider another increase for agricultural water usage by imposing a water budget billing system, the rubber band on farmers cost is already stretched to the breaking point and any increase based upon this type of billing will be a death sentence for many Goleta Valley farmers. The Board should be candid to the public as to the basis of any decision which is to substantially raise the price of agricultural water. Such a policy decision will clearly be against the clear wishes of the community and if not immediately, but clearly in a very short period of time, create an entirely different type of community. The Board at this time must do the right thing for the community and the future!

The Agenda Memorandum professes a wish to protect agricultural in the future and thus wants to restrict against any future alleged expansion of water use by the local farmers. The undersigned fails to follow the logic of that argument. It seems that any restricts on future water use by farmers is really saying the District wishes to tell everyone they will not have to worry about any more water for the farmers in the future and all of this future available water can be used for urbanization. Such a policy is not helping any farmers and will only facilitate future urbanization plans.

IF URBANIZATION IS THE INTENT AND AGENDA OF THE DIRECTORS, AS ELECTED OFFICIALS WITH A DUTY TO BE OPEN WITH THE VOTERS, IT IS ONLY FAIR THAT THEY SO STATE THEIR POSITION AS FIDUCIARIES! I have found from over 30 years as a civil litigator when the intent of a person is at issue, you should listen to what they say their intent might be, but you must watch their actions. If the actions are different than their statements, then their actions reveal their true intent. Only when the statements and the actions are the same is there no question as to intent. Let the Board's actions reveal the District's true intent on wishing to preserve local agricultural and slow the spread of urbanization!

## **XII. THE CREATION OF THE GOLETA WATER DISTRICT WAS DONE TO PROVIDE LOCAL FARMERS WITH WATER.**

The Agenda Memorandum and the second draft discussion of the history of the District's sources of supply of water are interesting but are silent on a crucial point as to how and why the District was initially created. The discussion of Lake Cachuma's role is instructive but the supplied information omits an extremely important aspect of the history of why there is a water supply from the lake. The history makes it absolutely clear that the Cachuma project was created primarily as a source of irrigation water for local farmers. The U.S. Bureau published a paper which traces the entire history of the project. On page 10 of the history, under "Uses of Project Water" the author, who was the official historian for the Department, states:

"Bradbury Dam's primary function is to store floodwaters of the Santa Ynez River in order to provide a supplementary supply of irrigation water to the approximately 12,000 acres of land (1990) on which is grown primarily citrus and other fruits, lettuces, tomatoes, and alfalfa..." The history at the same page states: "the project's years of producing high-value crops gave it membership in Reclamation's Billionaires Club."

It does not take long for some people to forget history. I hope this Board does not. The District was created for the farmers and now the current proposals will have the affect of eliminating the farmers. Something is terribly wrong with such a process. If anything the local farmers should be the most cherished and protected group of customers.

**XIII. THE PENDING PROPOSAL, WHICH WILL HAVE THE AFFECT OF GREATLY CRIPPLING AND PROBABLY ELIMINATING FARMING, IS AGAINST THE PUBLIC POLICY OF BOTH STATE OF CALIFORNIA AND THE COUNTY OF SANTA BARBARA.**

The Sate of California's economy and general well being is based upon the continuation of a diverse and viable agricultural community. The state has enacted legislation per AB 2587 that requires the State to be a net exporter of table food. The loss of farmers through the proposed action in creating a water budget base line is in contravention of the public policy of the State and is a valid reason for the outright rejection of the proposals.

In addition the County of Santa Barbara, like it has done recently in regard to proposed changes in water rates by the Montecito Water District, has advised the District of the policy of the County to protect the viability of agricultural in the County. This was done in a letter to Kevin Walsh dated October 20, 2005. It is hoped this letter, even though it was not part of the Agenda Memorandum was passed on both to the Board members and the District's legal counsel for review and consideration in regard to the pending proposals to change the pricing of water for the farmers.

Accordingly, if the proposed changes in the pricing of agricultural water are adopted, the Board will be acting contrary to the wishes of its customers, the County of Santa Barbara, and the State of California. The Board members are elected representatives of the customers of the District and have a fiduciary duty to protect and follow the wishes of the customers. There is no valid justification presented for the pursuit of such a course of action which is contrary to the above duties.

**XIV. CONCLUSIONS**

In summary, The Agenda Memorandum and the second draft report did remove many of the extremely objectionable recommendations which were set forth in the first draft report, but completely failed to adequately address many of the issues which continued over into the pending proposals. There has been no cost estimates given to cover all of the extra personnel required to administer and police the recommended changes per the second draft whose issues are still pending before the Board. The only prior recommendation which has been withdrawn is the proposal on reclassification of who qualifies as a farmer.

A Board should never adopt a change to cure a problem that is costing the institution one dollar when the costs of making and enforcing the change will be three dollars. Therefore, there must be quantification of the cost of the problems and the costs of the cures. None of this information is being supplied to the Board and thus it would be acting without all of the required facts.

As to the need and the benefits from a tiered pricing system with water budgets, again no information has been supplied to the Board except that the proposals should stop farmers from increasing their water use in the future. Since the purpose of a new pricing system is not to raise additional revenue, how much water will be conserved? The question must be asked and answered, is any water used in the pursuant of agricultural by the local farmers ever deemed "wasted water"? The current pricing system is a water conservation pricing system and it must be working since the local farmers lead the state in conservation practices. If the current pricing system is working and fully acceptable to all customers, including the urban users who pay the cost of the special price for agricultural water, and there is no foreseeable water shortage for at least the next 20 years, why is there a need for any changes?

There should be required a showing by the staff by clear and convincing evidence that changes are necessary and that the proposed tiered pricing structure actually cures the alleged problems with the current structure and does actually conserve water. There have been no such showings in the Agenda Memorandum and the two draft reports.

Respectfully submitted.  
Jack Ruskey