

FOR IMMEDIATE RELEASE

The City Council of the City of Hughson understands, and shares the concerns of, those citizens of Hughson who live adjacent to the water storage tank under construction between 7007 and 7101 Fox Road..The water storage tank is almost completely constructed, and is due to be complete in the fall of 2006.

It is important to understand the history of the water storage tank, and to address the concerns of the citizens.

In October of 2003, the City Council of Hughson adopted a Water System Master Plan. This plan recognized long standing system deficiencies and specified the need for additional well site production and storage capacity in order to ensure the health and safety of the residents of Hughson. The City did not at that time have a system that provided for adequate fire flow levels.

On **October 29, 2004**, (approximately one year later) the California Department of Health Services (DOHS) issued an inspection report which cited the city's failure to provide for adequate water supply and storage. DOHS specifically called upon the city to provide a water storage tank. (They believed it might be somewhere between 500,000 and 1,000,000 gallons, but pointed out that a design engineer needed to determine the exact requirements).

In **November of 2004**, the engineering firm of Hawkins and Associates began working on a Water Storage Tank Site Evaluation Study Report. This study examined the entire water system for feasible locations to locate a water storage tank, and to estimate the approximate volume of the tank (estimated at 670,000 gallons). Six sites were determined to be potentially feasible. These were examined on the basis of availability of adequate land, proximity within the distribution system, constructability, and general visibility. This report was delivered in February of 2005. Scoping work for engineering and environmental documentation followed.

It has been argued that the site of the water storage tank was the "fourth site, out of six", with the implication that the site was not the best site. The six sites were ranked by numerical scoring based on location within the water system, proximity to existing large water mains, parcel size, exposure to view, constructability, and availability. Based on that scoring methodology, the site was numerically fourth. However, the last criterion is a key; the site was one of only two of the six sites which the City owned. Any of the other sites would have had to be acquired, probably by eminent domain, by the City. This is an important consideration, not only because of additional cost, but a contested eminent domain action can take years in court. It was and is important to restore adequate fire flow protection without undue delay.

Consequently, the six sites were narrowed down to the two sites owned by the City, for further engineering and environmental review.

On **April 25, 2005**, following scoping for engineering and environmental issues, the City Council authorized a Task Order with Carollo Engineers to complete construction work at the ultimately selected site and to prepare environmental review through a subcontract with the environmental studies firm of Quad Knopf for both sites.

In late **July 2005**, Quad Knopf submitted a Mitigated Negative Declaration (MND). The MND examined the two candidate sites. Concurrently Carollo Engineers submitted their Pre-Design Report which was prepared in coordination with the MND and had the benefit of the Hawkins and Associates siting study report. Based on a comprehensive computer modeling of the entire system, the design volume of the tank was finally set at 750,000 gallons.

July 1, 2005, Quad-Knopf sent a draft of the Hughson Storage Tank Initial Study/MND to the City Planning and Public Works Departments.

July 29, 2005 Quad –Knopf sends an email to the City, stating in part “ As discussed, here are the steps that were taken: 15 copies of the Mitigated Negative Declaration were sent via overnight to the state clearing house on Thursday (7/28) to begin the 30 day review period today (7/29). Copies were sent to other agencies and individuals as per the attached mailing list. A public notice was sent to the Hughson Chronicle. “

July 29, 2005, Quad Knopf mailed the City Planning Department 7 copies of the MND. The MND was placed on public display on the front counter of City Hall from July until late December.

At this point, it is important to understand that no law applicable in this circumstance requires a public hearing to be held on the water storage tank. Nevertheless, the City did hold two public hearings. It is also important to note that the notice of those hearings which was published in the Hughson Chronicle, while indicating the availability of the MND for review, and the subject of the hearings as being the implementation of a 750,000 gallon tank, did not give the specific locations under consideration.

August 2, 2005, Notice of Public Hearing before Planning Commission published in the Hughson Chronicle.

August 8, 2005, In open session the City Council is provided with a copy of both Carollo's Preliminary Design Report, as well as Quad Knopf's Mitigated Negative Declaration for early review in advance of the Planning Commission meeting on August 16, 2005 and the City Council meeting scheduled for September 26, 2005. The MND discusses a tank of approximately 25-30 tall. The preliminary design report shows a height of 31 feet; as is shown in the design documents presented to the Planning Commission and the Council, this is from ground to the edge of the domed roof. (The roof rises slightly, since it is a dome, but it is only about 5 feet higher than the edge, and that is about 30 feet in from the edge of the tank.)

The tank, as it is constructed, is measured as 35.67 feet from the ground to the edge of the roof; however, it is 3.35 feet below surrounding grade (the road and the adjacent parcels), so it is 32.4 feet above the adjacent parcels.

August 16, 2005, Planning Commission holds a public hearing and reviews two sites and recommends site to the City Council. The height of the tank was reportedly questioned and the design engineer's estimate was 31 for the site which was actually recommended and 43 feet tall for the other site, which was rejected. The Planning Commission votes to recommend to City Council that it remove site 2 from consideration, and approve site 1.

August 27, 2005, ends the 30th day that the Mitigated Negative Declaration is available at the City of Hughson Offices at 7018 Pine Street. However staff believes it was left out until December.

September 13, 2005, Notice of Public Hearing before City Council is published in the Hughson Chronicle.

September 26, 2005, The City Council adopted the MND, and accepted the recommendation of the planning commission regarding siting. During this hearing, the Public Works Director was asked about the height of the tank; he stated that without final engineering plans, the exact height could not be determined.

September 29, 2005, The City files the Notice of Determination with the Stanislaus County Recorder's Office.

October 31, 2005, The City receives back from the County Clerk the Notice of Determination to show that it had been properly posted for the thirty day time period.

December 12, 2005, the City Council authorized the tank pre-purchase, and advertisement of construction contract.

December 13, 2005, Construction advertisement is sent to the Hughson Chronicle.

January 23, 2006, the City Council awards Construction Contract.

February 24, 2006, Construction begins on the project.

The residents adjacent to the water storage tank have complained that they did not receive an individual letter explaining that the water storage tank was going to be placed on the site. As best as the City can determine, this is true. While two public hearings were held, they were noticed only in the newspaper. It is important to note, however, that there was no legal requirement to hold these public hearings and therefore none to notify the owners by individual letter.

It is equally important, however, to note that there was a legal requirement under the California Environmental Quality Act (CEQA) to make certain notifications, and the consultant for the City, and therefore the City, did not make all those notifications.

Under CEQA, before adopting the MND, a notice of the intent to do that, with certain required information, including the specific location, is to be sent to the State Clearinghouse in certain cases, to various other public agencies (which was done), and to the County Clerk (which was done), and is also to be EITHER posted on the project site and off-site OR mailed individually to the immediately adjacent owners OR published in the newspaper. Quad-Knopf, the City's consultant on environmental review, chose the latter method. Quad-Knopf informed the City by email that "a public notice has been sent to the Hughson Chronicle". However, no notice was published, and Quad-Knopf now does not believe that it ever was sent.

It has been stated that there was a change in scope from what was presented to the Council; this is not correct. The MND analyzed the tank as being "approximately 25 to 30 feet tall", the engineers estimated 31 feet (and this figure was presented to the Planning Commission and City Council), and the actual construction height above surrounding grade is 32.4 feet, well within the scope of the estimates.

Nevertheless, and as already stated, the City Council understands, and shares, the concerns of the adjacent owners. However, the City Council must represent all the citizens of Hughson.

The need for the water storage tank is indisputable; failure to have the water storage tank could possibly result in an order from the State Department of Health Services shutting down all construction and building permits in the City, and/or fines on the order of thousands of dollars per day. The water storage tank must go somewhere, and it will affect someone wherever it goes.

The water storage tank has been under construction for over 6 months, and will be complete this month; it has cost approximately \$2,500,00.00; to remove it would be a waste of that money, and, since the need for a water storage tank would still exist, it would cost at least that much to rebuild it elsewhere, and may additionally involve extra

cost to acquire a different site. It would also, as can be seen from the timeline above, take approximately 1 ½ to 2 years to do so, thus placing the City at risk of an action by the State, and continuing the inadequate fire flow protection.

Some of the adjacent residents have stated that the City should purchase their homes; others have filed claims for unspecified damages against the City. The City believes there is no legal duty to purchase the homes or pay damages; without a legal duty to do so, such payment is an improper gift of public funds. Such public funds, whether spent for removing the water storage tank, or purchasing the homes, belong to all the citizens of Hughson.

The water storage tank, when completed, will have mitigation measures, including screening vegetation, applied.

The City Council has also stated its desire to work with the adjacent landowners to see if there are further mitigation measures that may be available. Two Council Members have volunteered to meet with the adjacent landowners. The Council reiterates that invitation.

Dated: September 11, 2006