

# Notice of Intent to Circulate Petition

[pursuant to Elections Code Section 9202]

## Petition for Submission to Voters of Proposed Amendment to the Charter of the City of Santa Cruz Requiring Voter Approval for Desalination Projects

**Notice** is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Santa Cruz for the purpose of amending the City Charter to require voter approval at a statewide general, statewide primary, or regularly scheduled municipal election before the City Council could take legislative action to authorize or permit the construction, operation, and/or acquisition of a desalination project or to incur any bonded or other indebtedness for that purpose.

The reason for the proposed action contemplated in the petition is that the proposal to construct and operate a regional desalination facility raises serious economic, environmental, and community concerns of such importance that a decision to approve such a project should not be made unless approved by a majority of City voters at a statewide general, statewide primary, or regularly scheduled municipal election.

Dated: January 19, 2012

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Following is the full text of the proposed measure:

# **Petition for Submission to Voters of Proposed Amendment to the Charter of the City of Santa Cruz Requiring Voter Approval for Desalination Projects**

To the City Council of the City of Santa Cruz:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Santa Cruz, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of Santa Cruz this petition and request that the following proposed amendment to the Charter of the City of Santa Cruz be submitted to the registered and qualified voters of the City of Santa Cruz for their adoption or rejection at the next statewide general, statewide primary, or regularly scheduled municipal election date pursuant to Section 1200, 1201, or 1301 of the California Elections Code.

The proposed Charter Amendment reads as follows:

**Section 1. Purpose.** The purpose of this Charter Amendment is to enact a comprehensive policy ensuring that the City of Santa Cruz does not approve, permit, or fund a desalination project without voter approval. Accordingly, this Charter Amendment would require an affirmative vote by a simple majority of Santa Cruz voters at a statewide general, statewide primary, or regularly scheduled municipal election before any such desalination project could be implemented.

**Section 2. Findings.** The citizens of the City of Santa Cruz find:

- (a) that the proposal to construct and operate a desalination facility raises serious economic, environmental, and community concerns of such importance that a decision to approve such a project should not be made unless approved by a majority of voters at a statewide general, statewide primary, or regularly scheduled municipal election.
- (b) that the City has already spent millions of dollars in pursuit of desalination without a public vote or rate payer approval. According to the City *Urban Water Management Plan*, "The current estimated cost for design, permitting, property acquisition and construction of a regional desalination plant between 2010 and 2018 is approximately \$116 million." Ratepayers will pay many millions more in debt service, operation, and maintenance.
- (c) that there are less costly and less environmentally damaging alternatives to desalination. These include, but are not limited to, effective water-neutral development policies, increased

incentives for conservation, operational improvements to the reservoir system, infrastructure upgrades, leak detection, increased water storage capacity, water recycling, plumbing fixture and appliance retrofits, drought-tolerant landscaping, gray water irrigation, rainwater harvesting, water transfers between districts, and watershed restoration.

(d) that implementation of a comprehensive program of alternatives to desalination would provide significant public benefits by supplying water at less cost to rate payers, with less damage to the environment, using far less energy, and would also help to create local jobs and business opportunities.

**Section 3. Charter Amendment.** The City Charter of the City of Santa Cruz is amended to add a new Section 1431, as follows:

**Section 1431 – Voter Approval for Desalination Projects**

(a) Voter Approval. Notwithstanding any other provision of this Charter, no legislative action by the City that would authorize or permit the construction, operation, and/or acquisition of a desalination project, or that would incur any bonded or other indebtedness for that purpose, shall be valid or effective unless such action is authorized by an affirmative vote of a majority of qualified electors in the City of Santa Cruz voting on the question at a statewide general, statewide primary, or regularly scheduled municipal election.

Provided that it has first fully complied with the California Environmental Quality Act, Public Resources Code section 21000, et seq., the City Council may put the question of approval of such action before the voters at a statewide general, statewide primary, or regularly scheduled municipal election according to any procedure authorized by this Charter.

(b) Definitions.

(1) As used in this section, “legislative action” means adoption of or amendments to the City’s General Plan, Zoning Map, Zoning Code, Municipal Code, or approval of a development agreement, or any other act by the City Council that is legislative in nature.

(2) As used in this section, “desalination project” means any project intended to provide potable domestic, commercial, and/or industrial water supply through the removal of salts and other minerals from ocean water, regardless of the physical or chemical process used.

**Section 4. Interpretation and Severability.** This Charter Amendment shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Charter Amendment is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Charter Amendment. The voters hereby declare that this Charter Amendment, and each section,

subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Charter Amendment is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Charter Amendment that can be given effect without the invalid application. This Charter Amendment shall be broadly construed in order to achieve the purposes stated in this Charter Amendment. It is the intent of the voters that the provisions of this Charter Amendment shall be interpreted by the City in a manner that facilitates the purposes set forth in Section 1 of this Charter Amendment.

**Section 5. Effect of Alternative Measure on Same Ballot.** This Charter Amendment adopts a comprehensive policy for protecting the City of Santa Cruz's natural environment, coastal resources, public infrastructure, and municipal finances from being utilized for a desalination project without prior approval by City voters. By voting for this Charter Amendment, the voters expressly declare that any other measure that appears on the same ballot as this Charter Amendment and conflicts with, or purports to amend, any provision of this Charter Amendment, shall be deemed to conflict with the entire set of policies adopted by this Charter Amendment. Because of this conflict, if this Charter Amendment and any such other measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail in its entirety and no provision of the other measure shall take effect.

**Section 6. Retroactive Application.** In the event this Charter Amendment is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.