NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2014-1336

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAPPROVING A WATER SHORTAGE RESPONSE AND MANAGEMENT PLAN PURSUANT TO WATER CODE § 375

WHEREAS, the Nipomo Community Services District ("District") provides water service within the District's water service area pursuant to § 61100 (a) of the Community Services District Law which provides:

> "(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail"; and

WHEREAS, § 61060 (b) of the Community Services District Law provides in relevant part:

> "A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:
>
> (b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)"; and

WHEREAS, California Water Code Section 375 States in pertinent part:

> "(a) Notwithstanding any other provision of the law, any public entity which supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity; and"

WHEREAS, it is essential for the protection of the health, welfare, and safety of the residents of the District and the public benefit of the State of California ("State"), that the groundwater resources of the Nipomo Mesa be conserved; and

WHEREAS, Governor Jerry Brown on January 17, 2014 proclaimed that the entire State of California to be in a Drought State of Emergency; and

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WHEREAS, the District's current water supply is limited to groundwater extracted from the Nipomo Mesa Management Area (NMMA) (also referred to as the Nipomo Mesa Water Conservation Area (NMWCA) by the County of San Luis Obispo), of the Santa Maria Groundwater Basin; and

WHEREAS, the District is a party to groundwater adjudication, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation"); and

WHEREAS, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group declared that a Potentially Severe water shortage condition has existed within the Nipomo Mesa Management Area since the spring of 2008 and during the intervening year, the drought continued and it is anticipated that in May of 2014 that the Nipomo Mesa Management Area Technical Group will declare a Severe water shortage condition; and

WHEREAS, the San Luis Obispo County Department of Planning and Building's 2004 Resource Capacity Study for the Water Supply in the Nipomo Mesa Area recommended a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Water Conservation Area (NMWCA) and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

WHEREAS, on June 26, 2007, the San Luis Obispo County Board of Supervisors certified the waters underlying the NMWCA at a Severity Level III; and

WHEREAS, the resource protection goals of the San Luis Obispo County South County Area Plan include the following:

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.

- Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels; and

WHEREAS, District Code §3.28.020 provides:

"...all intent-to-serve letters shall be based on findings that sufficient excess water and sewer capacity exists to serve the project..."; and

WHEREAS, Water Code § 71640 of the Municipal Water Service District Law provides:

"A district may restrict the use of district water during any emergency caused by drought, or other threatened or existing water shortage, and may prohibit the

wastage of district water or the use of district water during such periods for any purpose other than household uses or such other restricted uses as the district determines to be necessary. A district may also prohibit use of district water during such periods for specific uses which it finds to be nonessential"; and

WHEREAS, the District Board of Directors has noticed this public meeting pursuant to Water Code § 375 and has considered the Staff Report and public testimony regarding the adoption of this Resolution; and

WHEREAS, The District Board of Directors wishes to set forth a Water Shortage Response and Management Plan that provides a range of alternative actions that allows for flexibility in responding to a water shortage emergency; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Resolution and public comment, the District Board of Directors finds that:

(a) That the Nipomo Mesa Management Area Technical Group has declared the Mesa to be in a Potentially Severe water shortage condition for the past six years; and

(b) That based upon the lack of rainfall during the winter of 2013/2014 and the increase pumping by District and other purveyors in response, it is anticipated that in the near future, Nipomo Mesa Management Area Technical Group will find that the Nipomo Mesa is in a Severe water shortage condition; and

(c) That it is necessary for the District to adopt a Water Shortage Response and Management Plan to be able to respond to the lack of available groundwater for the purpose of serving District residents.

WHEREAS, based on the Staff Report, staff presentation and public comment, the Board further finds:

A. That the purpose and intent of this Resolution is consistent with the purposes found in the Judgment and Stipulation in the Groundwater Litigation imposing a physical solution to assure long-term sustainability of the groundwater basin and the San Luis Obispo County's certification of a Severity Level III for the waters underlying the NMWCA; and

B. That adoption of the Water Shortage Response and Management Plan will provide greater assurances that there will be adequate groundwater to meet the present needs of District residents consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County South County Area Plan; and

C. That adopting this Resolution will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection; and

D. That this Resolution adopts Rules and Regulations for the administration, operation and use of District services; and

E. The Board of Directors of the District finds that the policies and procedures adopted by this Resolution are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the policies and potential actions established by this Resolution is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the adoption of a Water Shortage Response and Management Plan will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District incorporates by reference the CEQA findings in support of San Luis Obispo County Ordinance 3090, the County of San Luis Obispo's certification of a Severity Level III for the NMWCA

WHEREAS, by readopting this Resolution, the District does not intend to limit other means of managing, protecting and conserving the groundwater basin by the District. Further, the District intends to work cooperatively with the NMMA Technical Group and other agencies, such as the County of San Luis Obispo, to implement regional solutions such as groundwater management and the importation of Supplemental Water to the NMMA\NMWCA; and

WHEREAS, based on the Staff Report, staff presentation and public comment, the District Board of Directors further finds this Resolution is adopted for the protection of the health, safety and welfare of District water customers who depend on the underlying groundwater basin as their source of water supply.

NOW, THEREFORE BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Nipomo Community Services District, as follows:

1. That the above recitals are true and correct.

2. The Board approves the Water Shortage Response and Management Plan orginally approved on April 9, 2014, attached as Exhibit "A" to this Resolution.

3. The Board of Directors reserves the right to order or not order all of the provisions within the Water Shortage Response and Management Plan based upon the circumstances at the time that this policy needs to be enforced.

4. The General Manager is directed to prepare and file an appropriate notice of exemption and file a Certificate of Exemption.

5. The General Manager is directed to publish this Resolution in its entirety in a newspaper of general circulation in the District within ten (10) days.

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Upon motion by Director Vierheilig, seconded by Director Blair, on the following roll call vote, to wit:

AYES:	**Directors Vierheilig, Blair, Gaddis, Harrison and Armstrong**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

the foregoing Resolution is hereby passed and adopted this 23rd day of April, 2014.

CRAIG ARMSTRONG,
President of the Board of Directors

ATTEST:

MICHAEL S. LEBRUN
General Manager and Secretary to the Board

APPROVED:

MICHAEL W. SEITZ
District Legal Counsel

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EXHIBIT "A"

NCSD WATER SHORTAGE RESPONSE AND MANAGEMENT PLAN

STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
I	All times	• Active outreach and education programs regarding water conservation best management practices. • Four Tier escalating water rates. • Recommended Customer Measures: o Fix all plumbing and irrigation leaks immediately. o Irrigate after 8PM and before 9AM. o Minimum to no irrigation in winter months. o Check all irrigation systems monthly. o Do not allow excessive run off. o Recirculate water in ornamental water features (fountains) • New applications for water service are accepted and processed. • Supplemental water is allocated to all new projects • New water service connections are made.	Not Applicable.
II	Potentially Severe Water Shortage Conditions exists	• More aggressive conservation outreach and education efforts. • Four-Tier escalating water rates. • Encourage customers to implement the following practices: o All Stage I Measures o Cover Swimming Pools and spas. o Do not use water to wash down exterior surfaces (e.g. driveway, deck, home) • New applications for water service are accepted and processed. • Supplemental water is allocated to new projects. • New water service connections are made.	Potentially Severe Water Shortage no longer exist.

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
III	Severe Water Shortage conditions exists	• District targets a 30% reduction in production (Equating to a 752 acre foot or 245 million gallons of reduction in production on an annual basis). • Implement Stage III Drought Rates to encourage reduction in customer water demand. • Encourage customers to implement the following practices. o All Stage I and II measures. o Turn off all automated irrigation systems. o Provide minimum necessary irrigation to preserve trees and high-value landscape. o Do not drain or fill swimming pools or spas. o Do not use water for dust control or construction. o Do not use hoses to wash cars or equipment. o Turn off and drain ornamental fountains and water features • Suspend accepting applications for new water service. • Existing applications for new water service continue to be processed with allocations of supplemental water. • New water service connections are made.	Severe Water Shortage no longer exist.**
IV	Severe Water Shortage conditions exists for >1YEAR or is triggered by both the Key Wells Index and the Coastal Criterion.	• District targets a 50% reduction in production (Equating to a 1,254 acre foot reduction in production on an annual basis). • Implement Stage IV Drought Rates to encourage reduction in customer water demand. • Encourage customers to implement the following practices:	Severe Water Shortage conditions no longer exist.

STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
		o All Stage I, II, and III measures. o Do not use District water for irrigation/outdoor uses of any sort. • New applications for water service are NOT accepted (Stage III) • Cease processing existing applications for new water service. No allocation of supplemental water is made. • New water service connections are made only to projects with preexisting service commitments.	
V	Severe Water Shortage conditions for >2 years with BOTH triggers (Key Wells Index and Coastal Area Criterion).	• District targets a 60% reduction in production. (Equating to a 1,504 acre foot reduction in production on an annual basis). • Implement Stage V Drought Rates to encourage additional reduction in customer water demand. • Declaration of a Water Shortage Emergency in accordance with CA Water Code Section 350. • Suspend all new water service connections. • Encourage customers to implement all Stage I-IV measures and to use only the absolute minimum water necessary for health and sanitation purposes. o All Stage I, II, and III measures. o Do not use District water for irrigation/outdoor uses of any sort. o Do not drain or fill swimming pools or spas. o All measures possible to reduce water use. • New applications for water service are NOT accepted (Stage III) • Existing applications for new water service are not processed (Stage IV)	Severe Water Shortage conditions no longer exist.

** The Nipomo Mesa Management Area (NMMA) Technical Group may determine Severe Water Shortage Conditions no longer exist when groundwater quality criteria threshold are no longer exceeded in a single measurement.

General Notes

1. The implementation of all rate increases and changes in the acceptance and processing of new services applications are subject to approval by the Board of Directors at the time each stage is triggered.
2. Potentially Severe and Severe Water Shortage conditions, Key Wells Index, and Coastal Criterion are as defined in the NMMA Technical Group, Water Shortage Conditions Response Plan, dated April 2009. Key criterion are as follows:

Potentially Severe Water Shortage Conditions	***Severe Water Shortage Conditions***
• *Key Wells Index less than 31.5 ft msl* • *Greater than 250 mg/l chloride in any NMMA coastal monitoring well*	• *Key Wells Index is less than 16.5 ft. msl* • *Greater than 500 mg/l chloride in any NMMA coastal monitoring well*

3. Reduction goals are a percentage of average annual production volumes for the five calendar years prior to the first year Nipomo Supplemental Water is delivered. NCSD's 2009-2013 average (2507 AFY) is used in the table above.