

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: OCTOBER 17, 2014

**AGENDA ITEM
E-4
OCTOBER 22, 2014**

ANNUAL REVIEW OF SUSPENDED DISTRICT ORDINANCE 2012-117

ITEM

Review current District policy on water service applications and processing. [RECOMMEND – CONSIDER INFORMATION AND DIRECT STAFF]

BACKGROUND

The Nipomo Community Services District (District) relies solely on groundwater underlying the Nipomo Mesa Management Area to provide water to its customers. In fact, the entire Nipomo Mesa, its businesses (agriculture, oil refinery, golf courses, general industrial, and manufacturing) and the approximately 30,000 inhabitants, relies solely on the underlying groundwater for all water needs.

On May 10, 2012, there was a successful protest of the ballot measure to form Nipomo Community Services Assessment District 2012-1. The assessment district would have raised the funds needed to build a intertie water line between Nipomo CSD and the City of Santa Maria capable of delivering 3,000 acre-feet of supplemental water to the Nipomo Mesa annually.

In light of the ballot measure’s defeat, the timeline for delivery of supplemental water to the Nipomo Mesa became uncertain. Concern over the health and ever-diminishing reliability of the local groundwater basin is well documented.

Over the years, studies by the CA Department of Water Resources, the County of San Luis Obispo, the court-appointed Nipomo Mesa Management Area Technical Group and others have consistently found cause for concern for basin health and sustainability under ever increasing pumping demands.

Therefore, following the failed assessment district vote, your Board was unable to make the findings required by District Code §3.28.020, “that sufficient excess water” exists to serve new projects. Subsequently, on May 23, 2012, your Board adopted Resolution 2012-1259 suspending the processing of new application for District water service.

Then on June 27, 2012, your Board adopted Ordinance 2012-117 (attached) halting the processing of new applications for District water service effectively placing a moratorium on new water connections.

In 2013, the District completed a fourth review of supply alternatives and authorized a phased approach for building the intertie pipeline to the City of Santa Maria. On February 13, 2013, your Board authorized circulating bid documents and bid requests for Supplemental Water Project Phase 1. Following these actions, your Board approved Ordinance 2013-119 (Attached) suspending the enforcement of Ordinance 2012-117 thereby allowing a return to water service application processing.

Suspension (versus full appeal) of Ordinance 2012-117 provides your Board full flexibility to reinstitute the Ordinance should circumstances change in regard to supplemental water delivery.

Your Board awarded construction contracts for Supplemental Water Project Phase 1 on June 20, 2013 and as of today, the \$17.5M Project is on schedule for completion by June 2015.

FISCAL IMPACT

Suspension of new water service halts collection of capacity charges. The District's water capacity charge for a 1-inch water meter is \$17,898 of which \$14,605 is put toward development of supplemental water projects.

The Phase 1 project will deliver 650-800 acre feet of supplemental water annually. Estimated capital costs for future project phases continue to increase with time.

STRATEGIC PLAN

Goal 1. WATER SUPPLIES. Actively plan to provide reliable water supply of sufficient quality and quantity to serve both current customers and those in the long-term future.

- 1.1 Complete Phase 1 of Supplemental Supply Projects.

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

- 6.4 Periodically review, update and reaffirm District policies and procedures.

RECOMMENDATION

Consider information and provide direction to staff.

ATTACHMENTS

- A. Ordinance 2012-117
- B. Ordinance 2013-119

October 22, 2014

ITEM E-4

ATTACHMENT A

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

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, 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, 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

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

WHEREAS, the District is a party to a 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 has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area; 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 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, § 71640 of the Municipal Water Service District Law provides:

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

"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, at a public meeting on June 13, 2012, considered the Staff Report and public testimony regarding the adoption of this Ordinance; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Ordinance and public comment, and the failure of the recent ballot proceedings to fund and implement a Supplemental Water Project to the NMMA\NMWCA, the District Board of Directors finds that:

- (a) It is currently unable to make the findings required by District Code Section 3.28.020, "that sufficient excess water --- exists to serve new projects"; and
- (b) That there is a threatened or existing water shortage; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Ordinance, public comment and the failure of the recent ballot proceedings to fund and implement the Supplemental Water Project to the NMMA\NMWCA, the District Board of Directors further finds:

- A. That the purpose and intent of this Ordinance is consistent with the purposes found in the Judgment and Stipulation in the Ground Water 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. Prohibiting the issuance of new Intent-To-Serve Letters will provide greater assurances that there will be adequate groundwater to meet the present needs of the District residences consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County South County Area Plan; and

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

- C. That adopting this Ordinance 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 Ordinance adopts Rules and Regulations for the administration, operation, and use of District services; and

WHEREAS, by adopting this Ordinance, 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 NMMANMWCA; and

WHEREAS, based on the Staff Report, staff presentation, and public comment, the District Board of Directors further finds this Ordinance 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 ORDAINED, by the Board of Directors of the District as follows:

Section 1 — Intent-To-Serve Letters

District Resolution 2012-1259 Suspending The Processing Of Intent-To-Serve Letters is affirmed. All applications for new District water service are suspended and will be received and filed without priority. Chapter 3.05 of the District Code and District Ordinance 2009-114 are suspended.

Section 2 — Payment of Capacity Charges for Certain Commercial Projects

Section 3.04.052 of the District Code as established by District Ordinance 2009-112 Establishing Procedures For Payment Of District Fees For Connection Of Commercial Projects Developed On Two Or More Parcels are Repealed.

Section 3.04.051 of the District Code is modified to remove reference "Except as provided in Section 3.04.052"

Section 3 — Payment of Capacity Charges for Certain Residential and Mixed Use Projects

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

Section 3.04.053 of the District Code as established by District Ordinance 2010-115 Establishing Procedures For Payment Of District Fees For Connection For Residential Projects Creating Four Or More Parcels And Mixed Use Projects Under A Single Application For A Final Map That Required a Dedication Of Any Water And Sewer Improvements Pursuant To a Plan Check Inspection is repealed, pursuant to Section 3.04.053 H of Ordinance 2010-115.

Section 3.04.051 of the District Code is modified to remove reference "Except as provided in Section 3.04.052 and 3.04.053"

Section 4 of District Ordinance 2010-115 and Section 5.02.010 (4) of the District Code are reaffirmed.

Section 5 of District Ordinance 2010-115 and Section 4.03.010 of the District Code are reaffirmed.

Section 4 — Reconsideration

The District Board shall reconsider Sections 1, and 2 of this Ordinance, as part of its Regular or Special Meeting Agendas, during the month of October of this year and during the months of May and October of each succeeding year.

Section 5 — Inconsistency

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior district Ordinance(s), Motions, Resolutions (including District Resolution 2010-1199 establishing fees for processing applications for deferral of District Connection Charges), Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

Section 6 — Incorporation of Recitals

The recitals to this Ordinance are true and correct, are incorporated herein by this reference, including the referenced documents, and constitute further findings for the implementation of the Water Service Limitations adopted by this Ordinance.

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

Section 7 — Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8 — Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9 — CEQA

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance 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 rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Intent-To-Serve Letters and Ordinances related to payment of connection/capacity fees 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 and the District's CEQA findings supporting the adoption of Chapter 3.05. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10 — California Department of Fish and Game Certificate of Fee Exemption

Pursuant to § 711.4 (c)(2)A of the Fish and Game Code, the District Board of Directors finds that rules and regulations adopted by this Ordinance will

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

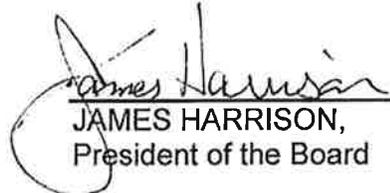
have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

Section 11 — Effective Date

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the tenth (10th) day after passage this Ordinance shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

Introduced on the 13TH day of June, 2012, and adopted by the Board of Directors of the Nipomo Community Services District on June 27, 2012, by the following roll call vote, to wit:

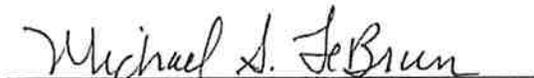
AYES: Directors Eby, Winn, Vierheilig, and Gaddis
NOES: Director Harrison
ABSENT: None
ABSTAINING: None



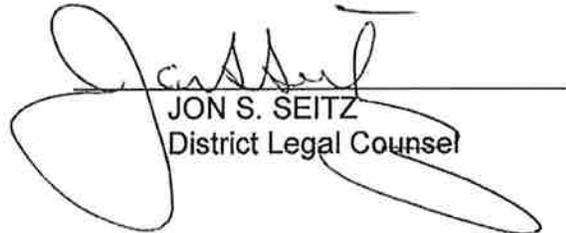
JAMES HARRISON,
President of the Board

ATTEST:

APPROVED AS TO FORM



MICHAEL S. LEBRUN
Secretary to the Board



JON S. SEITZ
District Legal Counsel

(ENDORSED)
FILED

JUN 28 2012

Notice of Determination

JULIE L. RODEWALD COUNTY CLERK

To:
County Clerk
County of San Luis Obispo
1055 Monterey Street, Rm. D-120
San Luis Obispo, CA

From:
Nipomo Community Services District
PO Box 326
Nipomo, CA 93444-0326

By Katrina Taylor
DEPUTY CLERK

Subject: Filing Notice of Determination

Owner of Affected Property: Prosperity within the boundary of the Nipomo Community Services District

Title/Action Taken: Approval Ordinance 2012-117

Location of Affected Property Developed and undeveloped property within the boundary of the Nipomo Community Services District

Description: Ordinance 2012 -117 Suspends further processing of applications of Intent-to-Serve letters for water service within the District's boundary and repeals and reaffirms certain Code Sections related to Capacity Charges.

This is to advise that the Nipomo Community Services District as Lead Agency has approved the above described actions on June 13, 2012, and has made the following determinations with regards to the California Environmental Quality Act.

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance 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 rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Intent-To-Serve Letters 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 and the District's CEQA findings supporting the adoption of Chapter 3.05. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Additional Information

Additional information pertaining to this Notice of Determination may be obtained by contacting Michael S. LeBrun, District General Manager at 805-929-1133.

Date: June 27, 2012


Michael S. LeBrun, General Manager

CALIFORNIA DEPARTMENT OF FISH AND GAME
CERTIFICATE OF FEE EXEMPTION

ACTION TAKEN: APPROVE ORDINANCE 2012-117

APPLICANT:

Name: NIPOMO COMMUNITY SERVICES DISTRICT
Address: 148 S. WILSON STREET
City: NIPOMO, CA 93444
Phone: (805)929-1133

DESCRIPTION - ACTION: ADOPT ORDINANCE 2012-117 SUSPENDING FURTHER PROCESSING OF APPLICATIONS FOR INTENT-TO-SERVE LETTERS FOR WATER SERVICE WITHIN DISTRICT'S BOUNDARY AND REPEAL AND REAFFIRM CERTAIN CODE SECTIONS RELATED TO CAPACITY CHARGES.

LOCATION: WITHIN THE BOUNDARIES OF THE NIPOMO COMMUNITY SERVICES DISTRICT BINDING OF EXEMPTION

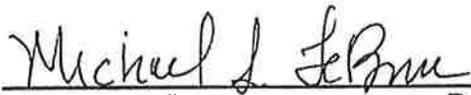
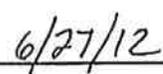
FINDINGS OF EXEMPTION:

There is no evidence before this agency that the proposed project has the potential for adverse effect on the wildlife resources for one or more of the following reason(s):

- The project is located in an urbanized area that does not contain substantial fish or wildlife resources or their habitat.
- The project is located in a highly disturbed area that does not contain substantial fish or wildlife resources or their habitat.
- The project is of limited size and scope and is not located in close proximity to significant wildlife habitat.
- The applicable filing fees have/will be collected at the time of issuance of other County approvals for this project.
- Other: The action taken has no effect on fish and wildlife. (Fish and Game Code § 711.4 (c) (2) (A).

CERTIFICATION:

I hereby certify that the above findings are based upon the administrative record, and hearing record that the action taken on the Ordinance will not individually or cumulatively have and adverse effect on the wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Michael S. LeBrun Date
General Manager,
Nipomo Community Services District



State of California—The Resources Agency
DEPARTMENT OF FISH AND GAME

2012 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT# **427426**
STATE CLEARING HOUSE # (if applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY: Nipomo Community Services Dist.
 COUNTY/STATE AGENCY OF FILING: San Luis Obispo
 PROJECT TITLE: Approval Ordinance 2012-117
 PROJECT APPLICANT NAME: Nipomo Community Services Dist.
 PROJECT APPLICANT ADDRESS: P.O. Box 326 CITY: Nipomo
 PROJECT APPLICANT (Check appropriate box):
 Local Public Agency
 School District
 Other Special District
 State Agency
 Private Entity

DATE: 6/28/2012
 DOCUMENT NUMBER:
 PHONE NUMBER: 805 (543) 7272
 STATE: CA ZIP CODE: 93444

- CHECK APPLICABLE FEES:
- Environmental Impact Report (EIR)
 - Mitigated/Negative Declaration (ND)(MND)
 - Application Fee Water Diversion (State Water Resources Control Board Only)
 - Projects Subject to Certified Regulatory Programs (CRP)
 - County Administrative Fee
 - Project that is exempt from fees
 - Notice of Exemption
 - DFG No Effect Determination (Form Attached)
 - Other

\$2,919.00 \$
 \$2,101.50 \$
 \$850.00 \$
 \$992.50 \$
 \$50.00 \$

PAYMENT METHOD:
 Cash
 Check
 Credit
 Other

SIGNATURE: x Katrina Dayler
 TITLE: Deputy Clerk Recorder

TOTAL RECEIVED \$ 50.00

WHITE - PROJECT APPLICANT
 YELLOW - DFG/ASS
 PINK - LEAD AGENCY
 GOLDEN ROD - COUNTY CLERK DFG 763.5a (Rev. 11/11)

October 22, 2014

ITEM E-4

ATTACHMENT B

ORDINANCE NO. 2013-119

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117**

WHEREAS, the District Board of Directors previously took action to suspend processing of requests for new District water service by its adoption of Ordinance No. 2012-117; and

WHEREAS, the Board took action at its February 13, 2013 regular Board meeting to authorize bids in regards to a modified inter-tie project with the City of Santa Maria, whereby 650 acre feet of water per year will be delivered for District water service customers; and

WHEREAS, the Board of Directors took action at its February 13, 2013 meeting to approve a finance plan for the construction of said modified inter-tie project; and

WHEREAS, the Board of Directors believes that there is now a substantial likelihood that supplemental water will be brought to the District as a result of the modified Santa Maria inter- tie project

WHEREAS, the Board wishes to maintain all options in regards to reacting to changed circumstances in regards to supplemental water for the Nipomo Community Services District.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Directors of the Nipomo Community Services District as follows:

Section 1 – Suspension

The Board hereby suspends enforcement of Ordinance No. 2012-117.

Section 2 — Inconsistency

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior district Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed. All other non-suspended provisions of the Nipomo Water Code remain in force and effect

Section 3 — Incorporation of Recitals

The recitals to this Ordinance are true and correct, are incorporated herein by this reference.

Section 4 — Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws

ORDINANCE NO. 2013-119

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117**

of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8 — Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9 — CEQA

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance 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 rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Ordinance 2012-117 will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10 — California Department of Fish and Game Certificate of Fee Exemption

Pursuant to § 711.4 (c)(2)A of the Fish and Game Code, the District Board of Directors finds that rules and regulations adopted by this Ordinance will have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

Section 11 — Effective Date

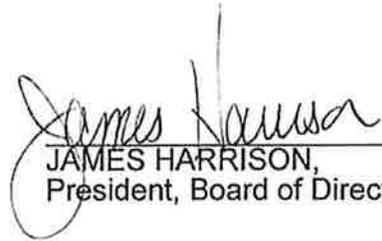
This Ordinance shall take effect and be in full force immediately after its passage. Before the expiration of the tenth (10th) day after passage this Ordinance shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

ORDINANCE NO. 2013-119

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117

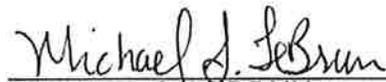
Introduced at its regular meeting of the Board of Directors held on February 27, 2013, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 13th day of March, 2013, by the following roll call vote, to wit:

AYES: Directors Armstrong, Blair, Gaddis, and Vierheilig
NOES: None
ABSENT: Director Harrison
CONFLICTS: None



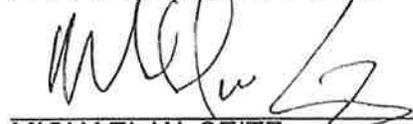
JAMES HARRISON,
President, Board of Directors

ATTEST:



MICHAEL S. LEBRUN
Secretary to the Board

APPROVED AS TO FORM:



MICHAEL W. SEITZ
Deputy District Legal Counsel

(ENDORSED)
FILED

APR 02 2013

JULIEL RODEWALD COUNTY CLERK
BY: 
DEPUTY CLERK

Notice of Determination

TO:
County Clerk
County of San Luis Obispo
1055 Monterey Street, Room D-120
San Luis Obispo, CA 93408

FROM:
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444-0326

Subject: Filing Notice of Determination

Owner of Affected Property: Prosperity within the boundary of the Nipomo Community Services District

Title/Action Taken: Approval Ordinance 2013-119

Location of Affected Property Developed and undeveloped property within the boundary of the Nipomo Community Services District

Description: Ordinance 2013-119 Suspends enforcement of Ordinance 2012-117 that suspended processing of applications of Intent-to-Serve letters for water service within the District's boundary and repeals and reaffirms certain Code Sections related to Capacity Charges.

This is to advise that the Nipomo Community Services District as Lead Agency has approved the above described actions on March 13, 2013, and has made the following determinations with regards to the California Environmental Quality Act.

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance 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 rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the suspension of the enforcement of the suspension of Intent-To-Serve Letters will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Additional Information

Additional information pertaining to this Notice of Determination may be obtained by contacting Michael S. LeBrun, District General Manager at 805-929-1133.

Date: March 21, 2013


Michael S. LeBrun, General Manager

