

TO: BOARD OF DIRECTORS

AGENDA ITEM

FROM: MARIO E. IGLESIAS
GENERAL MANAGER

E-1

MAY 25, 2016

DATE: MAY 19, 2016

NIPOMO SUPPLEMENTAL WATER PROJECT CERTIFICATION

ITEM

Certify the Nipomo Supplemental Water Project (NSWP) meets intent of the County of San Luis Obispo's Ordinance No. 3307, an amendment to Title 19 Building and Construction Ordinance, as it relates to water conservation in the Nipomo Mesa Water Conservation Area [RECOMMEND ADOPT RESOLUTION CERTIFYING NSWP IS APPROVED PROJECT].

BACKGROUND

The Nipomo Supplemental Water Project was planned and constructed to meet the water demand of the water purveyors within the Nipomo Mesa Water Conservation Area (NMWCA) in response to and within the limits outlined in the groundwater adjudication, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation").

Prior to the construction of Phase 1 of the NSWP, the District relied exclusively on water supplied from groundwater extracted from the Nipomo Mesa Management Area (NMMA). It has been established by the court in the Santa Maria Groundwater Litigation that the NMMA is part of and included in the Santa Maria Groundwater Basin.

It is recognized by the County of San Luis Obispo, the Nipomo Mesa Management Area Technical Group (NMMA-TG), and Nipomo Community Services District (NCSD) that the NMMA groundwater basin is in Stage III Severe Water Shortage. At Stage III level, existing water demand is equal to or exceeds the dependable supply.

On July 2, 2015, with the completion of Phase 1 of the NSWP, NCSD began importing water into the NMMA with a plan to bring a minimum of 645 AFY by June 30, 2016. This is part of NCSD's plan to bring water onto the mesa to increase its available water supply and meet the District's share of the court-ordered commitment to bring a minimum of 2,500 AFY of supplemental water to the NMMA.

NCSD's supplemental water project includes a 500 AFY capacity reservation for new development within the District's existing boundaries consistent with the court order requirements that all new urban water demand within the NMMA be met with new developed water. NCSD will allocate part of the 500 AFY capacity reserve throughout the construction phases of the NSWP and will account for the allocated water through its Supplemental Water Accounting Policy. The purpose of the Supplemental Water Accounting Policy is to account for water reserved for all new development within the District against the 500 AFY supplemental water project capacity to ensure that the District does not over reserve or under reserve water for future development.

The Supplemental Water Accounting Policy will allow the District to track when it is getting close to fully accounting for and reserving the 500 AFY of supplemental water so that the District can plan for acquiring additional supplies.

**ITEM E-1, NIPOMO SUPPLEMENTAL WATER PROJECT CERTIFICATION
MAY 25, 2016**

On October 27, 2015, the County of San Luis Obispo Board of Supervisors (County) adopted Ordinance No. 3307 amending Title 19 of the San Luis Obispo County Code, the Building and Construction Ordinance. The County amended section 19.07.042 relating to water conservation in the Nipomo Mesa Water Conservation Area. Subsection (d) identifies an "Offset Required" for "new structures with plumbing fixtures on properties that overlies and/or uses water from the...Nipomo Mesa Water Conservation Area..." As part of the alternatives in the ordinance, subsection (d)(3)(iii) "a Community Services District...may certify that equivalent water use has been offset through an approved program or project."

The NSWP was planned and constructed with additional capacity above and beyond the 2,500 AFY court-ordered commitment defined in the January 25, 2008 Final Judgement in the Groundwater Litigation. The 3,000 AFY designed capacity of the NSWP provides 500 AFY to meet the needs of the community and the offset requirements for new development as required under County Ordinance 3307. Therefore, the NCSB Board of Directors may certify that the NSWP is an approved project under the intent of County Ordinance 3307.

FISCAL IMPACT

There is no fiscal impact on the FY 15-16 Budget.

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.

RECOMMENDATION

Staff recommends that your Honorable Board adopt the Resolution certifying the NSWP is an approved project that provides 500 AFY equivalent water use to offset new development water demand.

ATTACHMENTS

- A. Resolution 2016-XXXX
- B. County Ordinance No. 3307

May 25, 2016

ITEM E-1

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2016-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CERTIFYING THE NIPOMO
SUPPLEMENTAL WATER PROJECT MEETS THE COUNTY OF SAN LUIS OBISPO'S
ORDINANCE NO. 3307, AN AMENDMENT TO TITLE 19 BUILDING AND
CONSTRUCTION ORDINANCE, AS IT RELATES TO WATER CONSERVATION IN THE
NIPOMO MESA WATER CONSERVATION AREA**

WHEREAS, the Nipomo Community Services District ("District") is formed under the Community Services District Law (Govt. Code §6:1100 et seq.); and

WHEREAS, one of the powers of the District is to provide water service within the District's water service area pursuant to Govt. Code §61100(a) of the Community Services District Law; and

WHEREAS, the District is a party to groundwater adjudication, *Santa Maria's Valley Water Conservation District v. City of Santa Maria, et al., Case No. CV770219* ("Groundwater Litigation"); and

WHEREAS, the District's current water supply is groundwater extracted from the Nipomo Mesa Management Area (NMMA) as established by the court in the Santa Maria Groundwater Litigation (also referred to as the Nipomo Mesa Water Conservation Area (NMWCA) by the County of San Luis Obispo, pursuant to County Ordinance 3090), of the Santa Maria Groundwater Basin; and

WHEREAS, on May 20, 2015, pursuant to § VI D(1) of the 2005 Stipulation as incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation, the Nipomo Mesa Management Area Technical Group declared that Severe Water Shortage conditions exist 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 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, the San Luis Obispo County Board of Supervisors ("County") in June 2007, certified the Nipomo Mesa Water Conservation Area as a Severity Level III, meaning that existing water demand equals or exceeds the dependable supply; and

WHEREAS, the resource protection goals of the San Luis Obispo County South County Area Plan includes 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

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NIPOMO MESA WATER CONSERVATION AREA**

WHEREAS, the San Luis Obispo County Board of Supervisors passed Ordinance No. 3307 on October 27, 2015, amending Title 19 of the San Luis Obispo County Code, the Building and Construction Ordinance, by amending section 19.07.042 relating to water conservation in the Nipomo Mesa Water Conservation Area; and

WHEREAS, the water conservation provisions in 19.07.042 requirements apply to all installations and, where specifically required, to existing structures; and

WHEREAS, subsection (d) of Ordinance No. 3307 applies to all new development in the Nipomo Mesa Water Conservation Area, and further, subsection (3) requires that all new development must meet a 1:1 ratio water offset program; and

WHEREAS, 19.07.042(d)(3)(iii) of Ordinance 3307 provides, for areas serviced by Community Service Districts, that Community Service Districts may certify that equivalent water use has been offset through an approved program or project; and

WHEREAS, the District is constructing a supplemental water project to increase its available water supply and meet the District's share of the court ordered commitment to bring a minimum of 2,500 AFY of supplemental water to the Nipomo Mesa Management Area (NMMA); and

WHEREAS, the District's supplemental water project includes a 500 AFY capacity reservation for new development within the District's existing boundaries consistent with the court order requirements that all new urban water demand within the NMMA be met with new developed water; and

WHEREAS, the Board of Directors for the Nipomo Community Service District passed Resolution 2015-1371 adopting a Supplemental Water Accounting Policy; and

WHEREAS, the purpose of the Supplemental Water Accounting Policy is to account for water reserved for all new development within the District against the 500 AFY supplemental water project capacity to ensure that the District does not over reserve or under reserve water for future development; and

WHEREAS, the Supplemental Water Accounting Policy will allow the District to track when it is getting close to fully accounting for and reserving the 500 AFY of supplemental water so that the District can plan for acquiring additional supplies; and

WHEREAS, the policy shall apply to all new development applications initiated or renewed after January 25, 2008; and

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NIPOMO MESA WATER CONSERVATION AREA**

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

1. The above recitation of facts and findings is true and correct and incorporated herein.
2. Certifies that equivalent water use has been offset for new development through the construction of Phase 1 of the Nipomo Supplemental Water Project.
3. The Supplemental Water Accounting Policy provides an accounting program that allocates and accounts for 500 acre feet of supplemental water capacity reservation dedicated to meet the needs of new development.

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

**AYES:
NOES:
ABSENT:
CONFLICTS:**

the foregoing resolution is hereby passed and adopted this ____ day of May, 2016.

CRAIG ARMSTRONG
President of the Board

ATTEST:

APPROVED:

MARIO E. IGLESIAS
Secretary to the Board

MICHAEL W. SEITZ
District Legal Counsel

May 25, 2016

ITEM E-1

ATTACHMENT B

Attachment 7 – Amendment to Title 19 Building and Construction Ordinance

ORDINANCE NO. 3307

AN ORDINANCE AMENDING TITLE 19 OF THE SAN LUIS OBISPO COUNTY CODE, THE BUILDING AND CONSTRUCTION ORDINANCE, BY AMENDING SECTION 19.07.042 RELATING TO WATER CONSERVATION IN THE PASO ROBLES GROUNDWATER BASIN AND THE NIPOMO MESA WATER CONSERVATION AREA

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1. Title 19, Chapter 19.07, Section 19.07.042 of the San Luis Obispo County Code, is hereby amended to read as follows:

Chapter 19.07 - Plumbing Code

19.07.042 - Water Conservation Provisions. The requirements in this section shall apply to all new installations and, where specifically required, to existing structures.

(a) **Water fixtures.** Water fixtures shall comply with current requirements of the California Energy Commission and Department of Water Resources.

(b) **Existing structures.** In existing buildings all fixtures, including replacement water fixtures, shall conform to the above requirements.

(c) **Other requirements.**

(1) Spas, hot tubs, fountains and other decorative bodies of water shall be equipped with recirculating systems and shall be designed to operate without a continuous supply of water.

(2) Vehicle wash facilities shall have approved water reclamation systems which provide for reuse of a minimum of 50 percent of the wash water. Hoses, pipes, and faucets for manual application of water to vehicles at such facilities shall be equipped with positive shut-off valves designed to interrupt the flow of water in the absence of operator applied pressure.

(3) Water supply piping shall be installed so that each dwelling unit may be served by a separate water meter.

(d) **Paso Robles Groundwater Basin and Nipomo Mesa Water Conservation Area.** In addition to the requirements in Subsections a, b and c above, the requirements in Subsections d.1 through d.4 shall apply to all new development that uses water from the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin), and the Nipomo Mesa Water Conservation Area as shown on maps in this Subsection.

(1) **Offset Required.** Prior to issuance of a construction permit for a new structure with plumbing fixtures on property that overlies and/or uses water from the Paso Robles Groundwater Basin, (excluding the Atascadero Sub-basin) or the Nipomo Mesa Water Conservation Area the developer of such new structure shall obtain an Offset Clearance from the Department of Planning and

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Building verifying that new water use has been offset at a 1:1 ratio. Water savings must come from the same groundwater basin as the proposed new development. Applicants shall meet offset requirements by complying with Subsection 2 or 3 below.

i. **Applicability:** Construction permits for development approved through discretionary permits in the Paso Robles Groundwater Basin (excluding the Atascadero sub-basin) shall instead comply with the offset ratio required in Section 22.94.025 of the Land Use Ordinance.

ii. **Offset Clearance Process:** Applications for an Offset Clearance shall include evidence that projected water use (based on actual water data or by approved assumptions about the water demand for that use) has been offset at a 1:1 ratio through verifiable evidence or through a County Approved Water Conservation Program. Water savings must come from the same groundwater basin as the proposed new development.

(2) **County Approved Water Conservation Programs.** Applicants shall meet the offset requirement by purchasing credits from a County Approved Water Conservation Program operating in the same groundwater basin as the proposed project or by complying with one of the alternatives in Section 3. Approved programs achieve water savings in existing development and make credits available for purchase. The cost of offset credits is set so as to be equal to the cost of achieving water savings. Programs may include but are not limited to plumbing retrofit programs and turf removal incentive programs.

(3) **Alternatives.** As an alternative to a County Approved Water Conservation Program, or in areas where such a program is not available, applicants for new development may meet the offset requirements for their project through one of the following alternatives.

i. **Applicant-performed plumbing retrofits.** Applicants may meet the water offset requirement for their proposed project by retrofitting existing fixtures in homes within the same groundwater basin as the proposed project. Applicants shall adhere to the following:

A. Retrofit work must be performed and verified by a licensed plumber.

B. The water savings credits that will result from each retrofitted fixture shall be established by resolution for each geographic area. After retrofit work has been completed and verified, applicants shall submit detailed evidence that enough fixtures have been retrofit to offset the water use of the proposed new development.

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ii. **Water Conservation Program for Public Facilities.** Applicants may choose to fund a water conservation program for public parks, school grounds, or other public facilities in the same groundwater basin as the proposed project. The program to be funded will have been prepared by a California-licensed landscape architect for the County Parks Department, a school district or another public entity, as applicable. The program shall be reviewed and approved by the owner of the public facility, and shall identify water savings and associated costs of conservation measures such as irrigation system replacement and/or repairs, installation of "smart controllers," removal of turf, replacement of high water using landscape material, and amendments to soils. The water conservation program shall clearly identify the expected water savings from implementation of the program.

iii. **Areas Served by a Community Service District.** In areas served by a Community Service District (CSD), the CSD may certify that equivalent water use has been offset through an approved program or project.

(4) **Termination.** The provisions of this section for the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin) shall expire upon the effective date of a final and adopted Water Code section 10720 et seq. groundwater sustainability plan(s) by a local groundwater sustainability agency or agencies, covering the entirety of the Paso Robles Groundwater Basin within the land use jurisdiction of the County of San Luis Obispo.

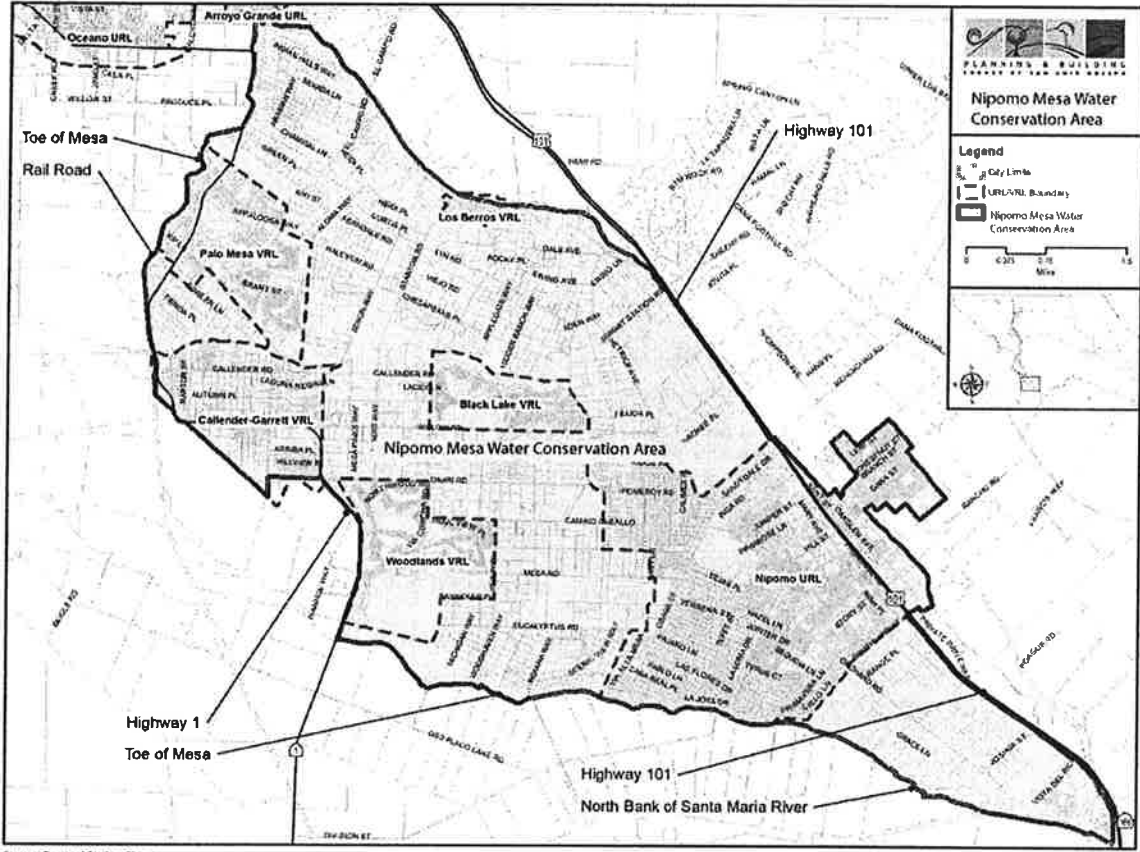
(5) **Water Meter Installation and Reading.**

i. All new or existing wells that serve new development that overlie or use water from the Paso Robles Groundwater Basin (excluding the Atascadero Sub-basin) or the Nipomo Mesa Water Conservation Area must have a well meter installed. The meter shall be used to measure all groundwater used from that well.

ii. Meter installation must be verified by the County Public Works Department prior to building permit issuance. The configuration of the installation shall conform to the Water Well Metering Standards and Installation Guidelines set forth by the Department of Public Works and incorporated into the Public Improvement Standards.

iii. Property owners or responsible party designated by the property owner must read the water meter and record the water usage on or near the first day of the month. These records must be maintained by the property owner or responsible party and may be subject to inspection only by code enforcement pursuant to a violation investigation.

Attachment 7 – Amendment to Title 19 Building and Construction Ordinance



Sources: County of San Luis Obispo Planning and Public Works Departments, 2014
Map created September 24, 2014

Figure 7-1 – Nipomo Mesa Water Conservation Area

Attachment 7 – Amendment to Title 19 Building and Construction Ordinance

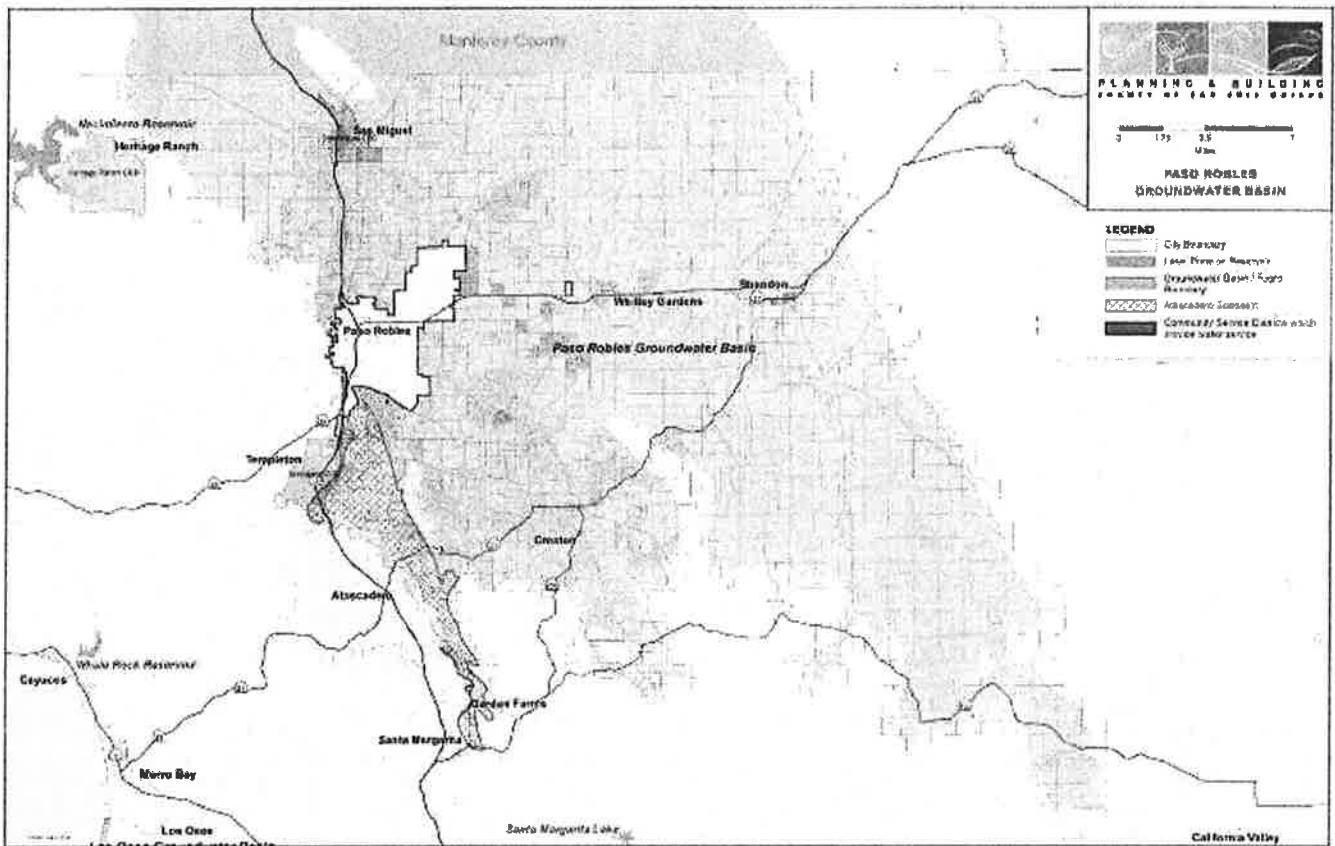


Figure 7-2 – Paso Robles Groundwater Basin Excluding the Atascadero Sub-basin

(e) Los Osos Groundwater Basin. In addition to the requirements in subsections (a), (b) and (c) above, the requirements in subsections (e)(1) through (e)(10) below shall apply to all new development that uses water from the Los Osos groundwater basin shown in Figure 7-3.

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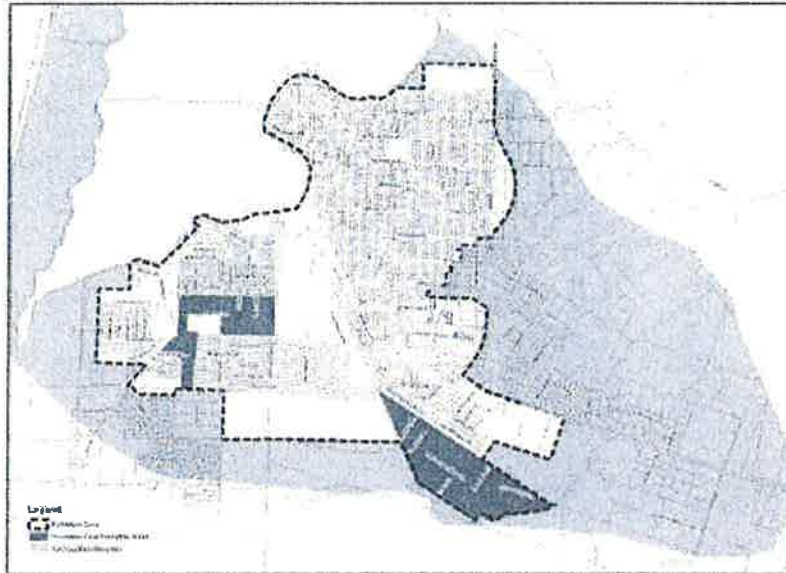


Figure 7-3. Los Osos Groundwater Basin and Prohibition Zone, not to scale

(1) The developer of any new structure that uses water from the Los Osos groundwater basin shall install plumbing fixtures that meet the following requirements:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.0 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than one gallon per minute;
- iv. Hot water circulation systems for master bathrooms and kitchens if the furthest plumbing fixture unit in these rooms is greater than twenty pipe-feet from the hot water heater;
- v. Commercial structures shall use urinals rated at no more than 0.5 gallons per flush;
- vi. New residences shall be plumbed for grey-water systems pursuant to Chapter 16 of the Uniform Plumbing Code.

(2) Prior to issuance of a construction permit for a new structure with plumbing fixtures that use water from the Los Osos groundwater basin, the developer of such new structure shall retrofit plumbing fixtures in existing structures within the Los Osos groundwater basin, but outside the Prohibition Zone as shown in figure 7-23. The number and type of plumbing fixtures to be installed shall be as required in the equivalency table as adopted and codified in Appendix A. The equivalency table indicates the point values of existing fixtures which may be retrofitted and the corresponding

Attachment 7 – Amendment to Title 19 Building and Construction Ordinance

point requirements for each newly constructed or remodeled structure. A package of proposed retrofits and water conservation requirements must add up to no less than the minimum requirements established in Appendix A.

(3) Any addition of one hundred twenty square feet or more to an existing structure that uses water from the Los Osos groundwater basin shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.0 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than one gallon per minute;
- iv. All urinals in commercial structures shall be replaced with urinals rated at no more than 0.5 gallons per flush.

(4) Any remodel of an existing structure that uses water from the Los Osos groundwater basin that requires a construction permit pursuant to this title, shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:

- i. Toilets rated at no more than 1.28 gallons per flush (HET);
- ii. Showerheads rated at no more than 2.0 gallons per minute;
- iii. Bathroom sink aerators with a volume of no more than one gallon per minute;
- iv. All urinals in commercial structures shall be replaced with urinals rated at no more than 0.5 gallons per flush.

(5) The planning director (or designee) is authorized to make determinations for fixtures or projects not specifically designated in the equivalency table in Appendix A.

(6) The equivalency table in Appendix A may be amended by the planning director from time to time to reflect changes in water use and/or water savings.

(7) Owners of existing structures that are retrofitted under this program shall agree to allow their water purveyors to release water use figures to the department of planning and building in order to gauge the effectiveness of the program to the extent allowed by California Law.

(8) Upon retrofitting of the required number of fixtures, the developer shall submit evidence

of the completed retrofits to the department of planning and building. This evidence shall consist of a retrofit verification declaration completed and executed by a licensed plumber and/or contractor. The retrofit verification declaration shall be assigned to and used for development of a specific property or properties or land use permit and shall not be transferred to another parcel.

(9) Upon submittal to the San Luis Obispo County department of planning and building of a completed and executed retrofit verification declaration accompanied by the required fee, the developer shall be issued a water conservation certificate from the department of planning and building. Once the water conservation certificate is issued, the new structure may receive final occupancy approval. The water conservation certificate shall be assigned to and used for development of a specific property or properties or land use permit and shall not be transferred to another parcel, except as provided in the following subsection (e) (10).

(10) Water Conservation Certificates that were issued for vacant parcels inside the Prohibition Zone prior to the effective date of this ordinance may be transferred to specified vacant parcels or land use permits for vacant parcels outside the Prohibition Zone one time before January 1, 2019, except when the County is in a drought emergency as proclaimed by the Board of Supervisors. These water conservation certificates are encouraged to be transferred to vacant parcels with approved Minor Use Permits.

SECTION 2: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 3: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

SECTION 4: This Ordinance shall become effective thirty (30) days after its enactment by the Board of Supervisors.

SECTION 5: This Ordinance was evaluated in and is consistent with the Certified Final Supplemental Environmental Impact Report for the Countywide Water Conservation Program (SCH# 20140810) per Section 15162 of the California Environmental Quality Act guidelines. Said Environmental Impact Report complies in all respects with the requirements of the California Environmental Quality Act for purposes of adoption of this Ordinance.

SECTION 6: In accordance with Government Code Section 25131, after reading the title of this Ordinance, further reading of the Ordinance in full is waived.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 6th day of October, 2015, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 27th day of October, 2015, by the following roll call to vote, to wit:

AYES: Supervisors Frank R. Mecham, Adam Hill and Bruce S. Gibson

NOES: Supervisors Chairperson Debbie Arnold and Lynn Compton

ABSENT: None

ABSTAINING: None

Debbie Arnold
Chairman of the Board of Supervisors

County of San Luis Obispo,
State of California

ATTEST:

TOMMY GONG
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

By: Annette Ramirez
Deputy Clerk


[SEAL]

ORDINANCE CODE PROVISIONS APPROVED AS TO FORM AND CODIFICATION:

RITA L. NEAL
COUNTY COUNSEL

By: /s/ Whitney McDonald
Deputy County Counsel

Dated: September 29, 2015

STATE OF CALIFORNIA) COUNTY OF SAN LUIS OBISPO)	ss.
I, TOMMY GONG , County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.	
Witness, my hand and seal of said Board of Supervisors on November 2, 2015.	
TOMMY GONG, County Clerk and Ex-Officio Clerk of the Board of Supervisors	
By: _____	 Deputy Clerk