

TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: OCTOBER 19, 2012

**AGENDA ITEM**

**E-1**

**OCTOBER 24, 2012**

## **EXTENSION OF TRACT 2642 OUTSIDE USER AGREEMENT**

### **ITEM**

Consider request to extend term of Outside-User Agreement for Tract 2642, an eighteen (18) lot subdivision on South Oakglen Avenue. [RECOMMEND ADOPT RESOLUTION]

### **BACKGROUND**

Tract 2642 is a proposed 18 lot residential subdivision on South Oakglen Avenue that is within the District's Sphere of Influence but outside of the District's current boundary. The project applicants are Carl and Debra Holloway. The District allocated 9.9 acre-feet of water for the Project in 2006-2007 water year.

The Outside User Agreement for Tract 2642 was approved by the District Board on February 28, 2007 and was subsequently approved by the Local Agency Formation Commission of San Luis County on March 15, 2007. Based on the LAFCO approval date, the agreement required the applicant to commence construction of water and sewer improvements by September 15, 2008 and allowed the applicant to request a six (6) month extension. In September 2008, the Board approved a six (6) month extension to March 15, 2009. In March 2009, the Board approved Amendment 1 to the agreement that extended the agreement to March 15, 2011. In February 2011, your Board approved Amendment No. 2 to the Agreement.

Attached is a request from the applicant dated October 14, 2012 for a two (2) year time extension of the Outside User Agreement. If your Board approves the applicant's request, the applicant would have until March 15, 2015 to begin construction of the water and sewer improvements for the project.

### **FISCAL IMPACT**

The Outside User Agreement requires the applicant to pay the District's current Water System Capacity Charges and meter fees as well as Sewer System Capacity Charges. The current District fee deposit is \$26,770 per 1 inch meter and sewer connection for a total of \$481,860.

### **RECOMMENDATION**

Staff recommends that your Honorable Board adopt the attached Resolution authorizing Amendment No. 3 to the Agreement for Providing Water, Sewer and Solid Waste Services to Tract 2642.

### **ATTACHMENTS**

- A. October 14, 2012 Applicant Request for Two Year Time Extension
- B. Amendment No. 3 to Agreement for Providing Water and Sewer Service to Tract 2642
- C. Resolution 2012-XXXX Holloway Outside User Agreement Extension 3

OCTOBER 24, 2012

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ATTACHMENT A

RECEIVED  
OCT 15 2012  
NIPOMO COMMUNITY  
SERVICES DISTRICT

October 14, 2012

Michael LeBrun  
Nipomo Community Services District  
148 S. Wilson Street  
Nipomo, CA 93444

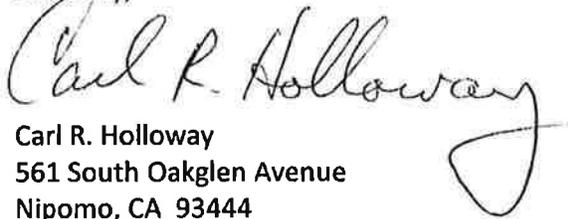
RE: Request for Two Year Extension on Outside User Agreement  
Tract 2642, Oakglen Avenue, Nipomo

Dear Mr. LeBrun,

We would like to request a two year time extension on Tract 2642 Outside User Agreement which will expire on March 14, 2013. Our plans are approved and current with the County of San Luis Obispo through 2014 with four additional extensions also available.

We understand that we have been scheduled on the Agenda for the NCSB Board Meeting on October 24, 2012. If you need additional information or have any questions, please contact us at (805)929-4326. Thank you.

Sincerely,

  
Carl R. Holloway  
561 South Oakglen Avenue  
Nipomo, CA 93444

OCTOBER 24, 2012

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ATTACHMENT B

**Recording Requested By and  
When Recorded Return to:**

**Nipomo Community Services District  
P.O. Box 326  
Nipomo, California 93444**

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APN# 091-171-005  
091-171-027  
091-171-028  
091-171-029

**DRAFT AMENDMENT NO. 3 TO  
AGREEMENT FOR PROVIDING WATER, SEWER, AND SOLID WASTE  
SERVICE TO TRACT 2642**

Exhibit "A": Legal Description

**THIS AMENDMENT TO AGREEMENT** (herein "Amendment") is made this \_\_\_\_ day of \_\_\_\_\_, 2012, in San Luis Obispo County, California, by and between the Nipomo Community Services District, duly existing and operating pursuant to the provisions of Government Code Sections 61000, *et. seq.*, (hereinafter "District"), and Carl Holloway and Debra Holloway, (hereinafter referred to as "Owners"), with reference to the following Recitals:

**RECITALS**

- A. Owner is the legal fees simple owner of certain real property located in San Luis Obispo County, California, referred to as Tract 2642 (herein "Property" or "Tract 2642), which is located off South Oakglen Avenue, Nipomo, California, and is more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference.
- B. On March 1, 2007, the District and Owners entered into an Agreement titled "Agreement for Providing Water, Sewer, and Solid Waste Service to Tract 2642 (herein "Agreement").
- C. The Agreement was recorded on April 6, 2007, in the Official Records of San Luis Obispo County as Document #2007023430.
- D. On March 8, 2009, the District and Owners entered into Amendment #1 to Agreement that amended Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements.

**DRAFT AMENDMENT NO. 3 TO  
AGREEMENT FOR PROVIDING WATER, SEWER, AND SOLID WASTE  
SERVICE TO TRACT 2642**

- E. On March 8, 2011, the District and Owners entered into Amendment #2 to Agreement that amended Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements.
- F. District and Owners desire to amend Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements.

**NOW, THEREFORE** in consideration of the mutual covenants and conditions contained herein, the parties agree to the Second Amendment of the Agreement as follows:

**Section 1**

Except as amended by Section 2 below, the Terms and Conditions of the Agreement shall remain in full force and effect and such terms and conditions, including Exhibits, are incorporated herein by reference.

**Section 2**

Paragraph 9 of the Agreement is amended and restated as follows:

**9. District's Right to Terminate.**

Owner shall be in default, and District shall have the right to terminate this Agreement, if Owner fails:

- A. To make payments as required by this Agreement;
- B. To promptly design and construct the water and sewer improvements in accordance with District's rules, regulations, ordinances and the Plan Check and Inspection Agreement (Exhibit "B");
- C. To commence construction of water and sewer improvements by March 15, 2015; or
- D. To comply with any other terms or conditions of this Agreement.

District shall provide Owner with Notice of Termination and Owner shall have fifteen (15) days from the date of such Notice to cure the default. After the

**DRAFT AMENDMENT NO. 3 TO  
AGREEMENT FOR PROVIDING WATER, SEWER, AND SOLID WASTE  
SERVICE TO TRACT 2642**

fifteen (15) day period to cure, the District may immediately terminate this Agreement and terminate District services to the Property.

**Section 3**

Owner and District consent to the recordation of this Amendment in the official records of the County Recorder of the County of San Luis Obispo.

**Section 4**

Recitals A, B, C, and D to this Amendment are incorporated herein by reference.

**IN WITNESS WHEREOF**, the parties have executed this Amendment to the Agreement to be effective upon the date executed by District

OWNER:  
CARL HOLLOWAY

OWNER:  
DEBRA HOLLOWAY

By: \_\_\_\_\_  
[Signature must be notarized]

By: \_\_\_\_\_  
[Signature must be notarized]

NIPOMO COMMUNITY SERVICES DISTRICT

By: \_\_\_\_\_  
JAMES HARRISON, PRESIDENT  
Nipomo Community Services District  
Board of Directors

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
MICHAEL S. LEBRUN, General Manager and  
Secretary to the Board of Directors,

Date: \_\_\_\_\_

**AGREEMENT AFFECTING REAL PROPERTY  
NIOMO COMMUNITY SERVICES DISTRICT  
AND CARL HOLLOWAY AND DEBRA HOLLOWAY  
AGREEMENT FOR PROVIDING WATER AND SEWER  
SERVICES TO TRACT 2642**

**EXHIBIT "A"**

The Easterly 396.78 feet of Lot 25 of the Re-Subdivision of a portion of Lot 26 of The Rancho Nipomo, San Luis Obispo County, California as recorded In Book A Page 14, San Luis Obispo County records.

APN 090-171-005

All of Lot No. 25 of the Re-subdivision of Lot No. 26 of The Nipomo Rancho, in the County of San Luis Obispo, State of California, as surveyed by George Story in February 1887, and filed March 19, 1887, in Book A, Page 14 of Maps in the office of the County Recorder of said County.

EXCEPT THEREFROM that portion heretofore conveyed to Jack C. Sleath in deed recorded January 20, 1950 in Book 549, Page 60 of Official Records, said conveyed portion, being the Southeasterly 396.78 feet thereof.

ALSO EXCEPT THEREFROM that portion of Lot 25, more particularly described as follows:

Beginning at the most Westerly corner of Lot 24 of said subdivision and running thence Southeasterly along the Southwesterly line of Lots 24 and 25, 545 feet to the True Point of beginning;  
Thence from said true point of beginning, Southeasterly along the Southwesterly line of said Lot 25, 105 feet;  
Thence Northeasterly at right angles, 105 feet;  
Thence Northwesterly at right angles, 105 feet;  
Thence Southwesterly at right angles, 105 feet;  
to the Point of Beginning.

APN 090-171-028 & 090-171-029

All of Lot No. 24 of the Re-subdivision of part of Lot No. 26 of The Nipomo Rancho, in the County of San Luis Obispo, State of California, as surveyed by George Story in February 1887, and filed March 19, 1887, in Book A. Page 14 of Maps in the office of the County Recorder of said County.

Commencing from the most Westerly corner of the above mentioned Lot 24,  
Thence South 45° 00' East along the Southwesterly line of said Lot, 330.27 feet;  
Thence North 48° 15' East 508.91 feet to the South corner of parcel 1 described in the deed recorded January 7, 1960 in Book 1041, Page 352 of Official Records; Thence North 45° 07' 40" West, 330.31 feet along the Southwesterly line of said Parcel to a point on the Northwesterly lot line of said Lot; Thence South 48° 15' West, 508.20 feet to the most westerly corner of the above mentioned Lot 24.

APN 090-171-027

OCTOBER 24, 2012

ITEM E-1

ATTACHMENT C

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2012-XXXX**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
APPROVING AMENDMENT NO. 3 TO OUTSIDE USER AGREEMENT  
FOR WATER, SEWER AND SOLID WASTE SERVICES TO TRACT 2642**

**WHEREAS**, the Nipomo Community Services District ("District") entered into an Agreement for Providing Water, Sewer and Solid Waste Service to Tract 2642 ("Agreement") on March 1, 2007, with Carl and Debra Holloway ("Owners"); and

**WHEREAS**, the District and Owners entered into Agreement Amendment #1 for Providing Water, Sewer and Solid Waste Service for Tract 2642 ("Amendment #1") to amend Paragraph 9 of the Agreement to allow Owners additional time for the construction of water and sewer improvements; and

**WHEREAS**, the District and Owners entered into Agreement Amendment #2 for Providing Water, Sewer and Solid Waste Service for Tract 2642 ("Amendment #2") to amend Paragraph 9 of the Agreement to allow Owners additional time for the construction of water and sewer improvements; and

**WHEREAS**, the District and Owners desire to further amend Paragraph 9 of the Agreement to allow Owners a longer period of time for the construction of water and sewer improvements:

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT THAT:**

1. Amendment No. 3 to Agreement for Providing Water, Sewer and Solid Waste Service for Tract 2642, attached hereto as Exhibit "A", as amended, is hereby approved provided the applicant delivers to the District a fully signed Amendment within fifteen (15) calendar days from the date of the Hearing.
2. The above Recitals are true and correct and incorporated herein by reference.

Upon the motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, and on the following roll call vote, to wit:

AYES: Directors  
NOES: Director  
ABSENT: Director  
CONFLICTS: None

the foregoing resolution is hereby adopted this 24<sup>th</sup> day of October, 2012.

\_\_\_\_\_  
JIM HARRISON  
President of the Board

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MICHAEL S. LEBRUN  
Secretary to the Board

\_\_\_\_\_  
JON S. SEITZ  
District Legal Counsel

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: OCTOBER 19, 2012

**AGENDA ITEM  
E-2  
OCTOBER 24, 2012**

**REVIEW: 1) ORDINANCE 2012-117 SUSPENDING APPLICATIONS FOR INTENT TO SERVE LETTERS AND NEW WATER SERVICE; 2) CURRENT INTENT-TO-SERVE AND WATER SERVICE APPLICATIONS IN PROCESS; 3) CURRENT WILL SERVE POLICY FOR WATER SERVICE AND ASSOCIATED WATER CAPACITY RESERVATION; 4) WATER SERVICE APPLICATIONS RECEIVED BUT NOT PROCESSING; AND ANNUAL WATER ALLOCATION**

**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 (formerly known as the Nipomo Mesa Groundwater Subbasin of the Santa Maria Groundwater Basin) 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 water line connecting the District and the City of Santa Maria water systems to facilitate delivery of a supplemental source of water to the Nipomo Mesa area. Supplemental water would serve to lower the pumping of the Mesa area groundwater improving basing health and reliability for all its users. A supplemental source would also provide the District and other ‘direct’ users an alternate supply should a prolonged local drought or other factors lead to restricted use of area groundwater. With the funding measure’s defeat, the timeline for delivery of supplemental water to the Nipomo Mesa is unknown.

Concern over the health and diminishing reliability of the area’s groundwater is comprehensively documented. Over the past several years, numerous studies assessing the status of groundwater resources underlying the area have been conducted. These studies include:

1. *Water Resources of the Arroyo Grande – Nipomo Mesa Area in 2002*, prepared by the California Department of Water Resources dated October 25, 2002;
2. *Nipomo Mesa Groundwater Resource Capacity Study*, 2004, prepared at the request of the County of San Luis Obispo (the “County”) by the firm of S.S. Papadopoulos & Associates, Inc.;
3. *Water Supply in the Nipomo Mesa Area*, October, 2004, a resource capacity study prepared by the County Department of Planning and Building; and

4. Commencing in June 2008, annual reports by the Nipomo Mesa Management Area Technical Group that are filed with the area Groundwater Court pursuant to the Final Judgment of that Court.

As recommended in the County's 2004 Resource Capacity Study, the County Board of Supervisors on June 22, 2007 certified a *Severity Level III* for water resources underlying the Nipomo Mesa Water Conservation Area (NMWCA). Table F of the County's Resource Management System provides:

<b>Table F RESOURCE DEFICIENCY CRITERIA FOR LEVELS OF SEVERITY</b>		
<b>Level I</b>	<b>Level II</b>	<b>Level III</b>
<i>Projected consumption estimated to exceed dependable supply within 9 years</i>	<i>7 year lead time to develop supplementary water for delivery to users</i>	<i>Resource is being used at or beyond its estimated dependable supply or will deplete dependable supply before new supplies can be developed</i>

On October 21, 2008, the County Board of Supervisors adopted Ordinance No. 3160 amending Title 19 relating to water conservation measures and adopting finding of facts to support water conservation requirements across the NMWCA. The County's findings including a finding of groundwater basin overdraft in the Nipomo Mesa area.

Excerpts from the groundwater court-appointed Nipomo Mesa Management Area Technical Group most recent Annual Report depicting: the service area of major water suppliers within the Nipomo Mesa Management Area; water production estimates for the area; Key Well Index; and, review of supplemental water impacts, are provided (Attachments A-D). Water conditions continue to be judged "Potentially Severe" according to this groups defined, and groundwater court-recognized, criteria.

Over the years, studies by the CA Department of Water Resources, the County of San Luis Obispo, the Nipomo Mesa Management Area Technical Group, and others, have consistently found cause for concern over basin health and production sustainability.

Given the uncertain timeline for supplemental water delivery and the preponderance of evidence pointing to diminishing basin health, the District is currently unable to make the findings required by District Code §3.28.020, namely; that 'sufficient excess water' exists to serve new projects. As a result, on June 27, 2012, your Board adopted Ordinance 2012-117 (Attachment E) suspending the processing of new applications for District water service. Further, your Board directed staff to provide a review of District policy pertaining to active Intent to Serve and Will Serve Letters. On June 27, 2012, Your Board reviewed active Intent-to-Serve and Will-Serve Letters and directed staff to continue processing these 'in-process' projects and to schedule on-going review of active projects coincident with your review of Ordinance 2012-117.

A summary of active Intent-to-Serve letters is provided (Attachment F). A summary of District reserved water capacity related to Will Serve letters is provided (Attachment G).

District code sections related to water service, Intent-To-Serve letters, and Will Serve letters are excerpted below:

**"3.04.270 – Water supply and interruption of service.**

A. *The district will exercise reasonable diligence and care to deliver to customers a continuous and sufficient supply of water at the meter. The district, however, shall not be liable for interruption of service or shortage or insufficiency of supply or for any loss or damage occasioned thereby. . . .*

B. *During times of threatened or actual water shortage, the district will apportion its available supply among its customers in the manner that appears most equitable under the circumstances then prevailing with regard to public health and safety.*

(Ord. 78-27 § 14, 1978)"

**"3.28.020 – Intent-To-Serve letters.**

...

D. *All Intent-To-Serve letters shall be based on findings that sufficient excess water and sewer capacity exists to serve the project.*

E. *Each Intent-To-Serve letter shall include the following:*

...

7. *This Intent-To-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the district. This Intent-To-Serve letter may be revoked or further conditioned as a result of conditions imposed upon the district by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the board of directors;*

<< NOTE: District Intent To Serve Letters specifically require owner/developer acknowledgement of the language in 7. above.>>

**3.28.040 – Will-Serve letters.**

*Will-Serve letters are evidence of the district's commitment to provide service to the project consistent with district's ordinances, rules and regulations. Will-Serve letters will be issued administratively upon the applicant paying all district fees and charges related to the project and complying with all terms and conditions of the district's Intent-To-Serve letter. Will-serve letters will contain the following language:*

A. *This Will-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the district. This will-serve letter may be revoked as a result of conditions imposed upon the district by a court or by a change in ordinance, resolution, rules, or regulations adopted by the board of directors for the protection of health, safety, and welfare of the district and its residents.*

B. *Notwithstanding subsection A of this section, notice is provided as follows:*

1. *That Nipomo Community Services District has been made a party to that lawsuit entitled Santa Maria Valley Water Conservation District, et al. v. City of Santa Maria, et al., Santa Clara Superior Court Case No. CV 770214. The case involves competing claims to the right to produce water from and/or store water in the Santa Maria Valley Groundwater Basin, the water source from which Nipomo Community Services District derives the water, which it serves. The district is now unable to predict with any certainty the outcome of the above-referenced litigation. However, the litigation conceivably could result in a limitation on the availability of groundwater for the district's production and/or an increase in the cost of water, which the district serves to its water customers.*

2. *That this Will-Serve letter and the project are subject to the San Luis Obispo County's Growth Control Ordinance which establishes annual limits on building permits for the Nipomo Mesa.*

(Res. 842 Exh. A (part), 2002)"

**CURRENT STATUS**

At your Board's direction, the District is currently pursuing a two-pronged approach to obtaining supplemental water sources; 1. Developing a phased intertie pipeline with the City of Santa Maria to reduce initial project costs and phase delivery of the more expensive supplemental water source; and 2. Establish a citizen's committee to review available sources of supplemental water to meet community needs in the near term.

The phased intertie design is schedule to be ready to award bid in April 2013 to support a 2013-2014 construction schedule should the Board choose this direction.

The citizen's Evaluation Committee is scheduled to report their findings to your Board in late February or early March 2013.

There have been no new applications for water service since your Board suspended processing of new water service applications through the adoption of Ordinance 2012-117. Staff has fielded approximately twenty calls from owners and development interests inquiring about water service. Your Board has heard testimony on the topic from some members of the public.

The District's annual allocation of water service continues to be tracked. Water service allocations for the 2011-2012 water year (October – September) were available up until Ordinance 2012-117 was adopted. A summary of the 2011-2012 allocation is provided (Attachment G)

The District has taken serious measures to abate impacts to water resources by limiting new water service approval within the District's service boundary. Outside the boundary in the remainder of the Nipomo Mesa, this measure has not been implemented. The County has continued to issue building permits and development approvals within the other water service provider boundaries and to individual well owners, including commercial and industrial users. The County requires all new development on the Nipomo Mesa to comply with water conservation ordinances they adopted in 2004 and 2008. The County has land use authority and does not directly regulate groundwater extractions and the demand for water.

The County's water conservation ordinances (Ordinances 3090 and 3160) address water use through the County's land use authority. These Ordinances apply across the NMWCA and: 1) require development on newly subdivided lots to pay a fee to help fund new water development; 2) require a \$750.00 per toilet fee for all new development to help fund water conservation activities; 3) restrict outdoor water use in new development; 4) require that general plan amendments not result in a net increase in non-agricultural water demand.

District staff continues to coordinate with County Planning and Building staff to address this serious resource issue. The County is scheduled to review its resource management system findings with the Board of Supervisors in December 2012. District staff hopes the review will lead to more active County involvement in addressing this water resources issue which stems directly from increased water demand related to development of the area over the past thirty years.

In accordance with Ordinance 2012-117, the Board will review the policy suspending the processing of new applications for District water service established by the Ordinance 2012-117 each October and May.

**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 fiscal impact of limiting water service to projects with active Intent-to-Serve letters and Will-Serve letters is unknown.

A phased project that would deliver up to 650 acre feet of supplemental water annually would cost approximately 14 million dollars plus the cost of the water. Project capital costs will continue to increase as the project is delayed. The availability of supplemental water across the State is diminishing and thus water costs will also likely increase as the project is delayed.

**STRATEGIC PLAN**

Strategic Plan Goal 1.1 – Protect, Enhance, and Assess available Water Supplies  
Strategic Plan Goal 1.2 – Secure New Water Supplies

**RECOMMENDATION**

Consider information and provide direction to staff to continue the suspension for processing of new applications for District water service established by the Ordinance 2012-117 or provide alternate policy direction.

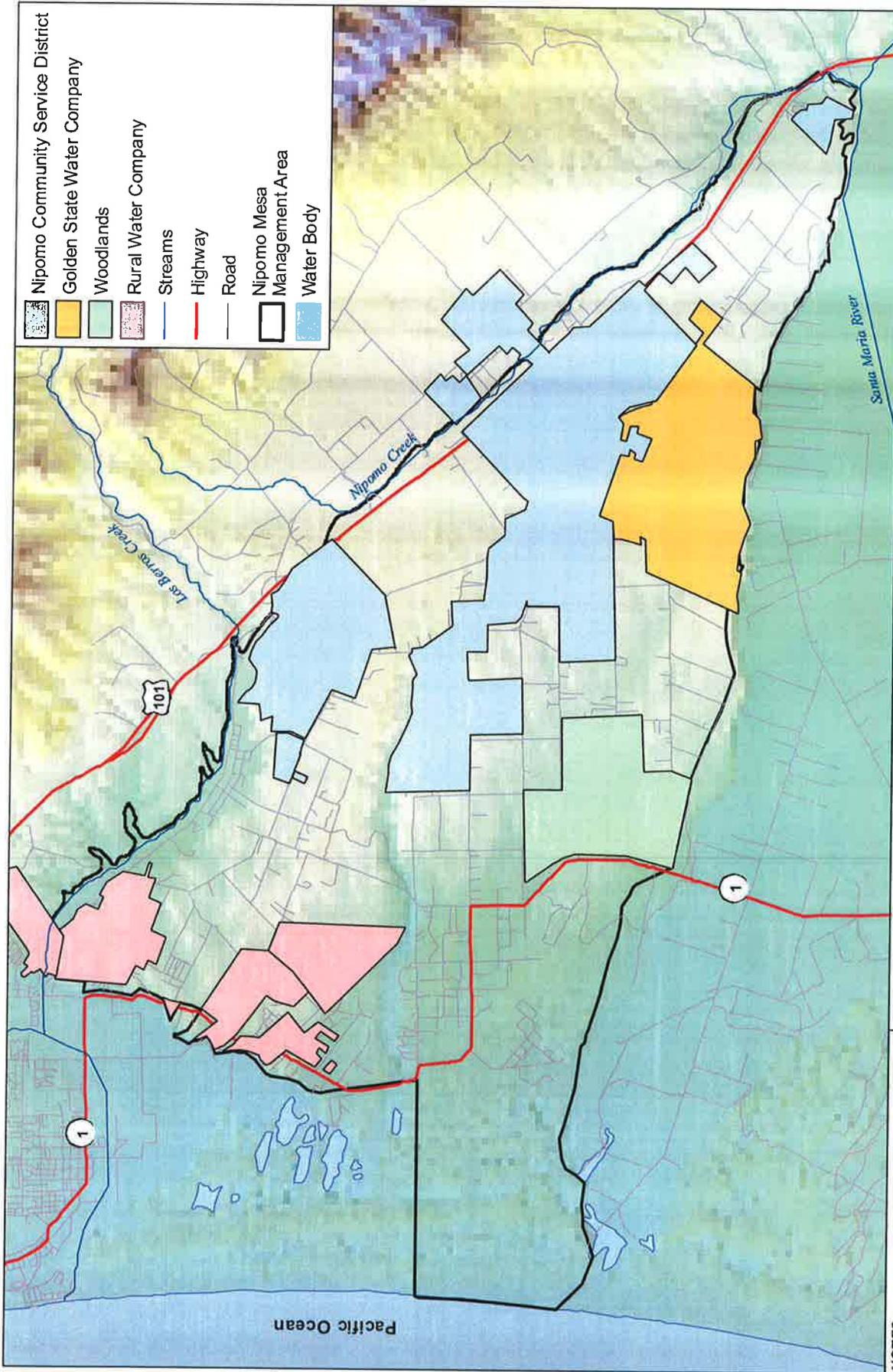
**ATTACHMENTS**

- A. 2011 NMMA Annual Report, Figure 1-2
- B. 2011 NMMA Annual Report, Page 23
- C. 2011 NMMA Annual Report, Figure 7-2 Key Well Index
- D. 2011 NMMA Annual Report, Appendix F, Nipomo Supplemental Water Project Groundwater Impact Review
- E. Ordinance 2012-117
- F. Active Intent to Serve Summary
- G. Reserved Capacity
- H. 2011-2012 Water Allocation Summary

OCTOBER 24, 2012

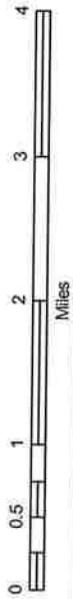
ITEM E-2

ATTACHMENT A



**NOTES:**  
 Coordinate System: UTM Zone 10N  
 Horizontal Datum: NAD 83  
 Topography: National Elevation Dataset 10m

### NMMA Water Purveyor Boundaries



**NMMA  
 Technical  
 Group**

DATE 04/02/09 BY: J. Dagner

OCTOBER 24, 2012

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ATTACHMENT B

**Table 3-6. 2011 Measured and Estimated Groundwater Production (AF/yr)**

<b>Measured</b>	
NCS D	2,488
G S W C	1,043
Woodlands	864
ConocoPhillips	1,100
R W C	728
Subtotal	<b>6,223</b>
<b>Estimated</b>	
Rural Landowners	1,850
Agriculture	2,465
<b>Total NMMA Production</b>	<b>10,538</b>

3.1.10. Wastewater Discharge and Reuse

Five wastewater treatment facilities (WWTF) discharge treated effluent within the NMMA: the Southland Wastewater Works (Southland WWTF), the Blacklake Reclamation Facility (Blacklake WWTF), Rural Water Company's Cypress Ridge Wastewater Facility (Cypress Ridge WWTF), the Woodlands Mutual Water Company Wastewater Reclamation Facility (Woodlands WWTF) (Figure 3-8). The Golden State Water Company La Serena Groundwater Manganese Removal Treatment Plant (La Serena) discharges filter backwash to percolation ponds. The total waste water discharge in the NMMA was 780 AF for calendar year 2011 (Table 3-7).

**Table 3-7. 2011 Wastewater Volumes**

<b>WWTF</b>	<b>Influent (AF/yr)</b>	<b>Estimated Effluent (AF/yr)</b>	<b>Re-use</b>
Southland	711	629 <sup>(1)</sup>	Infiltration
Blacklake	71	61 <sup>(1)</sup>	Irrigation
Cypress Ridge	Not Reported	44	Irrigation
Woodlands	Not Reported	40	Irrigation
La Serena	Not Reported	6 <sup>(2)</sup>	Infiltration
<b>Total</b>		<b>780</b>	

*Notes:*

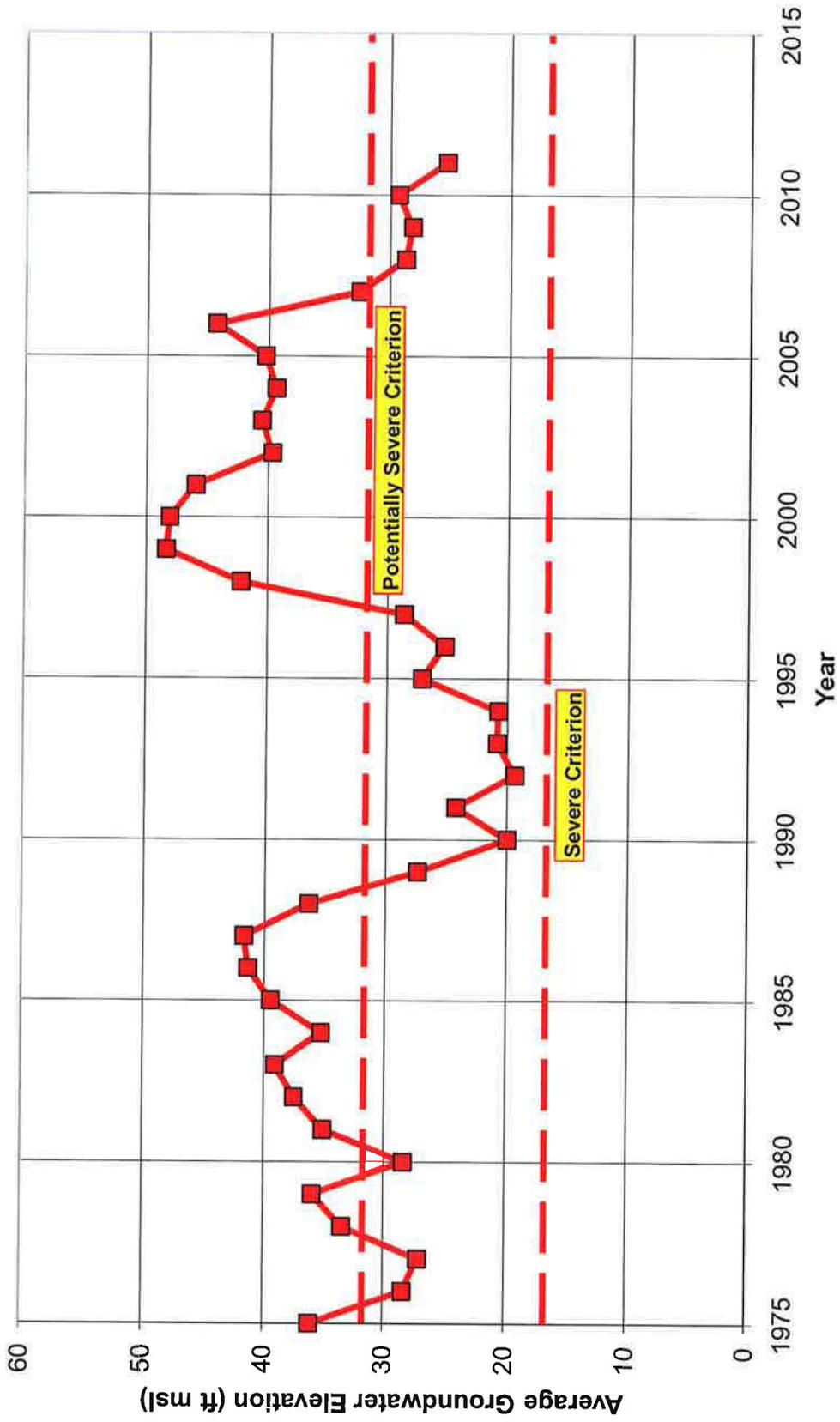
- Effluent was estimated as the sum of Influent - Evaporation from Aeration Ponds - 10% of Influent to account for biosolid removal. For the Nipomo Mesa calendar year 2011, the annual evapotranspiration measured at CIMIS 202 gage is 43.6 inches and the rainfall measured at CIMIS 202 gage is 16.54 inches (CIMIS, 2011). This results in a net evaporation from a pond of 27.06 inches per year.
- G S W C's La Serena Groundwater Manganese Removal Treatment Plant treats water from G S W C's La Serena and Eucalyptus wells. Filter backwash water is discharged to percolation ponds, where water infiltrates into the basin.

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ATTACHMENT C

# Key Wells Index



OCTOBER 24, 2012

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ATTACHMENT D

**Appendix F: Nipomo Supplemental Water Project  
Groundwater Impact Review**

## **Nipomo Supplemental Water Project Groundwater Impact Review**

The Nipomo Mesa Management Area (NMMA) Technical Group is one of three management area committees charged with developing the technical bases for sustainable management of surface and groundwater supplies available to each of the management areas. Each management area was established to promote monitoring and management practices so that present and future water demands are satisfied without causing long-term damage to the underlying groundwater resource. The NMMA lies between the Northern Cities Management Area to the north and the Santa Maria Valley Management Area to the south.

The NMMA Technical Group was established as a component of the court judgment in the Santa Maria Groundwater Basin litigation (Judgment). The Judgment incorporates an agreement between most of the parties to the litigation, which is referred to as the Stipulation. The Technical Group includes representatives appointed by the Nipomo Community Services District, Golden State Water Company, Woodlands Mutual Water Company, ConocoPhillips, and agricultural property owners.

The Technical Group has reviewed the proposed Nipomo Supplemental Water Project (Project), which includes a water purchase agreement with the City of Santa Maria (City) for a supplemental water source, and a pipeline for delivery of that supplemental water from the City to the Nipomo Mesa. This document provides a qualitative assessment of potential impacts of the Project on the groundwater resources of the NMMA.

### **Project Description**

The Stipulation includes a requirement for the Nipomo Community Services District to purchase from the City a minimum of 2,500 acre-feet of water each year to supplement and recharge groundwater resources within the NMMA. The Stipulation also requires Nipomo Community Services District, Rural Water Company, Woodlands Mutual Water Company, and Golden State Water Company to share in the cost and use of the supplemental water.

The Project includes the purchase of water from the City and the construction of facilities to deliver (i.e. a pipeline), store, and blend this water with purveyor well water. Supplemental water from the City delivered to the NMMA would be used to reduce groundwater production from wells in the NMMA by the Nipomo Community Services District and other participating purveyors. Of the 3,000 acre-feet per year (AFY) included in a wholesale agreement with the City, 2,500 AFY would be used in compliance with the Stipulation. The remaining 500 AFY would be used to meet a previously planned increase in Nipomo Community Services District demand, as described below.

Of the planned 3,000 AFY of supplemental water, 2,500 AFY would directly offset groundwater production by some proportion of use by each of the funding NMMA purveyors (Figure 1). The

reduction in groundwater production would be principally in the area of the pumping depression near the central portion of the NMMA. A pumping depression is a localized area of lowered groundwater levels that can negatively impact a groundwater basin. A pumping depression may also influence the migration of saline groundwater typically found near the ocean and coast, inland toward or into, purveyor wells located within the area of lowered groundwater levels. This phenomenon is referred to as seawater intrusion.

Existing and planned system connections (i.e. via pipeline) between several purveyors, including Nipomo Community Services District, the Woodlands Mutual Water Company, Rural Water Company, and Golden State Water Company, would allow full use of the supplemental water available from the Project. Depending on the nature and management of these connections, reduced groundwater production would occur at one or more locations within these purveyors' well fields. The implementation and use of such connections for the purpose of groundwater basin management is documented in the January 2010 NMMA Purveyor Well Management Plan.

Some possible pumping scenarios resulting in reduced production from certain wells within each purveyor's well field are summarized in Table 1. These scenarios reflect the delivery of up to 2,500 AF of supplemental water to the Nipomo Mesa, with the amount of water delivered to each purveyor differing depending on the number of purveyor connections considered for each scenario (Table 1). As summarized in Table 1, four scenarios were considered based on current projections.

In all scenarios presented, total groundwater production by purveyors would be reduced to approximately 50 percent of current production. For Scenario 2 through Scenario 4, groundwater production for any one purveyor may be reduced as little as 20 percent (i.e. under Scenario 2, for Golden State Water Company) to as much as 70 percent (i.e. under Scenario 4, for Nipomo Community Services District). If supplemental water is not delivered to any other purveyor, groundwater production from specific wells operated by the Nipomo Community Services District could be reduced by 100 percent (i.e. under Scenario 1, Table 1). It should be noted that the scenarios summarized in Table 1 do not include 500 AFY of the planned 3,000 AFY of supplemental water, which would be used by the Nipomo Community Services District for potential future customers within existing district boundaries, consistent with the current San Luis Obispo County General Plan.

### **Source of Supplemental Water**

The City would supply supplemental water from its potable water distribution system, which contains a combination of groundwater and State Water Project (State) water delivered from northern California. The City produced 10,000 to 12,000 AFY of groundwater from its seven wells in the thirteen years prior to receiving delivery of State water in 1997. Since then, the City's groundwater production has been less than 3,045 AFY.

The City's Urban Water Management Plan confirms that its State contract entitles it to receive up to 17,800 AFY of State water. The Stipulation requires that the City use no less than 10,000 AFY of available State water, or its full allocation of State water, if the amount available is less than 10,000 AF in a given year. The remainder of the City's water supply in any given year would be obtained from local groundwater.

The ratio of groundwater to State water that would be delivered to the NMMA would vary from year to year, in response to water demands, any restrictions in the amount of delivered water, and distribution system constraints. In 2010, the City used 10,207 AF of State water (77 percent of its total water supply) and 3,044 AF of groundwater (23 percent of its total water supply). The City's Urban Water Management Plan forecasts that deliveries of State water will remain at about 10,000-11,000 AFY, assuming a reliability factor of 60 percent. The remainder would come from groundwater as demands increase (including the transfer of water to the Nipomo Community Services District). Forecasted groundwater production by the City in the year 2035 would be 9,070 AF.

The delivery of supplemental water to the NMMA most likely would require the City to increase its groundwater production compared to current levels. However, the City's groundwater use is expected to remain well below its historical maximum. To the extent the City is required to increase its groundwater production to provide supplemental water to the NMMA beyond that required for in-City uses, comparatively lower groundwater levels at the City's well field are expected. However, the City's well field is located six miles southeast of the NMMA, and more than 10 miles east of the ocean.

#### **Impact on NMMA Groundwater Production**

The 2,500 AFY of supplemental water delivered to the NMMA amounts to an increase in the overall water supply, and would reduce purveyor groundwater production from the NMMA by that amount within and near the existing pumping depression. In addition, the water that percolates back into the ground after use (termed "return-flow") is an increase in to the NMMA and may be as much as 300 AFY from the 500 AFY of additional water provided to the Nipomo Community Services District. The amount of reduced groundwater production for each purveyor would depend on the nature of any connection to deliver the supplemental water.

The 2,500 AFY of supplemental water delivered to purveyors would offset approximately 50 percent of their local groundwater production, based on 2010 data (Table 1). In response to the reduction in groundwater production and, to a lesser extent, the increased return-flow resulting from the Project, groundwater levels are expected to rise significantly, particularly in the pumping depression in the central portion of the NMMA (Figure 1).

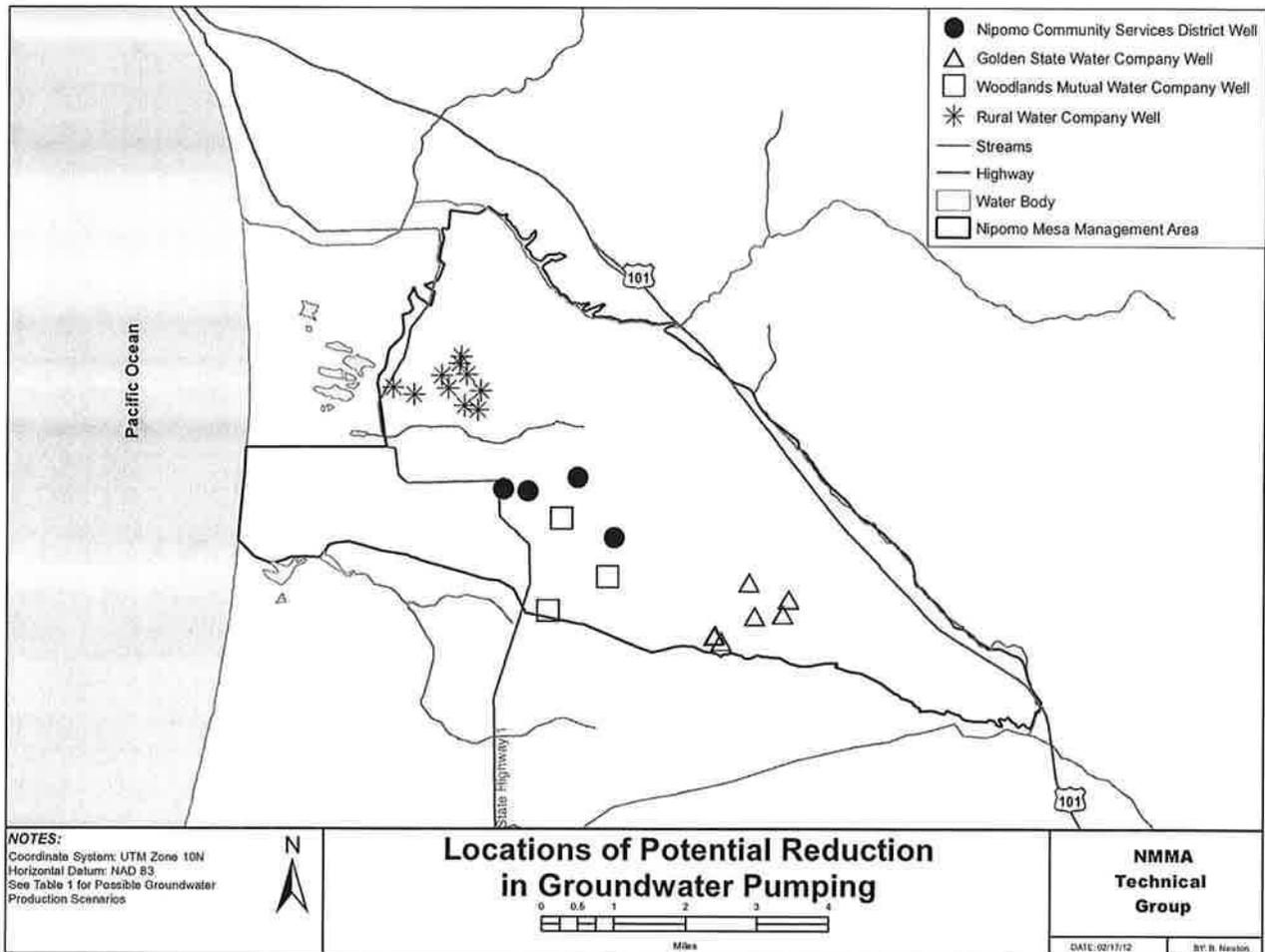
#### **Impact on Potential Seawater Intrusion**

The delivery of supplemental water from the City would reduce the potential for seawater intrusion into the NMMA. This reduction in the potential for seawater intrusion results principally from shrinking of

the area of lowered groundwater levels (i.e. the pumping depression) as groundwater levels rise. The NMMA Technical Group regularly considers seawater intrusion threats in its evaluation of water conditions, such as the threat posed by the documented seawater intrusion event north of the NMMA in 2009.

**Table 1**  
**Possible Groundwater Production Scenarios<sup>1</sup>**  
**(Approximate AFY)**

	<b>Nipomo Community Services District<sup>2</sup></b>	<b>Golden State Water Company<sup>2</sup></b>	<b>The Woodlands Mutual Water Company<sup>2</sup></b>	<b>Rural Mutual Water Company<sup>2</sup></b>	<b>Total (Percent of 2010 Production)</b>
<b>Current Scenario (2010 Production)<sup>3</sup></b>	2,370	1,060	850	720	5,000
<b>Scenario 1: Delivery to Nipomo Community Services District Only - No Connections</b>	0	1,060	850	720	2,630 (52%)
<b>Scenario 2: Add Golden State Water Company Connection</b>	80	850	850	720	2,500 (50%)
<b>Scenario 3: Add Golden State Water Company and Woodlands Mutual Water Company Connections</b>	495	850	435	720	2,500 (50%)
<b>Scenario 4: Add Golden State Water Company, Woodlands Mutual Water Company, and Rural Water Company Connections</b>	705	850	435	510	2,500 (50%)
<sup>1</sup> Based on 2,500 AFY of available supplemental water and 2010 demand met by specific wells.					
<sup>2</sup> See Figure 1 for the location of specific wells where reduced production would occur.					
<sup>3</sup> For specific wells where reduced production would occur under alternative scenarios.					



OCTOBER 24, 2012

ITEM E-2

ATTACHMENT E

**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

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**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:

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AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
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“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

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
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- 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 NMMA\NMWCA; 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**

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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.

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,  
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### **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

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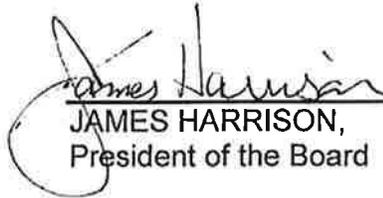
have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

**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 (10<sup>th</sup>) 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.

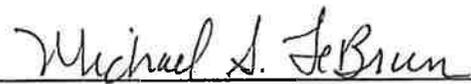
Introduced on the 13<sup>TH</sup> day of June, 2012, and adopted by the Board of Directors of the Nipomo Community Services District on June 27, 2012, by the following roll call vote, to wit:

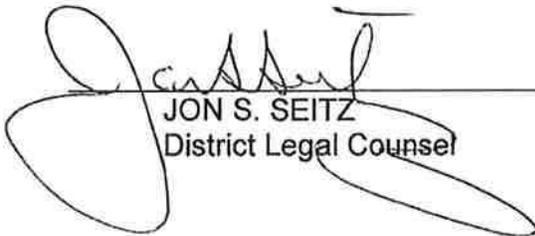
AYES: Directors Eby, Winn, Vierheilig, and Gaddis  
NOES: Director Harrison  
ABSENT: None  
ABSTAINING: None

  
\_\_\_\_\_  
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

**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

JULIE L. RODEWALD COUNTY CLERK  
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.
- ( x ) 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  
General Manager,

Nipomo Community Services District

Date

6/27/12



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: 708. 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) \$2,919.00
  - Mitigated/Negative Declaration (ND)(MND) \$2,101.50
  - Application Fee Water Diversion (State Water Resources Control Board Only) \$850.00
  - Projects Subject to Certified Regulatory Programs (CRP) \$992.50
  - County Administrative Fee \$50.00
  - Project that is exempt from fees
  - Notice of Exemption
  - DFG No Effect Determination (Form Attached)
  - Other

PAYMENT METHOD:  
 Cash  Credit  Check  Other

SIGNATURE: X Katrina Taylor TITLE: Deputy Clerk Records  
 TOTAL RECEIVED \$ 50.00

WHITE - PROJECT APPLICANT YELLOW - DFG/ASS PINK - LEAD AGENCY GOLDEN ROD - COUNTY CLERK DFG 753.5a (Rev. 11/11)

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ATTACHMENT F

NIPOMO COMMUNITY SERVICES DISTRICT ACTIVE DEVELOPMENT PROJECT TRACKING OF KEY ITS DATES SUMMARY

Project	Location	Developer	Status	ITS Issued	Expiration Date	AF Water Allocated	Water Year Allocated	Number of Lots	Comments
<b>OUTSIDE USER AGREEMENT</b>									
Tract 2642	Oakglen	Holloway	Outside User	N/A	N/A	9.9	06-07	18	18 New Single Family Lots FEES DUE - Construction to begin by March 15, 2013
Tract 2650	Via Concha and Willow	Nester	Outside User	N/A	N/A	8.8	05-06	16	16 New Single Family Lots FEES DUE - Construction to begin by March 20, 2012
<b>ITS ISSUED - TRACTS</b>									
Tract 2906	Avenida de Amigos and Grande	Gray Trust	Active	6/13/2012	6/12/2016	4.9	11-12 to 12-13	17	15 New Single-Family Residential Lots, 1 New Common Lot, and 1 lot for existing 4 unit apartment building
Tract 2689	Tefft and Blume Butterfly and Grande	Flatley	Active	1/1/2012	12/31/2015	5.9	11-12 to 13-14	25	Mixed Use - 5 Commercial Lots, 2 Common Lots, 18 Single-Family Residential
Tract 2634	Grande	Schuur	Active	10/13/2011	10/12/2015	0.8	11-12	3	2 New Single-Family Residential Lots
Tract 2441	Blume and Grande	Gray Trust	Active	1/14/2011	1/13/2015	18.3	10-11 to 13-14	38	38 New Single-Family Residential Lots
Tract 2855	Juniper	Gray	Active	10/21/2008	10/20/2012	0.6	08-09	4	1 New Single-Family Residential Lot - Will Serve Pending
Tract 2734	Pomeroy and Hunter Ridge	DeBlauw	Active	7/9/2008	7/8/2012	6.2	07-08 to 08-09	6	6 New Single-Family Residential Lots - Will Serve Pending Easement Acceptance by District
<b>ITS ISSUED - PARCEL MAPS</b>									
CO 03-0301	Sandydale and North Frontage	Estate Financial	Active	2/23/2011	2/22/2015	N/A	N/A	3	Commercial Only
CO 06-0225 #2	Blume and Flint	Kengle	Active	9/9/2009	9/8/2013	5.9	08-09 to 09-10	1	20 Multi-Family Units
<b>ITS ISSUED - APN</b>									
091-283-014	Camino Caballo	Aslanidis	Active	6/15/2012	6/14/2016	1.9	11-12	2	2 New Single Family Lots
<b>ITS ISSUED - GALAXY PARK</b>									
Tract 2792	Galaxy	Lathrop	Active	3/11/2009	3/10/2013	N/A	N/A	N/A	Sewer Only
<b>Other</b>									
Tract 2494	West Tefft	DLG	Other	N/A	N/A	N/A	N/A	N/A	FEES DUE. Will Serve Issued but fees not paid.
CO 04-0581	Lindon	Pruit	Other	N/A	N/A	N/A	N/A	N/A	FEES DUE. ITS never issued. Improvements installed. Need as-built.
090-095-016-023	Branch	Danmark	Other	N/A	N/A	N/A	N/A	N/A	FEES DUE. Pre-existing lots. Need as-built.
						<b>TOTAL</b>	<b>63.2</b>	<b>TOTAL</b>	<b>133.0</b>

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ITEM E-2

ATTACHMENT G

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
090-078-022	1747 (Carriage Homes)	2001	1	1
090-078-023	1747 (Carriage Homes)	2001	1	1
090-078-020	1747 (Carriage Homes)	2001	1	1
090-078-026	1747 (Carriage Homes)	2001	1	1
090-078-027	1747 (Carriage Homes)	2001	1	1
090-078-028	1747 (Carriage Homes)	2001	1	1
090-078-029	1747 (Carriage Homes)	2001	1	1
090-078-031	1747 (Carriage Homes)	2001	1	1
090-078-032	1747 (Carriage Homes)	2001	1	1
090-078-033	1747 (Carriage Homes)	2001	1	1
090-078-034	1747 (Carriage Homes)	2001	1	1
090-078-036	1747 (Carriage Homes)	2001	1	1
090-078-037	1747 (Carriage Homes)	2001	1	1
090-078-038	1747 (Carriage Homes)	2001	1	1
090-078-040	1747 (Carriage Homes)	2001	1	1
090-078-041	1747 (Carriage Homes)	2001	1	1
090-078-042	1747 (Carriage Homes)	2001	1	1
090-078-043	1747 (Carriage Homes)	2001	1	1
090-078-044	1747 (Carriage Homes)	2001	1	1
090-078-045	1747 (Carriage Homes)	2001	1	1
090-078-047	1747 (Carriage Homes)	2001	1	1
090-078-048	1747 (Carriage Homes)	2001	1	1
090-078-049	1747 (Carriage Homes)	2001	1	1
090-078-051	1747 (Carriage Homes)	2001	1	1
090-078-052	1747 (Carriage Homes)	2001	1	1
090-078-053	1747 (Carriage Homes)	2001	1	1
090-078-054	1747 (Carriage Homes)	2001	1	1
090-078-055	1747 (Carriage Homes)	2001	1	1
090-078-057	1747 (Carriage Homes)	2001	1	1
090-078-058	1747 (Carriage Homes)	2001	1	1
090-135-020	253 W Teft St	1996	1	1
090-301-061	1802 (Maria Vista)	2004	1	1
090-301-061	1802 (Maria Vista)	2004	1	1
090-305-003	1802 (Maria Vista)	2004	1	1
090-305-004	1802 (Maria Vista)	2004	1	1
090-305-006	1802 (Maria Vista)	2004	1	1
090-305-007	1802 (Maria Vista)	2004	1	1
090-305-008	1802 (Maria Vista)	2004	1	1
090-305-010	1802 (Maria Vista)	2004	1	1
090-305-011	1802 (Maria Vista)	2004	1	1
090-305-021	1802 (Maria Vista)	2004	1	1
090-305-022	1802 (Maria Vista)	2004	1	1
090-305-023	1802 (Maria Vista)	2004	1	1
090-305-012	1802 (Maria Vista)	2004	1	1
090-305-024	1802 (Maria Vista)	2004	1	1
090-305-025	1802 (Maria Vista)	2004	1	1
090-305-026	1802 (Maria Vista)	2004	1	1

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**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
090-305-027	1802 (Maria Vista)	2004	1	1
090-305-028	1802 (Maria Vista)	2004	1	1
090-305-029	1802 (Maria Vista)	2004	1	1
090-305-030	1802 (Maria Vista)	2004	1	1
090-305-031	1802 (Maria Vista)	2004	1	1
090-305-032	1802 (Maria Vista)	2004	1	1
090-305-033	1802 (Maria Vista)	2004	1	1
090-307-001	1802 (Maria Vista)	2004	1	0
090-307-002	1802 (Maria Vista)	2004	1	1
090-307-007	1802 (Maria Vista)	2004	1	0
090-307-003	1802 (Maria Vista)	2004	1	1
090-307-004	1802 (Maria Vista)	2004	1	1
090-307-005	1802 (Maria Vista)	2004	1	1
090-307-006	1802 (Maria Vista)	2004	1	0
090-306-016	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-304-013	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	1
090-301-060	1856 (Maria Vista)	2004	1	0
090-306-004	1856 (Maria Vista)	2004	1	1
090-306-003	1856 (Maria Vista)	2004	1	1
090-306-002	1856 (Maria Vista)	2004	1	1
090-306-008	1856 (Maria Vista)	2004	1	1
090-306-007	1856 (Maria Vista)	2004	1	1
090-306-006	1856 (Maria Vista)	2004	1	1
090-306-005	1856 (Maria Vista)	2004	1	1
090-306-010	1856 (Maria Vista)	2004	1	1
090-306-011	1856 (Maria Vista)	2004	1	1
090-306-012	1856 (Maria Vista)	2004	1	1
090-306-013	1856 (Maria Vista)	2004	1	1
090-306-014	1856 (Maria Vista)	2004	1	1
090-306-015	1856 (Maria Vista)	2004	1	1
090-305-034	1802 (Maria Vista)	2004	1	1
090-305-035	1802 (Maria Vista)	2004	1	1
090-305-018	1802 (Maria Vista)	2004	1	1
090-305-019	1802 (Maria Vista)	2004	1	1
090-304-004	1802 (Maria Vista)	2004	1	1
090-304-005	1802 (Maria Vista)	2004	1	1
090-304-006	1802 (Maria Vista)	2004	1	1
090-304-007	1802 (Maria Vista)	2004	1	1

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**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
090-305-014	1802 (Maria Vista)	2004	1	1
090-305-016	1802 (Maria Vista)	2004	1	1
090-305-017	1802 (Maria Vista)	2004	1	1
090-305-036	1802 (Maria Vista)	2004	1	1
090-305-037	1802 (Maria Vista)	2004	1	1
090-305-038	1802 (Maria Vista)	2004	1	1
090-305-039	1802 (Maria Vista)	2004	1	1
090-305-040	1802 (Maria Vista)	2004	1	1
090-305-041	1802 (Maria Vista)	2004	1	1
090-095-016		PULLED	1	1
090-122-014		1990	1	0
090-132-006		1990	1	0
092-261-000	Landscape Meter	PULLED	1	0
092-261-005		PULLED	1	0
092-272-008		PULLED	1	1
090-161-006	2516	2004	1	1
090-161-006	2516	2004	1	1
090-161-006	2516	2004	1	0
090-161-006	2516	2004	1	1
090-161-006	2516	2004	1	1
090-161-006	2516	2004	1	1
090-161-006	2516	2004	1	1
092-161-006	2516	2004	1	1
090-363-017		2000	1	1
090-135-006		2007	1	4
090-135-006	Landscape Meter	2007	1	0
090-136-007		2002	1	1
090-095-017		2005	1	1
090-095-019		2005	1	1
090-121-005		2003	2	2
090-091-018		1990	1	2
092-261-003	SEWER VOLUNTEER	1985	0	24
090-384-013		1990	1	0
090-371-058		1990	1	0
092-572-042	CO 05-0176	2011	4	4
091-292-022		1998	1	0
091-301-043	Standpipe Agreement	1985	1	0
091-301-043	Standpipe Agreement	1985	1	0
091-301-043	Standpipe Agreement	1985	1	0
091-442-020		1998	1	0
091-442-081	1458	1989	1	0
WELL SITE	Well Agreement	1993	1	0
WELL SITE	Well Agreement	1993	1	0
WELL SITE	Well Agreement	1993	1	0
091-201-073	Well Agreement	1993	1	0
WELL SITE	Well Agreement	1993	1	0
WELL SITE	Well Agreement	1993	1	0
091-201-074	Well Agreement	1993	1	0

updated August 2012

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
091-301-043	Standpipe Agreement	1985	1	0
091-301-043	Standpipe Agreement	1985	1	0
WELL SITE	Well Agreement	1979	1	0
091-301-043	Well Agreement	1979	1	0
091-313-005	2304	1999	1	0
091-313-048	2304	1999	1	0
091-322-073		2000	1	0
091-294-013	2387	2000	1	0
091-294-013	2387	2000	1	0
091-294-013	2387	2000	1	0
091-283-060	2219	2000	1	0
091-283-061	2219	2000	1	0
091-283-062	2219	2000	1	0
091-283-066	2219	2000	1	0
091-283-067	2219	2000	1	0
091-283-063	2219	2000	1	0
091-292-054	2439	2005	1	0
091-292-054	2439	2005	1	0
091-292-054	2439	2005	1	0
091-292-054	2439	2005	1	0
091-297-010	2499	2008	1	0
091-297-011	2499	2008	1	0
091-297-015	2499	2008	1	0
091-297-016	2499	2008	1	0
091-297-018	2499	2008	1	0
091-322-046		2006	1	0
091-325-044	CO 88-172	1989	1	0
091-325-045	CO 88-172	1989	1	0
092-572-018		PULLED	1	0
091-572-014		PULLED	1	0
092-136-009	1491	1998	1	1
096-136-028	CO-88-185	1996	1	1
092-136-059	1792	2000	1	1
092-136-060	1792	2000	1	1
092-136-065	1792	2000	1	1
092-572-045	2558	2004	15	15
092-572-034	CO 02-0251/2724	2003	1	8
092-572-034	CO 02-0251/2724	2003	1	1
092-572-034	CO 02-0251/2724	2003	1	1
091-326-062	CO 01-0400	2001	1	0
092-136-076	CO 01-512	2002	1	1
092-136-076	CO 01-512	2002	1	1
092-136-068	2346	2000	1	1
092-136-069	2346	2000	1	1
092-136-070	2346	2000	1	1
092-136-071	2346	2000	1	1
092-579-009	2312	2003	67	75

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**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
092-130-071	CO 04-0186	2007	4	4
092-130-012	CO 06-0225	2009	2	2
092-130-077	CO 97-0134	2003	1	1
092-130-078	CO 97-0134	2003	1	1
092-130-079	CO 97-0134	2003	1	1
092-130-050		1993	1	0
092-576-013		PULLED	1	6
092-570-041	2375	2003	1	1
092-570-042	2375	2003	1	1
092-570-043	2375	2003	1	1
092-123-009	2398	2001	1	0
092-128-040	2299	1998	1	1
092-513-019	2523	2009	1	1
092-513-021	2523	2009	1	1
092-513-022	2523	2009	1	1
092-513-024	2523	2009	1	1
092-241-037	CO 06-0085	2008	1	0
092-142-036	CO 00-0156	2002	1	20
092-142-036	CO 00-0156	2002	1	0
092-158-011	2210	1998	1	1
092-158-012	2210	1998	1	1
092-153-050	CO 99-0293	2000	1	1
092-158-019	2412	2002	1	0
092-361-033		2001	1	1
091-411-006	1109 Landscape Meter	PULLED	1	0
091-244-045	2151 Landscape Meter	PULLED	1	0
091-441-025	1912 Landscape Meter	PULLED	1	0
091-442-027	1912 Landscape Meter	PULLED	1	0
091-440-013	1912 Landscape Meter	PULLED	1	0
091-446-027	2264 Landscape Meter	PULLED	1	0
091-446-001	2264 Landscape Meter	PULLED	1	0
091-246-025	2381 Landscape Meter	PULLED	1	0
091-441-006	1912 Landscape Meter	PULLED	1	0
091-071-045	A/D 93-1-Summit	1994	1	0
091-053-028	A/D 93-1-Summit	1994	1	0
091-053-032	A/D 93-1-Summit	1994	1	0
091-053-033	A/D 93-1-Summit	1994	1	0
091-054-004	A/D 93-1-Summit	1994	1	0
091-054-014	A/D 93-1-Summit	1994	1	0
091-054-003	A/D 93-1-Summit	1994	1	0
091-054-019	A/D 93-1-Summit	1994	1	0
091-054-007	A/D 93-1-Summit	1994	1	0
091-054-026	A/D 93-1-Summit	1994	1	0
091-054-005	A/D 93-1-Summit	1994	1	0
091-054-006	A/D 93-1-Summit	1994	1	0
091-054-009	A/D 93-1-Summit	1994	1	0
091-054-020	A/D 93-1-Summit	1994	1	0

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**NIPOMO COMMUNITY SERVICES DISTRICT  
RESERVED CAPACITY**

<b>APN</b>	<b>TRACT #</b>	<b>YEAR PAID</b>	<b>WATER CAPACITY</b>	<b>SEWER CAPACITY</b>
091-054-021	A/D 93-1-Summit	1994	1	0
091-071-071	A/D 93-1-Summit	1994	1	0
091-071-022	A/D 93-1-Summit	1994	1	0
091-071-076	A/D 93-1-Summit	1994	1	0
091-121-014	A/D 93-1-Summit	1994	1	0
091-121-045	A/D 93-1-Summit	1994	1	0
091-121-044	A/D 93-1-Summit	1994	1	0
091-121-011	A/D 93-1-Summit	1994	1	0
091-121-070	A/D 93-1-Summit	1994	1	0
091-121-071	A/D 93-1-Summit	1994	1	0
091-131-001	A/D 93-1-Summit	1994	1	0
091-131-051	A/D 93-1-Summit	1994	1	0
091-081-043	A/D 93-1-Summit	1994	1	0
091-081-038	A/D 93-1-Summit	1994	1	0
091-081-055	A/D 93-1-Summit	1994	1	0
091-081-035	A/D 93-1-Summit	1994	1	0
091-081-033	A/D 93-1-Summit	1994	1	0
091-073-014	A/D 93-1-Summit	1994	1	0

340	305
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OCTOBER 24, 2012

ITEM E-2

ATTACHMENT H



TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER

DATE: OCTOBER 19, 2012

**AGENDA ITEM**

**E-3**

**OCTOBER 24, 2012**

## **CONSIDER EXTENDING DEFERRAL OF SOLID WASTE RATE INCREASE**

### **ITEM**

Review solid waste fund balance and consider extending deferral of solid waste rate increase.  
[RECOMMEND CONSIDER INFORMATION AND DIRECT STAFF]

### **BACKGROUND**

South County Sanitary Services (SCSS) provides solid waste collection services to homes throughout southern San Luis Obispo County. SCSS provides solid waste and recycling services to District customers under a Franchise Agreement with the District.

In August 2011, SCSS requested a 5% 'interim-year' rate increase throughout their south county service area. At the August 10, 2011 Regular meeting, your Board elected to defer the requested increase by expending \$5,700 of District solid waste reserves monthly to offset losses to SCSS incurred by the District not implementing a rate increase. Your Board directed staff to schedule quarterly review of the deferral and solid waste fund balance.

On September 26, 2012, SCSS provided the District a 2013 Base Year Rate Adjustment Application requesting a 3.2% increase in solid waste fees. The requested rate adjustment would impact the entire south County service area. The request is currently undergoing internal review by other entities within SCSS service area.

Staff expects to have the Base Year Rate Adjustment before your Board on November 14, 2012. At that time, your Board may consider conducting a single solid waste rate increase hearing (Proposition 218 Rate Hearing) for the currently deferred rate increase and the pending 'Base Year Adjustment' request.

### **FISCAL IMPACT**

The District's solid waste fund (Fund #300) balance is approximately \$270,000. Each month the 5% interim-year rate increase is deferred impacts the solid waste reserves by \$5,700.

### **RECOMMENDATION**

Staff recommends the Board consider the information and direct staff.

### **ATTACHMENT**

None