

TO: BOARD OF DIRECTORS  
FROM: MICHAEL S. LEBRUN *MSL*  
GENERAL MANAGER  
DATE: OCTOBER 23, 2015

**AGENDA ITEM  
E-4  
OCTOBER 28, 2015**

**ANNUAL REVIEW OF SUSPENDED DISTRICT ORDINANCE 2012-117**

**ITEM**

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

**BACKGROUND**

On June 27, 2012, your Board adopted Ordinance 2012-117 (attached) halting the processing of new applications for District water service and effectively placing a moratorium on new water connections. This action was taken in response to concerns over impacts from over-pumping of area groundwater and uncertainty regarding the completion of a project to supplement District water supply.

On February 13, 2013, your Board authorized circulating bid documents and bid requests for Supplemental Water Project Phase 1. Following these actions, your Board approved suspending the enforcement of Ordinance 2012-117, thereby allowing a return to water service application acceptance and processing.

Delivery of Supplemental Water began on July 2, 2015 and the District is on pace to deliver 645 acre-feet of imported supplemental water this fiscal year.

On April 22, 2015, your Board adopted a Water Shortage Response and Management Plan pursuant to Water Code section 375 (attached). The Response Plan includes escalating response actions tied to increasing severity conditions in the local groundwater basin.

At a Special Meeting on May 21, 2015, your Board declared Stage III Water Shortage Conditions in accordance with the Shortage Response Plan. During Stage III conditions, applications for new water service are not accepted.

**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 \$10,687 of which \$7,711 is designated for development of supplemental water projects.

**STRATEGIC PLAN**

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

- 1.1 Complete Phase 1 of Supplemental Supply Projects.
- 1.2 Expedite funding and implementation of Phases 2 and 3 of Supplemental Supply Projects (up to 3,000 acre-feet).
- 1.3 Develop water shortage response and management plan to respond to drought and other supply emergencies.

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

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

**RECOMMENDATION**

Consider information and provide direction to staff.

**ATTACHMENTS**

- A. Ordinance 2012-117 – Suspending Applications for Water Service
- B. Resolution 2015-1374 – Shortage Response and Management

October 28, 2015

ITEM E-4

ATTACHMENT A

**ORDINANCE NO. 2012- 117**

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

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

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

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

"A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)"; and

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

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

ORDINANCE NO. 2012- 117

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

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

**WHEREAS**, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area; and

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

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

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

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.
- Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels; and

**WHEREAS**, District Code §3.28.020 provides:

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

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

ORDINANCE NO. 2012- 117

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

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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**

ORDINANCE NO. 2012- 117

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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  
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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

ORDINANCE NO. 2012- 117

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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:

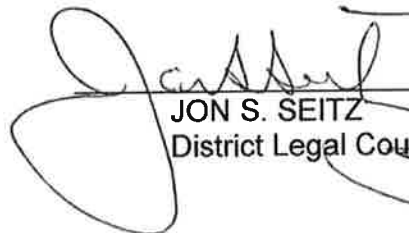
AYES: Directors Eby, Winn, Vierheilig, and Gaddis  
NOES: Director Harrison  
ABSENT: None  
ABSTAINING: None

  
\_\_\_\_\_  
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

JULIE L. RODEWALD COUNTY CLERK

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

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

By Katrina Taylor  
DEPUTY CLERK

**Subject:** Filing Notice of Determination

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

**Title/Action Taken:** Approval Ordinance 2012-117

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

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


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

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Intent-To-Serve Letters will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District incorporates by reference the CEQA findings in support of San Luis Obispo County Ordinance 3090, the County of San Luis Obispo's certification of a Severity Level III for the NMWCA and the District's CEQA findings supporting the adoption of Chapter 3.05. The District General Manager is directed to prepare and file an appropriate notice of exemption.

### Additional Information

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

Date: June 27, 2012

  
Michael S. LeBrun, General Manager

**CALIFORNIA DEPARTMENT OF FISH AND GAME  
CERTIFICATE OF FEE EXEMPTION**

**ACTION TAKEN:** APPROVE ORDINANCE 2012-117

**APPLICANT:**

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

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

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

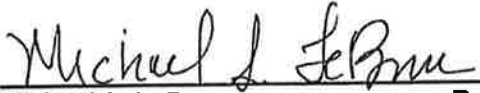
**FINDINGS OF EXEMPTION:**

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

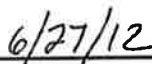
- ( ) The project is located in an urbanized area that does not contain substantial fish or wildlife resources or their habitat.
- ( ) The project is located in a highly disturbed area that does not contain substantial fish or wildlife resources or their habitat.
- ( ) The project is of limited size and scope and is not located in close proximity to significant wildlife habitat.
- ( ) The applicable filing fees have/will be collected at the time of issuance of other County approvals for this project.
- ( 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





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. DATE 6/28/2012  
 COUNTY/STATE AGENCY OF FILING San Luis Obispo DOCUMENT NUMBER  
 PROJECT TITLE Approval Ordinance 2012-117  
 PROJECT APPLICANT NAME Nipomo Community Services Dist. PHONE NUMBER 805 (543) 7272  
 PROJECT APPLICANT ADDRESS P.O. Box 326 CITY Nipomo STATE CA ZIP CODE 93444  
 PROJECT APPLICANT (Check appropriate box):  
 Local Public Agency  School District  Other Special District  State Agency  Private Entity

- 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 Recorder  
 TOTAL RECEIVED \$ 50.00

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

October 28, 2015

ITEM E-4

ATTACHMENT B

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2015-1374**

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

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

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

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

"A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)"; and

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

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

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

**WHEREAS**, Governor Jerry Brown on January 17, 2014 proclaimed that the entire State of California to be in a Drought State of Emergency and made subsequent Executive Orders to address drought on April 25, 2014 and April 1, 2015; and

**WHEREAS**, on March 27, 2015, the State Water Resources Control Board adopted emergency regulation to encourage conservation and respond to drought conditions; and

**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2015-1374**

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

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

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

**WHEREAS**, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group declared that a Potentially Severe water shortage condition has existed within the Nipomo Mesa Management Area since the spring of 2008 and during the intervening years drought conditions have prevailed; and

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

**WHEREAS**, on June 26, 2007, the San Luis Obispo County Board of Supervisors certified the groundwater resources underlying the NMWCA at a Severity Level III (most severe); and

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

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.
- Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels; and

**WHEREAS**, District Code §3.28.020 provides:

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

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

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



**NIPOMO COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 2015-1374**

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

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

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

- (a) That the Nipomo Mesa Management Area Technical Group has declared the Mesa to be in a Potentially Severe water shortage condition for the past six years; and
- (b) That based upon the lack of rainfall during the last three winters and the increase pumping by District and other purveyors in response to drought, it is probable that the Nipomo Mesa Management Area Technical Group may find that the Nipomo Mesa is in a Severe water shortage condition; and
- (c) That it is necessary for the District to adopt a Water Shortage Response and Management Plan to be able to respond to the lack of available groundwater for the purpose of serving District residents.

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

- A. That the purpose and intent of this Resolution is consistent with the purposes found in the Judgment and Stipulation in the Groundwater Litigation imposing a physical solution to assure long-term sustainability of the groundwater basin and the San Luis Obispo County's certification of a Severity Level III for the waters underlying the NMWCA; and
- B. That adoption of the Water Shortage Response and Management Plan will provide greater assurances that there will be adequate groundwater to meet the present needs of District residents consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County South County Area Plan; and
- C. That adopting this Resolution will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection; and
- D. That this Resolution adopts Rules and Regulations for the administration, operation and use of District services; and
- E. The Board of Directors of the District finds that the policies and procedures adopted by this Resolution are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds

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that the adoption of the policies and potential actions established by this Resolution is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the adoption of a Water Shortage Response and Management Plan will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District incorporates by reference the CEQA findings in support of San Luis Obispo County Ordinance 3090, the County of San Luis Obispo's certification of a Severity Level III for the NMWCA; and

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

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

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

1. That the above recitals are true and correct.
2. The Board approves the Water Shortage Response and Management Plan, attached as Exhibit "A" to this Resolution.
3. The Board of Directors reserves the right to order or not order all of the provisions within the Water Shortage Response and Management Plan based upon the circumstances at the time that this policy needs to be enforced.
4. The General Manager is directed to prepare and file an appropriate notice of exemption and file a Certificate of Exemption.
5. The General Manager is directed to publish this Resolution in a newspaper of general circulation in the District within ten (10) days.

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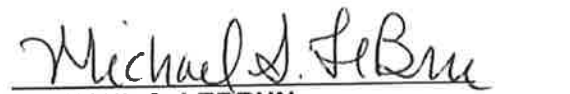
Upon motion by Director Eby, seconded by Director Gaddis, on the following roll call vote, to wit:

**AYES:** Directors Eby, Gaddis, Blair, Woodson, and Armstrong  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None


the foregoing Resolution is hereby passed and adopted this 22<sup>nd</sup> day of April, 2015.

  
**CRAIG ARMSTRONG,**  
President of the Board of Directors

ATTEST:

  
**MICHAEL S. LEBRUN**  
General Manager and Secretary to the Board

APPROVED:

  
**MICHAEL W. SEITZ**  
District Legal Counsel

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EXHIBIT "A"

**NCSD WATER SHORTAGE RESPONSE AND MANAGEMENT PLAN**

STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
I	All times	<ul style="list-style-type: none"> <li>• Active outreach and education programs regarding water conservation best management practices and mandates as issued from the State of California from time to time.</li> <li>• Four Tier escalating water rates.</li> <li>• Recommended Customer Measures:               <ul style="list-style-type: none"> <li>○ Fix all plumbing and irrigation leaks immediately.</li> <li>○ Irrigate after 8PM and before 9AM.</li> <li>○ Minimum to no irrigation in winter months.</li> <li>○ Check all irrigation systems monthly.</li> <li>○ Do not allow excessive run off.</li> <li>○ Recirculate water in ornamental water features (fountains)</li> </ul> </li> <li>• New applications for water service are accepted and processed.</li> <li>• Supplemental water is allocated to all new projects</li> <li>• New water service connections are made.</li> </ul>	Not Applicable.
II	Potentially Severe Water Shortage Conditions exists	<ul style="list-style-type: none"> <li>• More aggressive conservation outreach and education efforts.</li> <li>• Four-Tier escalating water rates.</li> <li>• Encourage customers to implement the following practices:               <ul style="list-style-type: none"> <li>○ All Stage I Measures</li> <li>○ Cover Swimming Pools and spas.</li> <li>○ Do not use water to wash down exterior surfaces (e.g. driveway, deck, home)</li> </ul> </li> <li>• New applications for water service are accepted and processed.</li> <li>• Supplemental water is allocated to new</li> </ul>	Potentially Severe Water Shortage no longer exist.

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
		<ul style="list-style-type: none"> <li>• projects.</li> <li>• New water service connections are made.</li> </ul>	
III	Severe Water Shortage conditions exists	<ul style="list-style-type: none"> <li>• District targets a 30% reduction in production (Equating to a 736 acre foot or 240 million gallons of reduction in production on an annual basis).</li> <li>• Implement Stage III Drought Rates to encourage reduction in customer water demand.</li> <li>• Encourage customers to implement the following practices.               <ul style="list-style-type: none"> <li>○ All Stage I and II measures.</li> <li>○ Turn off all automated irrigation systems.</li> <li>○ Provide minimum necessary irrigation to preserve trees and high-value landscape.</li> <li>○ Do not drain or fill swimming pools or spas.</li> <li>○ Do not use water for dust control or construction.</li> <li>○ Do not use hoses to wash cars or equipment.</li> <li>○ Turn off and drain ornamental fountains and water features</li> </ul> </li> <li>• Suspend accepting applications for new water service.</li> <li>• Existing applications for new water service continue to be processed with allocations of supplemental water.</li> <li>• New water service connections are made.</li> </ul>	Severe Water Shortage no longer exist.**
IV	Severe Water Shortage conditions exists for >1YEAR or is triggered by both the Key Wells Index and the	<ul style="list-style-type: none"> <li>• District targets a 50% reduction in production (Equating to a 1,227 acre foot reduction in production on an annual basis).</li> <li>• Implement Stage IV Drought Rates to encourage reduction in customer water demand.</li> </ul>	Severe Water Shortage conditions no longer exist.

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
	Coastal Criterion.	<ul style="list-style-type: none"> <li>• Encourage customers to implement the following practices:               <ul style="list-style-type: none"> <li>○ All Stage I, II, and III measures.</li> <li>○ Do not use District water for irrigation/outdoor uses of any sort.</li> </ul> </li> <li>• New applications for water service are NOT accepted (Stage III)</li> <li>• Cease processing existing applications for new water service. No allocation of supplemental water is made.</li> <li>• New water service connections are made only to projects with preexisting service commitments.</li> </ul>	
V	Severe Water Shortage conditions for >2 years with BOTH triggers (Key Wells Index and Coastal Area Criterion).	<ul style="list-style-type: none"> <li>• District targets a 60% reduction in production. (Equating to a 1,473 acre foot reduction in production on an annual basis).</li> <li>• Implement Stage V Drought Rates to encourage additional reduction in customer water demand.</li> <li>• Declaration of a Water Shortage Emergency in accordance with CA Water Code Section 350.</li> <li>• Suspend all new water service connections.</li> <li>• Encourage customers to implement all Stage I-IV measures and to use only the absolute minimum water necessary for health and sanitation purposes.               <ul style="list-style-type: none"> <li>○ All Stage I, II, and III measures.</li> <li>○ Do not use District water for irrigation/outdoor uses of any sort.</li> <li>○ Do not drain or fill swimming pools or spas.</li> <li>○ All measures possible to reduce water use.</li> </ul> </li> <li>• New applications for water service are NOT accepted (Stage III)</li> <li>• Existing applications for new water</li> </ul>	Severe Water Shortage conditions no longer exist.

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
		service are not processed (Stage IV)	

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

**General Notes**

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

<b><u>Potentially Severe Water Shortage Conditions</u></b>	<b><u>Severe Water Shortage Conditions</u></b>
<ul style="list-style-type: none"> <li>• Key Wells Index less than 31.5 ft msl</li> <li>• Greater than 250 mg/l chloride in any NMMA coastal monitoring well</li> </ul>	<ul style="list-style-type: none"> <li>• Key Wells Index is less than 16.5 ft. msl</li> <li>• Greater than 500 mg/l chloride in any NMMA coastal monitoring well</li> </ul>

3. Reduction goals are a percentage of average annual production volumes for the five calendar years prior to the first year Nipomo Supplemental Water is delivered. NCSD's 2010-2014 average (2455 AFY) is used in the table above.