

TO: BOARD OF DIRECTORS

REVIEWED: MICHAEL S. LEBRUN
GENERAL MANAGER

FROM: JESSICA MATSON
PUBLIC INFORMATION
DIRECTOR

DATE: AUGUST 7, 2015

**AGENDA ITEM
E-2
AUGUST 12, 2015**

**CONSIDER GRANT REQUEST FROM NIPOMO CHAMBER OF
COMMERCE IN AMOUNT OF \$1,980 FOR SOLID WASTE REMOVAL**

ITEM

Nipomo Chamber of Commerce is requesting a grant in the amount of \$1,980 to provide clean up of solid waste in the Nipomo area. [RECOMMEND CONSIDER GRANT REQUEST AND DIRECT STAFF]

BACKGROUND

The Nipomo Chamber of Commerce is requesting a grant to fund Cal Trans Adopt a Highway program along CA Highway 101 one mile north and one mile south of Tefft Street.

The Chamber is requesting twelve months of program funding at a cost of \$1,980 (\$165 per month). Chamber President Mr. Richard Malvarose has provided the attached proposal and will present the proposal and answer questions from your Board.

FISCAL IMPACT

Funding is available in Solid Waste Fund #300 of the approved Fiscal Year 2015-2016 Budget.

STRATEGIC PLAN

Goal 8. Additional Community Services.

Staff should focus on meeting the goals and objectives of existing services. Adding new services will be considered on a case-by-case basis and entered into only if funding can be found and existing services are not harmed.

8.3 Solid Waste. Seek to maximize solid waste services for community and build understanding of services like hazardous waste, recycling, etc. and District's role.

RECOMMENDATION

Receive presentation, consider grant request. If desired, approve grant request by motion and roll call vote. Should your Board desire to approve grant request, direct staff to execute a Grant Agreement with Nipomo Chamber of Commerce for not to exceed \$2,000.

ATTACHMENT

A. July 22, 2015, Nipomo Chamber of Commerce Grant Request

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August 12, 2015

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ATTACHMENT A



July 22, 2015

To: Nipomo Community Services District

Re: Adopt-a-Highway Solid Waste Removal Proposal

Dear NCSD Board & Staff,

The Nipomo Chamber of Commerce has been working with the NCSD for over two years now to partner in the removal of solid waste from the streets of our community. The NCSD's generous grant has created a considerable difference in the beautification of our town and we continue to work to provide the recognition and acknowledgement the NCSD deserves for supporting these efforts.

The Nipomo Chamber has been maintaining a 2 mile stretch of Highway 101 through Cal Trans' Adopt-a-Highway program for the last year with funding provided through the NCSD. For \$150 per month Ocean Breeze will continue to provide Solid Waste Removal services for this 2 mile stretch of highway beginning just north of the Santa Maria Bridge and ending just south of Tefft St.

The Nipomo Chamber of Commerce would like to request an additional year of funding in the amount of \$1,980 (this amount includes a 10% administration fee) to cover the months of August, 2015 – July, 2016. Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Amber Wilson".

Amber Wilson
Executive Director
Nipomo Chamber of Commerce

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: AUGUST 7, 2015



INTENT-TO-SERVE LETTER POLICY DISCUSSION

ITEM

Discuss District service letter policy and provide staff direction. [RECOMMEND DISCUSS POLICY AND DIRECT STAFF]

BACKGROUND

When new development and land division is proposed within the District service boundary, the project proponent must apply to the County of San Luis Obispo for development authority and to the District for water, sewer (if applicable), and solid waste services.

The District and County processes attempt to mesh a series of application steps and conditions including tentative and final approvals. For larger and more complex projects, the process of development review and approval can take years.

For its part, the District requires an application for service and then issues an Intent-to-Serve letter, which outlines a number of conditions the applicant must complete prior to receiving a final commitment for service in the form of a Will-Serve letter.

The District process is governed by policy contained in Sections 3.05.070 and 3.28.020 of District Code. A complete copy of these code sections is provided as Attachment A.

Section 3.28 was adopted in 2002 and modified in 2005. Section 3.05 was adopted in 2007 and modified in 2009. While Code Section 3.05.070 is noted as being suspended by Ordinance in 2012, the 2012 Ordinance was subsequently suspended and staff believes Section 3.05.07 is in force.

Both code Sections contain direction on termination of Intent-to-Serve letters. Section 3.28.020 provides:

"E. Each intent to serve letter shall include the following: ...

8. That unless terminated sooner this intent to serve letter will terminate two years from the date of issuance, after which the applicant shall apply for a new intent to serve."

Section 3.28.030.A. provides:

"1. Within ninety days prior to expiration, applicants may apply to renew an intent to serve letter....

2. Upon application the intent to serve may be extended pursuant to the policies and guidelines referenced in Section 3.28.020."

Section 3.05.070, which came later, opens with the following statement:

"The following procedures, are in addition to other district rules and regulations relating to intent-to-serve letters and will-serve letters, and shall apply to all application for intent-to-serve letters and will-serve letters approved by the district."

Section 3.05.070 further provides:

"B. Termination: Intent-to-Serve letters shall automatically terminate as follows:

1. Failure of the applicant to provide District with written verification, within two hundred forty calendar days from the date the Intent-to-Serve letter is issued, that the County has deemed the project application to be complete.

2. The failure of the applicant to receive both the acceptance of the project improvements and a final Will-Serve letter within three years from the date the Intent-to-Serve letter is issued.

3. An applicant shall be entitled to a one-year extension of the three year limitation upon the following conditions:

(a). Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve letter.

(b). Proof of reasonable due diligence in processing the project.

(c). Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies."

Recently, the 240 day termination criteria contained in 3.05.07.B.1 was raised as a basis for terminating an Intent-to-Serve letter for a project that is pursuing a County development application via General Plan Amendment.

The County development application process can take a number of months. In the case of General Plan Amendments, the County application process can take a year or more. Many complex development projects and most all General Plan development projects take more than 240 days to perfect application to the County.

Staff reports from the 2007 adoption of the 240-day termination requirements do not articulate why the requirement was considered. Staff believes the requirement was included to prevent allocation of water resources, via Intent-to-Serve letters, to projects that were not being actively pursued with the County.

Staff currently applies the 240 day termination as a 'soft' deadline in recognition of the length of time required for many projects to make it through the County development process.

FISCAL IMPACT

The District has expended more than \$30 million dollars in the past five years to upgrade water and sewer infrastructure to meet regulatory treatment requirements and court ordered water resources development. The District currently has sewer treatment capacity and supplemental water resources for allocation to new development. New development pays significant capacity charges that serve to offset capital investments made and planned for by the District. At current rates, a single family home connecting to the District's water and sewer infrastructure pays \$19,372 in water and sewer capacity charges.

Currently active District Intent-to-Serve letters represent approximately \$4.4 million in potential water capacity fees. The majority of water capacity charges are designated to pay for the buildout of the District's 3,000 acre-feet per year supplemental water project.

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).

RECOMMENDATION

Consider and discuss the information provided, direct staff.

ATTACHMENTS

- A. District Code Excerpts

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ATTACHMENT A

3.05.070 - Application for intent-to-serve letters, will-serve letters and termination.

The following procedures, are in addition to other district rules and regulations relating to intent-to-serve letters and will-serve letters, and shall apply to all applications for intent- to-serve letters and will-serve letters approved by the district:

- A. Applications: Application for intent-to-serve letters shall be made on the district's form. In order to be considered for an intent-to-serve letter the application shall contain a verification that applicant has submitted the proposed project for initial review to the county planning and building department.
- B. Termination: Intent-to-serve letters shall automatically terminate as follows:
 - 1. Failure of the applicant to provide district with written verification, within two hundred forty calendar days from the date the intent-to-serve letter is issued, that the county has deemed the project application to be complete.
 - 2. The failure of the applicant to receive both the acceptance of the project improvements and a final will-serve letter within three years from the date the intent-to-serve letter is issued.
 - 3. An applicant shall be entitled to a one-year extension of the three year limitation upon the following conditions:
 - (a) Applicant makes written application for the extension prior to the expiration of the intent-to-serve letter.
 - (b) Proof of reasonable due diligence in processing the project.
 - (c) Applicant agrees to revisions of the conditions contained in the intent-to- serve letter consistent with then existing district policies.
- C. Extensions: All intent-to-serve letters that have not expired on or before the second reading of the ordinance adopting this section shall be extended for an additional twelve months.

(Ord. No. 2007-106, § 2(Exh. A), 6-13-2007; Ord. No. 2009-114, § 1(Exh. A), 10-14-2009)

Note—Section 3.05.070 has been suspended by Ord. No. 2012-117, § 1, adopted June 27, 2012.

3.28.020 - Intent to serve letters.

- A. Small Projects. Where the project consists of four or less residential units, four or less multifamily units or for commercial projects and multiuse projects where the total estimated water demand is less than two acre feet per year, the general manager may issue an intent to serve letter administratively or refer the approval to the board of directors pursuant to subsection B of this section.
- B. Larger Projects. Where the project exceeds four residential units, four or more multifamily units or for commercial projects and multiuse projects with a total water demand greater than two acre feet per year, the intent to serve letter shall be approved by the board of directors.
- C. Remodels and Conversions. Where the total water demand does not exceed current use or when the additional resulting water demand is within the requirements of subsection A of this section, the general manager may issue an intent to serve letter administratively or refer the approval to the board of directors pursuant to subsection B of this section.
- 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:
 - 1. Conditions for service as authorized by the general manager or the district board of directors;
 - 2. That applicant enter into a plan check and inspection agreement when applicable;
 - 3. All easements and dedications required for district service shall be delivered to the district;
 - 4. All construction work and installations shall conform to the district's standard plans and specifications;
 - 5. That district service is conditioned on applicant paying all district fees and charges relating to the project and complying with the terms and conditions, rules and regulations of the district;
 - 6. That the district service is conditioned on the applicant complying with all the terms, conditions, rules and regulations of other agencies that have jurisdiction over the project;
 - 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;
 - 8. That unless terminated sooner this intent to serve letter will terminate two years from the date of issuance, after which applicant shall apply for a new intent to serve;

9. This intent to serve letter shall not be interpreted as the district's board of directors endorsement of the project;
10. The intent to serve letter will be stamped in red that this is not a will-serve letter or a commitment to provide district services;
11. For projects requiring off-site improvements, the following requirements shall be included in the intent to serve letter:
 - a. Reproducible "as built." A mylar copy and digital format disk (Auto Cad) which includes engineer, developer, tract number and water and sewer improvements,
 - b. Offer of dedication,
 - c. Engineer's certification,
 - d. A summary of all water and sewer improvement costs.

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

(Ord. No. 2005-105, § 5, 10-26-2005)

3.28.030 - Extensions and transfers.

A. Extensions.

1. Within ninety days prior to expiration, applicants may apply to renew an intent to serve letter or a conditional will-serve letter upon payment of a nonrefundable renewal fee as established by resolution and as amended from time to time. (Originally established by Resolution 99-680).
2. Upon application the intent to serve letter may be extended pursuant to the policies and guidelines referenced in Section 3.28.020

B. Transfers. Prior to expiration, an intent to serve letter may be transferred to a successor-in-interest in the property to be served, on the following terms and conditions:

1. The application is signed by the current owner;
2. The successor-in-interest acknowledges and agrees in writing to the terms and conditions of the intent to serve letter;
3. The date of recording of the new deed is the date of the transfer.

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

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)

3.28.050 - District service.

- A. The district will only set water meters when all off-site improvements are dedicated and accepted by the district.
- B. District water and sewer service will only be provided to the project if the applicant and/or the owner of the project has

TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN
GENERAL MANAGER

DATE: AUGUST 7, 2015

AGENDA ITEM
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**CONSIDER SOLID WASTE RESERVE EXPENDITURE
DISCOUNT TO CUSTOMER SOLID WASTE BILL**

**CONSIDER SERVICE PROVIDER REQUEST FOR SOLID WASTE
RATE INCREASE**

ITEM

Consider providing District solid waste customers a discount to spend down solid waste reserves and consider a request from the solid waste service provider to increase solid waste rates. [RECOMMEND CONSIDER PROPOSAL AND REQUEST, DIRECT STAFF]

BACKGROUND

The District holds a Franchise Agreement with South County Sanitation for providing solid waste collection services within the District. The Agreement generates a fee paid to the District as a proportion of the fees collected by the Sanitation Company from District customers.

District solid waste funds collected as a result of the franchise fee are accounted for in a separate solid waste account and are restricted for use on solid waste related activities that directly benefit District customers.

Current solid waste fund accounting is as follows:

Fund Balance (as of July 1, 2015)	\$330,000
Budgeted Income 2015-2016 Fiscal Year	\$116,000
Budgeted Operational Expenditures 15-16 FY	<\$170,000>
Budgeted Administrative Expenditures 15-16 FY	<\$20,000>
Estimated Cash Balance on June 30, 2016	\$256,000
Fund Reserve Goal	\$115,000

The 2015-2016 budgeted operational expenditures include a one-time 50% underwriting of two months of solid waste bills for District customers at a cost of approximately \$120,000.

The District's solid waste service provider recently initiated the process to increase solid waste rates to District customer by 3.18%. Staff seeks Board direction on how to proceed with the requested increase. The District can either proceed to increase the fee to customers via a Proposition 218 Protest Hearing process or 'buy-down' the increase by lowering its franchise fee.

The District's franchise fee is currently 8.13% and generates approximately \$124,000 annually. Buying down the proposed rate increase would reduce the franchise fee to ~5.21% and reduce annual income to ~\$77,000 annually. Assuming the rate increase buy-down takes effect on January 1, 2016, the projected fund balance for June 30, 2016 would be ~\$232,000.

If the District desires to raise solid waste rates, a Proposition 218 protest process will need to be initiated.

FISCAL IMPACT

Offsetting customer solid waste bills with solid waste reserves funds will expend fund reserves. Lowering District franchise fee will lower solid waste fund income.

RECOMMENDATION

By motion and roll call vote:

1. Direct staff to coordinate with South County Sanitary to provide District customers with a one-time 50% reduction in bi-monthly solid waste bills for the months of September and October 2015; and
2. Provide staff direction to either;
 - 'buy-down' the requested solid waste rate increase by lowering the District's franchise fee from 8.13% to ~5.13%; or
 - initiate Proposition 218 proceedings to adopt a solid waste rate increase.

ATTACHMENTS

None

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MGL*
GENERAL MANAGER
DATE: AUGUST 7, 2015

**AGENDA ITEM
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AUGUST 12, 2015**

**CONDUCT A HEARING TO ADOPT AN ORDINANCE REPEALING
CHAPTER 3.24 OF DISTRICT CODE**

ITEM

Conduct a hearing to adopt an Ordinance repealing Chapter 3.24 of District code pertaining to superseded policy. [RECOMMEND, BY MOTION AND ROLL CALL VOTE, ADOPT ORDINANCE]

BACKGROUND

On April 23, 2014, your Board adopted the Water Shortage Management and Response Plan. The Plan supersedes and replaces Chapter 3.24, Water Conservation and Emergency Water Shortage Regulation.

On July 22, your Board considered the draft Ordinance (Attachment A) and directed staff to schedule a hearing to adopt the Ordinance.

FISCAL IMPACT

Staff time preparing board materials.

STRATEGIC PLAN

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

RECOMMENDATION

By motion and roll call vote:

- Adopt proposed Ordinance repealing Chapter 3.24 and
- Direct staff to prepare and file CEQA notice and findings.

ATTACHMENTS

- A. Ordinance 2015-XXX Repeal Chapter 3.24 Water Shortage
- B. Chapter 3.24 Water Conservation and Emergency Water Shortage Regulations
- C. Resolution 2014-1336 Water Shortage Response and Management Plan

August 12, 2015

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ATTACHMENT A

ORDINANCE NO. 2015-XXX

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REPEALING CHAPTER 3.24 OF THE DISTRICT CODE**

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, and

WHEREAS, Chapter 3.24, Water Conservation and Emergency Water Shortage Regulations, of the District Code has been superseded by the adoption of the Water Shortage Response and Management Plan by the Board of Directors on April 23, 2014, Resolution 2014-1336; and

WHEREAS, the District Board of Directors, at a public meeting, on July 22, 2015, considered a Staff Report, and public testimony regarding repealing Chapter 3.24 of the District Code; and

WHEREAS, on August 12, 2015, the District Board of Directors, at a public meeting, took the following actions in considering the repealing of Chapter 3.24:

- A. Considered the facts and analysis as presented in the Staff Report prepared for the adoption of this Ordinance;
- B. Conducted a public hearing to obtain public testimony on the proposed Ordinance;

WHEREAS, based on the Staff Report, staff presentation, and public comment, the District Board of Directors finds:

- A. Chapter 3.24 is no longer applicable and has been superseded by the Water Shortage Response and Management Plan.

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

Section 1. Chapter 3.24 of the District Code

Chapter 3.24 of the District Code is hereby repealed in their entirety.

With the repeal of Chapter 3.24, the following are hereby repealed:

- Ordinance 92-65 in its entirety
- Resolution 2008-1098 in its entirety
- Section 7 of Ordinance 2005-105
- Ordinance 2009-113 in its entirety

And replaced with

Chapter 3.24 Water Shortage Response and Management Plan

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REPEALING CHAPTER 3.24 OF THE DISTRICT CODE

Section 2. Incorporation of Recitals

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

Section 3. Severability

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 4. 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 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, 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 — 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 action will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 7 — California Department of Fish and Wildlife Certificate of Fee Exemption

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

ORDINANCE NO. 2015-xxx

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REPEALING CHAPTER 3.24 OF THE DISTRICT CODE

Section 8. Effective Date

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a paper of general circulation.

Introduced on the 22nd day of July, 2015 and adopted by the Board of Directors of the Nipomo Community Services District August 12, 2015, by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAINING:

CRAIG ARMSTRONG
President of the Board

ATTEST:

APPROVED AS TO FORM:

MICHAEL S. LEBRUN
General Manager and Secretary to the Board

MICHAEL W. SEITZ
District Legal Counsel

T:\BOARD MATTERS\ORDINANCES\2015\2015-XXX REPEAL OLD WATER SHORTAGE.DOC

July 22, 2015

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ATTACHMENT B

Chapter 3.24 - WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS

Sections:

3.24.010 - Definitions.

"Applicant" means person who requests water from the district.

"Customer" means person receiving water from the district distribution system.

"District" means Nipomo Community Services District.

"HFC" means hundred cubic feet.

"Potentially severe water shortage conditions" means the finding of the Nipomo Mesa Management Area Technical Group that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008 Final Judgment in the Groundwater Litigation (Santa Maria Valley Water Conservation District vs. The City of Santa Maria, et al. Case No. CV 770214)

(Ord. 92-65 1, 1992)

(Ord. No. 2009-113, § 1(Exh. A), 10-14-2009)

3.24.020 - Voluntary restrictions on non-essential and/or wasteful use of water.

A. The waste of district water includes:

1. Use through any meter when the utility has notified the customer in writing to repair a broken or defective lateral, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days;
2. Use of potable water for washing streets with trucks, except to protect the health and safety of the public;
3. Operation of commercial car washes without recycling at least fifty percent of the potable water used per cycle; and
4. The use of potable water to jet wash sewer lines, except where required for public health or safety; and
5. Individual private washing of cars, trucks, trailers, and commercial vehicles with a hose except with the use of a positive action shut-off nozzle.

B. In addition to those restrictions referenced in subsection A above, during periods of potentially severe water shortage conditions, the waste of district water includes:

1. Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping between the hours of 7:00 a.m. and 7:00 p.m. without quick acting positive action shut-off nozzle;
2. Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recirculated water; and
3. Service of water by any restaurant except upon request of a patron.

(Ord. 92-65 2, 1992)

(Ord. No. 2005-105, § 7, 10-26-2005; Ord. No. 2009-113, § 1(Exh. A), 10-14-2009)

3.24.030 - Water conservation stages.

- A. Stage I: Voluntary Conservation. Customers of the Nipomo Community Services District are requested to voluntarily limit the amount of water used from May 15th to October 15th of each year to that amount absolutely necessary for health and business. A fifteen percent reduction in water use is requested.

(Ord. 92-65 3, 1992)

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

3.24.040 - Stage implementation.

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

3.24.050 - Water-saving devices.

- A. All customers are encouraged to install and use the following water conservation devices:
1. Low flush toilets 1.6 gallons per flush or less;
 2. Low flow shower heads 2.0 gallons per minute or less;
 3. Drip irrigation.
- B. No person, corporation or association shall be given relief on appeal unless the customer has installed all water-saving devices which are feasible.

(Ord. 92-65 § 5, 1992)

3.24.060 - Violation and enforcement.

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

August 12, 2015

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ATTACHMENT B

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2014-1336**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, District Code §3.28.020 provides:

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

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

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

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

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

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

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

- (a) That the Nipomo Mesa Management Area Technical Group has declared the Mesa to be in a Potentially Severe water shortage condition for the past six years; and
- (b) That based upon the lack of rainfall during the winter of 2013/2014 and the increase pumping by District and other purveyors in response, it is anticipated that in the near future, Nipomo Mesa Management Area Technical Group will find that the Nipomo Mesa is in a Severe water shortage condition; and
- (c) That it is necessary for the District to adopt a Water Shortage Response and Management Plan to be able to respond to the lack of available groundwater for the purpose of serving District residents.

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

- A. That the purpose and intent of this Resolution is consistent with the purposes found in the Judgment and Stipulation in the Groundwater Litigation imposing a physical solution to assure long-term sustainability of the groundwater basin and the San Luis Obispo County's certification of a Severity Level III for the waters underlying the NMWCA; and
- B. That adoption of the Water Shortage Response and Management Plan will provide greater assurances that there will be adequate groundwater to meet the present needs of District residents consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County South County Area Plan; and
- C. That adopting this Resolution will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection; and
- D. That this Resolution adopts Rules and Regulations for the administration, operation and use of District services; and

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

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

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

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

1. That the above recitals are true and correct.
2. The Board approves the Water Shortage Response and Management Plan originally approved on April 9, 2014, attached as Exhibit "A" to this Resolution.
3. The Board of Directors reserves the right to order or not order all of the provisions within the Water Shortage Response and Management Plan based upon the circumstances at the time that this policy needs to be enforced.
4. The General Manager is directed to prepare and file an appropriate notice of exemption and file a Certificate of Exemption.
5. The General Manager is directed to publish this Resolution in its entirety in a newspaper of general circulation in the District within ten (10) days.

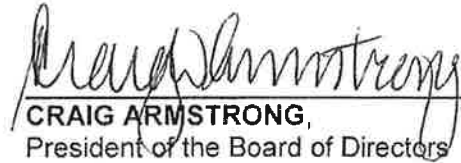
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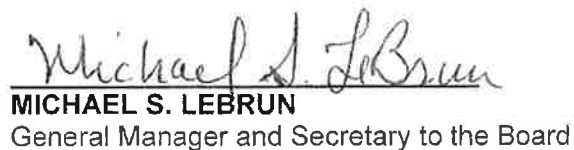
Upon motion by Director Vierheilg, seconded by Director Blair, on the following roll call vote, to wit:

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

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


CRAIG ARMSTRONG,
President of the Board of Directors

ATTEST:


MICHAEL S. LEBRUN
General Manager and Secretary to the Board

APPROVED:


MICHAEL W. SEITZ
District Legal Counsel

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August 12, 2015

E-5

ATTACHMENT C

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EXHIBIT "A"

NCS D WATER SHORTAGE RESPONSE AND MANAGEMENT PLAN

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

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
III	Severe Water Shortage conditions exists	<ul style="list-style-type: none"> • District targets a 30% reduction in production (Equating to a 752 acre foot or 245 million gallons of reduction in production on an annual basis). • Implement Stage III Drought Rates to encourage reduction in customer water demand. • Encourage customers to implement the following practices. <ul style="list-style-type: none"> ○ All Stage I and II measures. ○ Turn off all automated irrigation systems. ○ Provide minimum necessary irrigation to preserve trees and high-value landscape. ○ Do not drain or fill swimming pools or spas. ○ Do not use water for dust control or construction. ○ Do not use hoses to wash cars or equipment. ○ Turn off and drain ornamental fountains and water features • Suspend accepting applications for new water service. • Existing applications for new water service continue to be processed with allocations of supplemental water. • New water service connections are made. 	Severe Water Shortage no longer exist.**
IV	Severe Water Shortage conditions exists for >1YEAR or is triggered by both the Key Wells Index and the Coastal Criterion.	<ul style="list-style-type: none"> • District targets a 50% reduction in production (Equating to a 1,254 acre foot reduction in production on an annual basis). • Implement Stage IV Drought Rates to encourage reduction in customer water demand. • Encourage customers to implement the following practices: 	Severe Water Shortage conditions no longer exist.

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STAGE	GROUNDWATER CONDITION	RESPONSE ACTIONS	RELIEF OF RESTRICTIONS
		<ul style="list-style-type: none"> ○ All Stage I, II, and III measures. ○ Do not use District water for irrigation/outdoor uses of any sort. ● New applications for water service are NOT accepted (Stage III) ● Cease processing existing applications for new water service. No allocation of supplemental water is made. ● New water service connections are made only to projects with preexisting service commitments. 	
V	Severe Water Shortage conditions for >2 years with BOTH triggers (Key Wells Index and Coastal Area Criterion).	<ul style="list-style-type: none"> ● District targets a 60% reduction in production. (Equating to a 1,504 acre foot reduction in production on an annual basis). ● Implement Stage V Drought Rates to encourage additional reduction in customer water demand. ● Declaration of a Water Shortage Emergency in accordance with CA Water Code Section 350. ● Suspend all new water service connections. ● Encourage customers to implement all Stage I-IV measures and to use only the absolute minimum water necessary for health and sanitation purposes. <ul style="list-style-type: none"> ○ All Stage I, II, and III measures. ○ Do not use District water for irrigation/outdoor uses of any sort. ○ Do not drain or fill swimming pools or spas. ○ All measures possible to reduce water use. ● New applications for water service are NOT accepted (Stage III) ● Existing applications for new water service are not processed (Stage IV) 	Severe Water Shortage conditions no longer exist.

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** 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:

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

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