

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BEB*  
DATE: APRIL 20, 2007 *by LBB*



## INTRODUCE ORDINANCE AMENDING NCSD WATER ALLOCATION PROGRAM

### ITEM

Introduce ordinance amending NCSD Water Allocation Program and set hearing for adoption [RECOMMEND ADOPTION].

### BACKGROUND

Your Honorable Board, on March 28, 2007, reviewed draft amendments to NCSD's Water Allocation Program, revised the draft text to address annexations, set this hearing and directed staff to circulate the proposed draft ordinance to interested parties for review. Attached is the full text of the draft ordinance, which has been circulated to the County and the Building Industry. As noted previously, this ordinance does not address fees for secondary units.

Also attached is the October 13, 2004, Board Letter regarding the initial adoption of the Allocation Program, which includes the Environmental Checklist referenced in Section 7 of the draft ordinance. In addition, staff has attached a copy of the executed 2004 Resolution adopting the Negative Declaration and a copy of staff's proposed Notice of Exemption regarding adoption of this Ordinance. Filing of the Notice of Exemption triggers a 35-day filing window for interested parties to challenge the exemption.

### RECOMMENDATION

Staff believes that the revisions to the program incorporated into the draft ordinance are prudent. Staff recommends that your Honorable Board receive public comment and then determine if there are additional edits to the ordinance. Once the Board has reached closure on the final proposed version of the Ordinance, the Board should vote to authorize the filing of the Notice of Exemption, to waive reading of the entire text by reading title only, and then to vote to set adoption for June 13, 2007 (the next meeting following the exhaustion of the 35-day challenge window).

### ATTACHMENTS

- LETTER FROM SLO COUNTY HOUSING TRUST FUND
- DRAFT ORDINANCE
- 2004 STAFF NOTE
- 2004 RESOLUTION ADOPTING THE NEGATIVE DECLARATION
- DRAFT NOTICE OF EXEMPTION



April 18, 2007

Delivered via facsimile to 805-929-1932; original will follow by US Mail

Larry Vierheilig, President  
Nipomo Community Services District  
P.O. Box 326  
Nipomo, CA 93444-0326

Dear Mr. Vierheilig and Members of the Board.

I encourage you to not approve the proposed water allocation ordinance that is on your April 25, 2007 agenda until and unless the district complies with state laws concerning the allocation of water services for affordable housing units for lower income households. By reducing the quantity of water that will be available for affordable housing, the proposed ordinance will exacerbate NCSA's failure to comply with the following state laws:

- Government Code Section 65589.7 (c), which prohibits the denial, conditional approval or reduction of water services for housing projects that include units that are affordable to lower income households,
- Government Code Section 65589.7 (b), which requires the adoption of written policies and procedures for granting water services on a priority basis for housing projects that include units that are affordable to lower income households, and
- Water Code Section 10631.17, which requires that Urban Water Management Plans include projections of the water needs of affordable housing for lower income households.

I raised similar concerns with the district's legal counsel when the current allocation ordinance was being considered. While a small allocation for affordable housing was added to that ordinance, I told Mr. Seitz that I believed it was still inadequate. Since then, state law was amended to clarify the obligation to provide water for affordable housing on a priority basis.

Please feel free to call me if you have any questions concerning this matter.

Sincerely,

Jerry Rioux

Cc: Jon Seitz, esq.  
County Supervisor Katcho Achadjian  
Cathy Creswell, California Department of Housing and Community Development  
Western Center on Law and Poverty  
California Rural Legal Assistance

ORDINANCE NO. 2007- \_\_\_\_\_

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING THE RULES AND REGULATIONS  
FOR ALLOCATION OF INTENT-TO-SERVE LETTERS  
CHAPTER 3.05 OF THE DISTRICT CODE**

**WHEREAS**, it is essential for the protection of the health, welfare, and safety of the residents of the Nipomo Community Services District ("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 groundwater extracted primarily from the Nipomo Mesa Management Area (NMMA), (also referred to as the Nipomo Water Conservation Area by the County of San Luis Obispo), of the Santa Maria Groundwater Basin. A small proportion of NCSD's water is pumped from groundwater in the Nipomo Valley; and

**WHEREAS**, the primary source of recharge of the NMMA is deep percolation of rainwater, with contributions from agricultural and urban return flows, and sub-surface inflows within the Santa Maria Basin; and

**WHEREAS**, the District has reviewed and has on file a report titled Resource Capacity Study Water Supply Nipomo Mesa Area November 2004, prepared by the San Luis Obispo County Department of Planning and Building. Said report confirms that current water demand presently equals or exceeds the dependable yield of the Groundwater Basin and further concludes that in order to address the projected deficits a combination of conservation and additional supply totaling four thousand two hundred forty-nine (4,249) AFY should be in place by the year 2010; and

**WHEREAS**, the District is in receipt of Science Application International Corporation's ("SAIC") October 9, 2006, Draft Technical Memorandum that estimates that the volume of groundwater underlying the NMMA in storage above sea level was reduced by approximately three thousand (3,000) acre feet between April of 2000 and April of 2006 (approximately 500 acre feet per year); and

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

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.

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- 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**, since July 1997 the Santa Maria Groundwater Basin has been the subject of ongoing litigation between nearly 800 hundred parties, including the NCSD, with competitive claims to pump groundwater. (Superior Court of the State of California, County of Santa Clara, Case No. 770214); and

**WHEREAS**, as part of the Groundwater Adjudication referenced, above, a majority of parties, including the NCSD, Conoco-Phillips, the Woodlands Mutual Water Company, Golden State Water Company and Rural Water Company have entered into a Stipulation, imposing a physical solution to establish a legal and practical means of assuring the longterm sustainability of the groundwater basin underlying the NMMA (herein "Stipulation"). The Stipulation contemplates the formation of a NMMA Technical Group to develop a monitoring program for the NMMA. Additionally, the NMMA Technical Group will develop, for Court approval, criteria for declaring Potentially Severe Water Shortage Conditions and Severe Water Shortage Conditions; and

**WHEREAS**, the County of San Luis Obispo has adopted a "Growth Management Ordinance" (Title 26 of the County Code) that imposes a 1.9 percent growth limitation for non-exempt projects for the Nipomo Mesa area (said Title 26 and implementing Ordinance and supporting studies, including the supporting CEQA analysis are incorporated herein by this reference). The stated purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare including:

1. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan;
2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources

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necessary to support existing and proposed new development as envisioned by the County General Plan; and

**WHEREAS**, it is essential for conservation purposes, and for the protection of groundwater resources, that the District further restrict the District's Rules, Regulations and Procedures for allocating new water service; and

**WHEREAS**, the District Board of Directors, at a public meeting, on February 14, 2007, considered a Staff Report, and public testimony regarding potential revisions to Chapter 3.05 of the District Code; and

**WHEREAS**, on March 28, 2007, the District Board of Directors conducted a public hearing to further consider revisions to Chapter 3.05 to the District Code; and

**WHEREAS**, on April 26, 2007, the District Board of Directors, at a public meeting, took the following actions in considering the amendments to Chapter 3.05:

- 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**, in amending Chapter 3.05, the District does not intend to limit other authorized means of managing, protecting and conserving the groundwater basin, and intends to work cooperatively with the NMMA Technical Group and other agencies to implement joint groundwater management practices; and

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

- A. That the purpose and intent in further amending Chapter 3.05 is consistent with the purposes found in Section 3.05.010 and the Stipulation imposing a physical solution to assure longterm sustainability of the groundwater basin;
- B. Allocating Intent-to-Serve Letters for water service will provide greater assurance that there will be adequate groundwater to meet present and future needs of District

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residents consistent with the resource protection goals of the San Luis Obispo County South County Area Plan;

- C. That adopting the amendments to Chapter 3.05 will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection consistent with Water Code §§353 and 354.

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

**Section 1. Repeal of Chapter 3.05 to the District Code**

Chapter 3.05 of the District Code is hereby repealed in its entirety effective 12 midnight September 30, 2007.

**Section 2. Amended Code**

Chapter 3.05 as provided in Exhibit "A" attached hereto is hereby adopted by the District Board of Directors to take effect October 1, 2007.

**Section 3. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, support the implementation of conservation measures and procedures adopted by this Ordinance and are incorporated herein by this reference.

**Section 4. Water Code § 350 Findings**

The Recitals to this Ordinance constitute findings consistent with Water Code §350 that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent there would be insufficient water for human consumption, sanitation and fire protection. On that basis, a water emergency as defined by Water Code §350 exists. The rules and regulations of this Ordinance are adopted to conserve the water supply for the greatest public benefit and those purposes identified in Section 3.05.010 of Chapter 3.05 of the District Code.

**Section 5. 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

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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 6. 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 7. 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 effective midnight September 30, 2007

**Section 8. CEQA**

The District performed an environmental assessment in adopting Chapter 3.05. Said CEQA checklist confirmed that the adoption of the rules and regulations allocating Intent-to-Serve Letters could not have a significant effect on the environment. Said environmental checklist and negative declaration are incorporated herein by reference. Based on the prior CEQA review the Board of Directors finds that the adoption of the rules and regulations established by this Ordinance fall within the activities described in Section 15061 (b)(3) of the CEQA Guidelines which are deemed not to be projects for the purposes of CEQA because they can be seen with certainty that there is no possibility that the rules and regulations in question may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**Section 9. Effective Date**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall

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be posted in three (3) public places with the names of the members voting for and against the Ordinance and shall remain posted thereafter for at least one (1) week. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in the Five Cities Times Press Recorder.

**Section 10. Implementation Date**

The rules, regulations and procedures adopted by this Ordinance shall be implemented on October 1, 2007.

Introduced on the 25<sup>th</sup> day of April, 2007 and adopted by the Board of Directors of the Nipomo Community Services District \_\_\_\_\_, 2007, by the following roll call vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAINING:

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MICHAEL WINN,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

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DONNA K. JOHNSON  
Secretary to the Board

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JON S. SEITZ  
District Legal Counsel



**NIPOMO COMMUNITY SERVICES DISTRICT**

**EXHIBIT "A"**

**CHAPTER 3.05 OF THE DISTRICT CODE**

**WATER SERVICE LIMITATIONS**

**3.05.010 Purpose.**

The purposes of this Chapter include the following:

- A. To promote public health and safety and to avoid water shortage emergencies by establishing a maximum annual water allocation for residential water service within the District boundaries.
- B. To promote conservation by establishing goals for the maximum beneficial use of water by residential category.
- C. To allocate water service by categories to avoid a particular category from being excluded from participation and receiving water service.
- D. To establish a maximum allocation for any one project during an allocation year, so as to allow greater opportunity for all projects in a category to participate and to receive water service.
- E. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
- F. To grant a priority for the provision of available resources to proposed housing developments which help meet the County of San Luis Obispo's share of regional housing need for lower income households as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors.
- G. To provide flexibility by allowing the Board to consider redistributing allocations at the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year.

**3.05.020 Definitions.**

- A. **AFY** – means acre feet per year.
- B. **Allocation Year** – means October 1<sup>st</sup> through September 30<sup>th</sup> of each calendar year.
- C. **Lower income housing** – means lower income housing as identified in the Housing Element of the San Luis Obispo County General Plan, as amended from time to time.
- D. **Multi-family dwelling unit** – means a building or portion thereof designed and used as a residence for three or more families living independently of each other under a common roof, including apartment houses, apartment hotels and flats, but not including automobile courts, or boardinghouses.
- E. **Two family dwelling unit (duplex)** – means a building with a common roof containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other.
- F. **Single family dwelling unit** – means a building designed for or used to house not more than one family.
- G. **Secondary dwelling units** – means an attached or detached secondary residential dwelling unit on the same parcel as an existing single-family (primary) dwelling. A secondary unit provides for complete independent living facilities for one or more persons.

**3.05.030. Limitations on Water Use.**

The following total demand certifications, including landscaping, are established for the following uses:

- A. 0.33 AFY per Multi-Family Dwelling Unit;
- B. 0.24 AFY per Dwelling Unit for duplexes and Secondary Dwellings;
- C. 0.29 AFY per Single Family Dwelling Unit located on a parcel size of four thousand five hundred (4,500) square feet or less;
- D. Subject to subsection C, above 0.39 AFY per Single Family Dwelling Unit located on a parcel size between four thousand five hundred (4,500) and ten thousand (10,000) square feet.;
- E. 0.69 AFY per Single Family Dwelling Unit located on a parcel size that exceeds ten thousand (10,000) square feet.

### **3.05.040 Water Allocation per Allocation Year.**

A total of 34.3 acre feet (total allocation) per allocation year is allocated to projects on a first come, first served basis as follows:

- A. 34.3 for residential projects as follows:
  - 1. Category 1: A total of 21.86 AFY, including landscaping, is reserved for:
    - a. For Single Family Dwelling Units; and
    - b. Two Family Dwelling Units (duplexes).
  - 2. Category 2: A total of 6.86 AFY, including landscaping, is reserved for Multi-Family Dwelling Units.
  - 3. Category 3: A total of 3.36 AFY is reserved for Secondary Dwelling Units and local agency maintained landscaping projects.

B. During the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year the unused allotments for Categories referenced in Section A, above, may be re-allocated by the Board of Directors to other Categories referenced in Section A, above.

C. Notwithstanding subparagraph B, above, the District shall reserve 2.22 AFY for proposed housing developments which help meet the County of San Luis Obispo's share of regional housing needs for lower income housing as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisor's. Said reservation shall be applied only to Category 1 and Category 2 projects referenced in Subparagraph A, above. Further, said reservation may only be re-allocated during the fourth (4<sup>th</sup>) quarter of each allocation year.

### **3.05.050 Water Demand Certifications Required.**

A. Will Serve Letters: All applications for Will Serve Letters for residential units referenced in 3.05.040 require an engineer's or architect's certification that:

- 1. Low use landscape irrigation systems will be installed to irrigate landscaping; and
- 2. The Maximum total water demand, including landscaping does not:

- a. For Single Family Dwelling Units – exceed the limitations established in Section 3.05.030, above for single family dwelling units;
- b. For Secondary Dwelling Units – exceed a total water demand of 0.8 AFY for both the secondary and the primary dwelling units.

B. Intent to Serve Letters: All applications for Intent to Serve Letters require a registered engineer’s or architect’s certification that:

- 1. That low use landscape irrigation systems will be installed to irrigate landscaping; and
- 2. That the design maximum total water demand, including landscaping, does not exceed the limitations on water use established in 3.05.030, above.

**3.05.060 Reduction in Total Allocation by Residential Categories**

The total allocation, per allocation year, for each residential category designated in 3.05.040 shall be reduced (or accounted for) by the observed actual use by category plus a multiplier of 1.05 to account for commercial growth in water demand resulting from residential development as follows:

	Observed Actual Use	Commercial Multiplier	Accounted for Reduction
A. Multi-Family	0.47 AFY	1.05	.50 AFY
B. Duplex	0.34 AFY	1.05	.36 AFY
C. SF (<4,500 sf lot)	0.41 AFY	1.05	.43 AFY
D. SF (4,500 to 10,000 sf)	0.55 AFY	1.05	.58 AFY
E. SF (>10,000sf)	0.98 AFY	1.05	1.03 AFY

**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. Application shall be made on District’s Application for Intent-to-Serve Letter or Will-Serve Letter form. In order to be considered for an Intent-to-Serve Letter or Will-Serve Letter applications shall contain a verification that applicant has submitted the proposed project for initial review to the County Planning and Building Department.

B. Intent-to-Serve Letters shall automatically terminate on the first to occur:

1. Failure of the applicant to provide District with written verification, within two hundred forty (240) calendar days of the date the Intent to Serve Letter is issued, that the County has deemed the County's project application to be complete; or
2. Two (2) years. However, applicant shall be entitled to a one year extension upon proof of reasonable due diligence in processing the project.

**3.05.080 Exempt Projects.**

The following projects are exempt from the requirements of Section 3.05.040 and 3.05.060:

A. Commercial Projects that submit a landscape plan consistent with best management practices, including that low use landscape irrigation systems will be installed.

B. Projects with existing Intent-to-Serve Letters that have not expired.

C. Projects with existing Will-Serve Letters.

D. Remodels, and changes of use (i.e. commercial to residential) where the resulting water demand does not exceed the requirements of Section 3.05.030, above.

**3.05.090 Mixed Use Projects.**

Projects that include both commercial and dwelling units (mixed use) will only be approved if the dwelling units associated with the project meet the Dwelling Unit Standard set forth in Section 3.05.030 (A), above.

**3.05.100 Limitation on Secondary Units**

In addition to the other requirements contained in this Chapter, applications for water service to secondary units will only be accepted that include an engineer's or architect's certification that the total water demand for the secondary unit and the primary dwelling unit will not exceed 0.8 AFY. Applications for secondary units will be allocated Will-Serve Letters under 3.05.040 (A)(3), above.

### **3.05.110 Limitations on Allocations**

A. Only one (1) request for an Intent-to-Serve Letter will be considered for any one (1) project or parcel. The District will not allocate more than twenty percent (20%) of the allocations referenced in 3.05.040 (A) (1) (2) or (3) to a project during any one allocation year.

B. A maximum of fifty percent (50%) of the annual water allocation for each successive allocation year may be reserved for projects requiring phasing of water commitments.

### **3.05.120. Waiting List**

A. The General Manager shall maintain a waiting list for the issuance of Intent-to-Serve Letters.

B. Only applicants who have submitted a completed Intent to Serve/Will Serve application shall be placed on the waiting list and/or considered for approval.

### **3.05.130 Transfer of Allocations**

Allocations provided in the District's Intent-to-Serve Letter shall run with the land and cannot be transferred to other parcels.

### **3.05.140 Implementing Procedures**

The General Manager is hereby authorized to develop and implement procedures for allocating Intent to Serve Letters and Will Serve Letters consistent with this Chapter and its purposes and intent.

### **3.05.150 Annexations**

Water demand for annexations shall be charged against the total allocation referenced in Section 3.05.040 at the date the District approves the annexation agreement.

### **3.05.160 Annual Review**

A. During the fourth quarter of each allocation year, the District Board of Directors shall hold a public hearing to:

- Evaluate the water allocation formulas contained in this Ordinance; and
- To evaluate the water allotment for ensuing year.

B. The Board of Directors reserves the right, at any time, to evaluate, amend or modify this Ordinance.

**3.05.170 Re-evaluation**

The District Board of Directors will re-evaluate Chapter 3.05 concurrently with any final agreement that obligates the parties for the delivery of supplemental water.

TO: BOARD OF DIRECTORS  
FROM: MICHAEL LEBRUN <sup>M+L</sup>  
JON SEITZ, DISTRICT LEGAL COUNSEL  
DATE: OCTOBER 13, 2004



**RESOLUTION AND ORDINANCE  
ALLOCATING WATER SERVICE**

**STAFF RECOMMENDATION**

After reviewing the Ordinance, the CEQA analysis, and considering the Staff Report, Staff presentation and public comment, Staff recommends as follows:

- A. That the Board of Directors, by separate action:
- Adopt Resolution 2004- \_\_\_\_ - Adopting a Negative Declaration for the adoption of the Ordinance/the Project
  - Adopt Ordinance 2004- \_\_\_\_ - Adding Chapter 3.05 to the District Code
  - Instruct Staff to immediately revise applications for Intent to Serve Letters and Will Serve Letters to comply with the revisions of this Ordinance.
  - Instruct Staff to establish a water allocation accounting procedure in compliance with provisions of the Ordinance.
  - Instruct Staff to notify applicants on the waiting list that the District will consider Will Serve Letters and Intent to Serve Letters that comply with the terms and conditions of this Ordinance.
- B. Amend or modify the above recommendations.

**UPDATE AND REVISIONS**

At the Board Meeting on September 29, 2004, the District Board of Directors continued the hearing on the proposed Ordinance. At the conclusion of the meeting, Staff was instructed to consider commercial project water demands, include a statement within the Ordinance exempting annexations that meet the Districts annexation policy, and return to the Board on October 13, 2004, to continue consideration of the proposed Ordinance.

The following is a summary of the actions taken by District Staff since the September 7, 2004 meeting.

- A. Staff added specific reference to the District's Urban Water Management plan in the proposed Ordinance.
- B. Staff added a fifth category of exempt projects with the following language:
- 3.05.070, E., Projects that require annexation and are supported by supplemental water pursuant to the District's Annexation Policy as amended from time to time. [Are exempt from the allocation requirements of the ordinance]*



TO: BOARD OF DIRECTORS  
FROM: MICHAEL LEBRUN  
JON SEITZ, DISTRICT LEGAL COUNSEL  
DATE: OCTOBER 13, 2004

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- C. Staff reviewed commercial project demand standards and demand of existing commercial projects within the District.
- D. Staff reviewed the basis and CEQA documentation for the proposed Ordinance.

As a result of this review, Staff presents the following findings and discussion:

1. Restaurants within the District use up to 3.5 acre-feet/year (AFY) water.
2. Laundry mats within the District use approximately 4.0 AFY. Typical laundry mat design flows (published numbers) are reported to be on the order of 500 gallons per day per machine. At this rate, a twenty machine laundry mat would need approximately 11.2 AFY.
3. Hotels can be expected to use approximately 50/gal per guest per day. A fifty-room hotel, that experiences 50-percent occupancy on the year, with two persons per room, would be expected to use approximately 2.8 AFY.
4. The basis of the proposed resolution and supporting environmental documentation is for residential projects.

While it is clear, commercial projects can and do use considerable water resources, revising the proposed Ordinance to include commercial projects would require a re-consideration and re-publication of environmental documents in support of the revised project.

The Ordinance, as proposed, provides the District with its first-ever cap on annual allocation of water service. As discussed in detail below, the Ordinance establishes a 51-AFY limit for non-exempt projects. The limit provides a clear and defensible mechanism for the District to regulate (limit) the amount of water service allocated in any one year. The basis for the limit is derived from the County's growth Ordinance and the Districts current water delivery rates.

The proposed Ordinance provides a starting point for accounting (maximum demand standards by dwelling type) and allocating service. It also provides a means of moving forward, with caution, issuing service letters. In concert with the Ordinance, staff will tabulate and report, allocation quantities, both those that count toward the 51 AFY cap and those exempt. Additionally, staff will present for Board consideration, annual consumption volume increase over time and comprehensive well level monitoring data. Finally, Staff will continue with Board direction to secure supplemental water sources.

As data becomes available, supplemental water sources are secured, and trends are established, the proposed Ordinance can be re-considered and revised as necessary (decrease or increase annual allocation limit) to provide prudent protection of our water supply resources.

TO: BOARD OF DIRECTORS  
FROM: MICHAEL LEBRUN  
JON SEITZ, DISTRICT LEGAL COUNSEL  
DATE: OCTOBER 13, 2004

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OCTOBER 13, 2004

The remainder of this staff report is substantially unchanged from the September 29, 2004, staff report.

## PURPOSES OF ORDINANCE

The purposes of the Ordinance are as follows:

1. To promote public health and safety and to avoid water shortage emergencies by establishing a maximum annual water allocation for residential water service within the District boundaries.
2. To promote conservation by establishing goals for the maximum beneficial use of water by residential category.
3. To allocate water service by categories to avoid a particular category from being excluded from participation and receiving water service.
4. To establish a maximum allocation for any one project during an allocation year, so as to allow greater opportunity for all projects in a category to participate and to receive water service.
5. To grant a priority for the provision of available resources to proposed housing developments which help meet the County of San Luis Obispo's share of regional housing need for lower income households as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors.
6. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
7. To provide flexibility by allowing the Board to consider redistributing allocations at the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year.

## ANNUAL REVIEW

Although Staff believes that the procedures and maximum allocations established by the attached Ordinance are reasonable, Staff also recognizes the requirement for modification based on the District's experience in implementing the allocation and procedures established by the Ordinance. Therefore, Section 3.05.140 was included for an annual reconsideration of the allocation procedures established by the Ordinance. Additionally, the Ordinance provides the District will re-evaluate Chapter 3.05 concurrently with the District entering into a final agreement for the delivery of supplemental water.

## MAXIMUM ALLOCATION (51 AFY)

The County of San Luis Obispo ("County") has adopted a Growth Management Ordinance (Title 26 of the County Code). The purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare, including:

TO: BOARD OF DIRECTORS  
FROM: MICHAEL LEBRUN  
JON SEITZ, DISTRICT LEGAL COUNSEL  
DATE: OCTOBER 13, 2004

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1. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as established by the Resource Management System (RMS) of the County General Plan;
2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan.

Since January 18, 2000, the San Luis Obispo County Board of Supervisors has set the growth rate at 2.3 percent for the Nipomo Mesa for non-exempt residential development.

The Ordinance establishes a maximum water allocation of fifty-one (51) AFY for residential development. The fifty-one (51) AFY (3.05.040 (A)) of the Ordinance was arrived at by multiplying the County's Growth Rate of 2.3 percent times the District's water production of 2,203 AFY for the Town Division. See July 19, 2004 Staff Report.

In addition to the County's Growth Management Ordinance, allocation of water service is supported by the following:

- A. The testimony of SAIC at the Phase III hearing related to the Groundwater Adjudication.
- B. The Papadopoulos Report that recommends water conservation and limitations on development in response to that Report's finding that groundwater beneath the Nipomo Mesa Area is consistent with the County's Resource Management System Water Supply Criterion, Level of Severity III - existing demand equals or exceeds dependable supply.
- C. The County's draft Resource Capacity Study that recommends a Level III be certified for the Nipomo Mesa Area and that measures be implemented to lessen adverse impacts of future development.
- D. The findings adopted by the Ordinance.

#### **ALLOCATION YEAR**

At the Board Meeting of September 7, 2004, the Board approved October 1<sup>st</sup> through September 30<sup>th</sup> as the water allocation year (see Section 3.05.020 (B)). The maximum water allocation is fifty-one (51) acre feet, for non-exempt projects, per allocation year.

#### **TOTAL DEMAND LIMITATIONS**

The total demand limitations for water use established by Section 3.05.030 of the Ordinance are consistent with the District's Water and Sewer Master Plan Update, the discussions held

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with the County and Homebuilder's Association of the Central Coast, and the water reduction goals of the District's Urban Water Management Plan.

### ALLOCATION BY CATEGORY

A. Residential Single-Family is now allocated thirty-five (35) AFY (Section 3.05.040 (A) (1)) therefore, using 0.45 AFY (as an average) per dwelling unit the District could anticipate authorizing service for approximately seventy-eight (78) Single-Family units and/or Duplexes per allocation year with any one project receiving a maximum allocation of approximately fifteen (15) units per year.\*

B. Multi-Family is now allocated eleven (11) AFY, therefore using 0.18 AFY per dwelling unit, the District could anticipate authorizing service for approximately sixty-one (61) Multi-Family units per allocation year, with any one project receiving a maximum allocation of approximately twelve (12) units per year.\*

- Absent the potential for reallocation. See Section 3.05.040(B).

### LOWER INCOME

Government Code §65589.7(a) mandates that the NCSD as the "public agency" grant a "priority" of available and future resources to proposed housing developments which "help" meet the County's share of the regional housing need for lower income households as identified in the housing element. The County of San Luis Obispo's Regional Housing Needs Plan ("RHNP") identifies 7.7 acres within the District (zoned RMF) with the potential development of one hundred eighty-five (185) multi-family dwelling units to meet the lower income household goals of the County's RHNP. Staff believes that RMF zoning represents the most likely category for lower income housing projects. Section 3.05.030 (A) establishes a total water demand (including landscaping) of 0.18 afy per year per multi-family unit. Therefore, the total anticipated water consumption of the one hundred eighty-five (185) units equals 33.3 afy total. Generally, the District uses the year 2020 for build-out projections (approximately 16 years). Staff made the following assumptions in arriving at a total water demand for low income housing per allocation year:

- That the County would further rezone RMF property within the sixteen (16) year period; and
- That the total 7.7 acres zoned RMF would not be developed to meet the lower income goals of the RHNP.
- Therefore, Staff applied ten (10) allocation years to build-out one hundred eighty-five (185) lower income units within the District which equates to approximately 3.3 afy (33.3 divided by 10) or approximately seventeen (17) lower income multi-family units (Category 2) or up to ten (10) lower income single family units (Category 1) are assured water commitments per allocation year.

It is important to note the following:

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- The 3.3 afy (or a portion of) can be allocated to single family residential lower income projects.
- If and when the 3.3 afy is consumed by lower income projects, those projects could still qualify for Intent to Serve Letters in the existing categories and limitations.
- The District retains the right to reshuffle the allocation.
- That as a result of conversations with Jerry Rioux, of the San Luis Obispo County Housing Task Force, the 3.3 reservation would only be applied to single family residential projects (Category 1) or multi-family projects (Category 2). The thinking is that there would be greater opportunity for lower income housing starts if the allocation was limited to multi-family and single family housing projects.

## SPECULATION

Section 3.05.050 (A) (1) of the Ordinance now requires applicants to complete project application with the County within eight (8) months of issuance of Intent to Serve Letter with a final expiration of two (2) years. Applicants are now entitled to a one (1) year extension upon proof of reasonable diligence in processing their projects through the County. The Staff believes that this Section will accomplish the following:

- A. To insure that the issuance of Intent to Serve Letters is limited to those projects that are committed to proceeding with development; and
- B. To allow more opportunity for project participation, assuming a number of Intent to Serve Letters will expire for lack of submitting a "completed application" with the County.

## CEQA

Garing, Taylor and Associates, (the District's Consulting Engineer) completed an initial CEQA checklist and concluded that a Negative Declaration for Ordinance adoption should be approved. The Notice of Intent to Adopt a Negative Declaration was posted with the County and published in the Times-Press Recorder. The Resolution adopting the Negative Declaration references the County's adoption of a Negative Declaration in approving the 2.3 growth limitation for the Nipomo Mesa (South County Planning Area).

## ENFORCEMENT

It is recognized that the primary function of this Ordinance is to establish policy. Because actual water users may consume water in excess of the water limitations, this Ordinance does not provide guarantees that allocations will actually be limited to fifty-one (51) acre feet per allocation year or the actual category of uses will, in fact, consume water consistent with established water limitations. However, the District is provided with reasonable assurances that projects are designed to meet the conservation objectives of this Ordinance and that the maximum use of new development will likely be within a reasonable range of the limitations established by the Ordinance. Actual enforcement will be encouraged by a tiered water rate structure that will be presented to the Board during this calendar year.

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## **ANNEXATIONS**

The water allocation, Section 3.05.040 of the Ordinance, does not apply to annexations. Pursuant to District policy, annexations are supported (eighty percent (80%) or more) by supplemental water as a condition of annexation.

## **ORDINANCE ADOPTION**

There are no legislative enactments regarding the procedures for community services districts to adopt ordinance. The NCSD generally follows the County's procedure for ordinance adoption (two (2) readings, publication and a thirty (30) day wait before the ordinance becomes effective). Because there are a number of applications for Intent to Serve Letters placed on hold pending the adoption of the Ordinance, the Ordinance suspends the two (2) reading procedure and the thirty (30) day wait period, but retains the publication and posting. This Ordinance will become effective upon its adoption.

**END OF MEMO**

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RESOLUTION NO. 2004- \_\_\_ Neg Dec

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A NEGATIVE DECLARATION AND AUTHORIZING THE ADOPTION OF  
CHAPTER 3.05 TO THE DISTRICT CODE THAT ESTABLISHES WATER SERVICE  
LIMITATIONS WITHIN THE NIPOMO COMMUNITY SERVICES DISTRICT**

**WHEREAS**, the Nipomo Community Services District ("District") is a community services district that is formed and operates pursuant to Sections 61600 et seq. of the Government Code; and

**WHEREAS**, pursuant to Government Code Section 61600 (a) the Nipomo Community Services District is authorized to:

"To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation"; and

**WHEREAS**, the project ("Project") is the adoption of an Ordinance that adds Chapter 3.05 to the District Code that imposes a water service limitation of fifty-one (51) AFY for non-exempt residential projects within the District. Said Chapter also establishes procedures and regulations regarding application for District service; and

**WHEREAS**, the California Environmental Quality Act (CEQA) requires the District to assess the impact of the Project on the environment, and circulate such assessment for public comment; and

**WHEREAS**, as part of the environmental review process the District retained Garing Taylor and Associates ("District's Consulting Engineer") to assess the impacts of the Project on the environment; and

**WHEREAS**, District's Consulting Engineer has prepared an Initial Study ("Initial Study") and Environmental Determination for the proposed project; and

**WHEREAS**, the Initial Study proposes that a Negative Declaration be approved for the Project (herein "Negative Declaration"); and

**WHEREAS**, public notice of the proposed Negative Declaration was given as required by Section 21092 of the Public Resource Code; and

**WHEREAS**, on September 29, 2004, the District held a Public Hearing on the proposed Negative Declaration, wherein Staff responded to written comments, and public testimony received by the Board of Directors and accepted further public testimony related to adoption of the proposed Negative Declaration and continued the Public Hearing; and

**WHEREAS**, on October 13, 2004, the District held a continued Public Hearing on the proposed Negative Declaration, wherein Staff responded to written comments, and public testimony received by the Board of Directors and accepted further public testimony related to adoption of the proposed Negative Declaration;

**WHEREAS**, having received, reviewed and considered the foregoing information, as well as any and all information in the record regarding the adoption of Chapter 3.05 to the District Code, and based on the staff analysis, oral and written testimony, the Initial Study, and this Negative Declaration, the Board of Directors hereby makes these Findings of Fact:

1. The Negative Declaration has been completed in compliance with the California Environmental Quality Act (Public Resources Code Section 21000, et seq) (CEQA), and CEQA Guidelines (14 Cal. Code Regs §§15000 et seq.), and the Board of Directors has received, reviewed and considered the information contained in the Initial Study, all hearings and submissions of testimony from the public and other agencies and organizations related to the Project and the adoption of a Negative Declaration.
2. Based on the independent objective review of the information contained in the administrative record for this matter, including those documents referenced in the Ordinance and the prior environmental documentation and determinations made by the County of San Luis Obispo in adopting Title 26 and its implementing Ordinances, the District Board of Directors finds that there is no substantial evidence supporting a fair argument that the Project will result in any substantial or potentially substantial adverse change in the environment.
3. The District's record supporting these Findings of Fact, includes but is not limited to the following, which are located at the Nipomo Community Services District Offices, 148 S. Wilson, Nipomo, California, 93444:
  - A. Documentary and oral evidence, testimony, and staff comments and responses received and reviewed by the Board during public hearings regarding the Project.
  - B. The Initial Study prepared by Garing, Taylor and Associates and documents referenced therein.

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

1. That the Board of Directors of the Nipomo Community Services District, based on the Board of Directors review and independent judgment, does hereby approve and adopt a Negative Declaration for the Project.
2. The General Manager is authorized to file a Notice of Determination in compliance with Section 21108 and/or 21152 of the Public Resource Code and the State Department of Fish & Game, Certificate of Fee Exemption.
3. The above Recitals and findings of fact are true and correct and incorporated into this Order by reference.



On motion of Board Member \_\_\_\_\_, seconded by  
Board Member \_\_\_\_\_ and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing resolution was passed and adopted this 13<sup>th</sup> day of October, 2004.

\_\_\_\_\_  
Michael Winn, President  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Donna K. Johnson  
Secretary to the Board

\_\_\_\_\_  
Jon S. Seitz  
District Legal Counsel

**California Department of Fish and Game**  
**CERTIFICATE OF FEE EXEMPTION**  
De Minimus Impact Finding

**Project Title :** Ordinance Adopting Rule and Regulations for Allocating Intent-To-Serve Letters for Projects Within District Boundaries

**Project Applicant**

Nipomo Community Services District  
148 South Wilson Avenue  
Nipomo, CA 93444  
(805) 929-1133

**Findings Of Exemption:**

There is no evidence before this agency that the proposed project has the potential for adverse effect upon wildlife resources for the following reason:

(X) Other: The Project will reduce the current rate of development within the District and will not result in a physical change to wildlife resources and there will be no significant effect on the environment.

**Certification:**

I hereby certify that the lead agency has made the above findings of fact and that, based upon the initial study, the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

\_\_\_\_\_  
General Manager, Nipomo Community Services District

\_\_\_\_\_  
Date

## NEGATIVE DECLARATION

**Project:** Ordinance Adopting Rule and Regulations for Allocating Intent-To-Serve Letters for Projects Within District Boundaries

**Applicant Address:** Nipomo Community Services District  
148 South Wilson Avenue  
Nipomo, CA 93444

**Telephone No.** (805) 929-1133

**Project Description:** Adoption of an ordinance to protect the District's important groundwater resources, by allocating Intent-To-Serve and Will-Serve Letters for the District's water service until such time as Groundwater Litigation is resolved or settled and the District is able to rely upon quantified groundwater from the Santa Maria Groundwater Basin.

### **Finding:**

The Nipomo Community Services District has reviewed the above project in accordance with the District's rules and procedures for implementation of the California Environmental Quality Act, and has determined that an Environmental Impact Report (EIR) need not be prepared because:

(X) The proposed project will not have a significant effect upon the environment.

The Initial Study, which provides the basis for this determination, is attached. A copy will be kept on file at the District offices, 148 South Wilson Avenue, Nipomo, CA 93444, (805) 929-1133.

---

General Manager, Nipomo Community Services District

**ENVIRONMENTAL DETERMINATION FORM**

1. Project title: **Ordinance Adopting Rule and Regulations for Allocating Intent-To-Serve Letters for Projects Within District Boundary**
  
2. Lead agency name and address:  
Nipomo Community Services District  
148 South Wilson Avenue  
Nipomo, CA 93444
  
3. Contact person and phone number:  
Doug Jones, General Manager  
Nipomo Community Services District  
148 South Wilson Avenue  
Nipomo, CA 93444  
(805) 929-1133
  
4. Project location:  
District-wide.
  
5. Project sponsor's name and address:  
  
Nipomo Community Services District  
148 South Wilson Avenue  
Nipomo, CA 93444
  
6. General plan designation: Not Applicable.
  
7. Zoning: Not Applicable.
  
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

The purpose of the District's Ordinance is to protect the District's important groundwater resources, by allocating Intent-To-Serve and Will-Serve Letters for the District's water service until such time as Groundwater Litigation is resolved or settled and the District is able to rely upon quantified groundwater from the Santa Maria Groundwater Basin.

The ordinance imposes a 2.3% and fifty-one acre feet cap on water resources allocated within the District for non-exempt single-family, duplex and multi-family residential and secondary dwelling unit projects and specifies the process for issuing Intent-To-Serve Will-Serve.

The ordinance provides the transfer of the unallocated portion of an annual cap to a subsequent

dwelling unit projects and specifies the process for issuing Intent-To-Serve Will-Serve.

The ordinance provides the transfer of the unallocated portion of an annual cap to a subsequent year and creation of an application to be served waiting list.

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9. Surrounding land uses and setting: Briefly describe the project's surroundings:

The District is sited within and is a part of a rapidly developing unincorporated area of Southern San Luis Obispo County. Development within this unincorporated area contains concentrations of large-lot residential subdivisions, golf courses and groundwater consumers which require communal water resources, treatment and distribution systems.

As a result of rapid growth and groundwater use in this unincorporated area San Luis Obispo County imposed an annual 2.3% cap or limit for groundwater use by new development. Due to inadequate communal resources for water treatment and distribution with the overall South County unincorporated area, development has concentrated its demand for the County's 2.3% cap within a fraction of the unincorporated area, the area served by the Nipomo Community Services District.

This practice concentrates an un-proportionate demand for finite water resources upon the District.

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10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |                                                        |                                                    |                                                 |
|--------------------------------------------------------|----------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources     | <input type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources        | <input type="checkbox"/> Geology /Soils         |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning    |
| <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Noise                     | <input type="checkbox"/> Population / Housing   |
| <input type="checkbox"/> Public Services               | <input type="checkbox"/> Recreation                | <input type="checkbox"/> Transportation/Traffic |

- Utilities / Service Systems     Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- \* I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Robert Mack

\_\_\_\_\_  
Signature, Prepared by

September 1, 2004

\_\_\_\_\_  
Date

Douglas Jones

\_\_\_\_\_  
Signature, Reviewed by

September 1, 2004

\_\_\_\_\_  
Date

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or

individuals contacted should be cited in the discussion.

- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
  - a) the significance criteria or threshold, if any, used to evaluate each question; and
  - b) the mitigation measure identified, if any, to reduce the impact to less than significance

**SAMPLE QUESTION**

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>1. AESTHETICS -- Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
 <b>2. AGRICULTURE RESOURCES:</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*



	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	*	<input type="checkbox"/>

**Impact Discussion:**

2.c The Ordinance permits development of some agricultural lands within the District, but at a reduced rate of development than currently permitted for the same properties.

**3. AIR QUALITY** -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

**4. BIOLOGICAL RESOURCES** -- Would the

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
<b>5. CULTURAL RESOURCES --</b> Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
<b>6. GEOLOGY AND SOILS -- Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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**7. HAZARDS AND HAZARDOUS MATERIALS** B Would the project:

- |                                                                                                                                                                                                                                                                  |                          |                          |                          |   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|---|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?                                                                                                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?                                                                                                                                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |

**8. HYDROLOGY AND WATER QUALITY --**  
Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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**9. LAND USE AND PLANNING**

- Would the project:

- |                                                                                                                                                                                                                                                                                                             |                          |                          |                          |   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|---|
| a) Physically divide an established community?                                                                                                                                                                                                                                                              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan?                                                                                                                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |

**10. MINERAL RESOURCES --** Would the project:

- |                                                                                                                                                                       |                          |                          |                          |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|---|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |

**11. NOISE B** Would the project result in:

- |                                                                                                                                                                                     |                          |                          |                          |   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|---|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?                                                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | * |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
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**12. POPULATION AND HOUSING --** Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------	--------------------------	--------------------------	---

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
-----------------------------------------------------------------------------------------------------------------------	--------------------------	--------------------------	--------------------------	---

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
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**13. PUBLIC SERVICES**

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
<b>14. RECREATION --</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
<b>15. TRANSPORTATION/TRAFFIC --</b> Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*



	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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**16. UTILITIES AND SERVICE SYSTEMS B**

Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Comply with federal, state, and local statutes and regulations related to solid waste?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**17. MANDATORY FINDINGS OF SIGNIFICANCE –**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Does the project have impacts that are

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	*
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	*	<input type="checkbox"/>

**Impact Discussion:**

Item 17c. The project may cause an increase in the development rate in the unincorporated areas adjoining the District. Development projects outside the District could have adverse or favorable environmental impacts dependent upon permitting conditions by non-District agencies.

ORDINANCE NO. 2004- \_\_\_\_

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING RULES AND REGULATIONS FOR ALLOCATING  
INTENT-TO-SERVE LETTERS FOR PROJECTS WITHIN THE DISTRICT  
BOUNDARY  
CHAPTER 3.05 OF THE DISTRICT CODE

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

**WHEREAS**, all of the current water supply requirements for the District are met by the use of groundwater; and

**WHEREAS**, the District is a party to a groundwater litigation matter, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation"). Until the Groundwater Litigation is resolved or settled the District's ability to rely on groundwater from the Santa Maria Groundwater Basin cannot be quantified; and

**WHEREAS**, the District's Urban Water Management Plan acknowledges that the District's future water supply will be dependent on the Court's decision on the adjudication of the Santa Maria Groundwater Basin with the possibility of the District having to curtail its pumpage from the Nipomo Sub-Area of the Santa Maria Groundwater Basin; and

**WHEREAS**, S.S. Papadopoulos and Associates, Inc. has prepared a report titled *Nipomo Mesa Groundwater Resource Capacity Study, San Luis Obispo, California* for the San Luis Obispo County Board of Supervisors (said Report and referenced documents are incorporated herein by this reference). Said Report included the following opinions and findings:

1. That groundwater pumping in the Nipomo Mesa area is in excess of the dependable yield. Since current and projected pumping beneath Nipomo Mesa exceeds inflow (natural recharge plus subsurface inflow), the Nipomo Mesa portion of the Santa Maria Groundwater Basin is currently in overdraft and projections of future demand indicate increasing overdraft.
2. DWR's findings for groundwater beneath the Nipomo Mesa Area are consistent with the County's Resource Management System Water Supply Criterion, Level of Severity III - existing demand equals or exceeds the dependable supply.

3. Although, existing and projected future water demand at Nipomo Mesa exceeds sustainable groundwater supply based on local water balance analyses, associated potential impact such as seawater intrusion of the aquifer system is not an imminent threat. Hydraulic analyses indicate that a time lag of many decades is likely before heavy groundwater pumping a few miles from the coast results in evidence of seawater intrusion near the coastline.
4. Analysis of historical rainfall data indicate a 30% likelihood that another 10-year period will occur within the next 100 years with annual rainfall nearly 2 inches below average. This would result in major declines in groundwater levels in the Santa Maria River Valley and Nipomo Mesa accompanied by reduced production capability from many wells, increased energy costs for pumping, and increased risk of seawater intrusion of the aquifers near the coastal margin.
5. Management response to these findings could include increased use of recycled water, increased importation of supplemental water, implementation of additional conservation measures, and appropriate limits on development; 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 recommends a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Area and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

**WHEREAS**, SAIC, the District's groundwater expert, has testified to Phase III of the above referenced Groundwater Adjudication that the Nipomo Mesa Area is in overdraft (said testimony and exhibits are incorporated herein by this reference); and

**WHEREAS**, the County of San Luis Obispo has adopted a "Growth Management Ordinance" (Title 26 of the County Code) that imposes a 2.3 percent growth limitation for non-exempt projects for the Nipomo Mesa area (said Title 26 and implementing Ordinance and supporting studies, including the supporting CEQA analysis are incorporated herein by this reference). The stated purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare including:

1. To establish an annual rate of growth that is consistent with the ability of community resources to support the growth, as

established by the Resource Management System (RMS) of the County General Plan;

2. To establish a system for allocating the number of residential construction permits to be allowed each year by the annual growth rate set by the County Board of Supervisors; and
3. To minimize adverse effects on the public resulting from a rate of growth which will adversely affect the resources necessary to support existing and proposed new development as envisioned by the County General Plan; and

**WHEREAS**, it is essential for conservation purposes, and for the protection of groundwater resources, that the District adopt procedures allocating water service.; and

**WHEREAS**, the District Board of Directors, at a public meeting, on June 16, 2004, considered a Staff Report, and public testimony regarding potential actions to implement restrictions on water service within the District boundary; and

**WHEREAS**, on September 7, 2004, the District Board of Directors conducted a public hearing, considered the Staff Report and public testimony on the proposed Ordinance (Chapter 3.05 to the District Code); and

**WHEREAS**, on September 29, 2004, the District Board of Directors conducted a Public Hearing, considered the Staff Report and public testimony on the proposed Ordinance (Chapter 3.05 to the District Code) and continued the Public Hearing; and

**WHEREAS**, on October 13, 2004, the District Board of Directors, at a continued Public Hearing, took the following actions in considering the adoption of this Ordinance:

- 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;
- C. Considered the contents of an environmental initial study and adopted a negative declaration status for the Ordinance.

**WHEREAS**, in adopting this Ordinance, the District does not intend to limit other authorized means of managing, protecting and conserving the groundwater basin, and intends to work cooperatively with other agencies to implement joint groundwater management practices; and

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

- A. That it is the purpose and intent in adopting this Ordinance includes those purposes found in Section 3.05.010 of the Ordinance;
- B. Adopting and allocating Intent-to-Serve Letters for water service, based on resource quantities, will provide greater assurance that there will be adequate groundwater to meet present and future needs of District residents;
- C. That imposing a 2.3 percent cap on water allocation to non-exempt projects provides a logical, consistent approach to water allocation;
- D. That adopting this Chapter 3.05 will conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection.
- E. That the hearing adopting this Ordinance has been appropriately noticed as required by law.

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

**Section 1. Adoption of Chapter 3.05 to the District Code**

Chapter 3.05 to the District Code, attached hereto as Exhibit "A", is hereby incorporated herein by reference and adopted by the Board of Directors of the Nipomo Community Services District.

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, support the implementation of conservation measures and procedures adopted by this Ordinance 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 or any County 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. Effective Date**

This Ordinance shall take effect immediately upon its adoption. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the Ordinance and shall remain posted thereafter for at least one (1) week. The Ordinance shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in the Five Cities Times Press Recorder.

On motion of Board Member \_\_\_\_\_, seconded by Board Member \_\_\_\_\_ and on the following roll call vote, to wit:

- AYES:
- NOES:
- ABSENT:

The foregoing Ordinance was passed and adopted this 13<sup>th</sup> day of October, 2004.

\_\_\_\_\_  
MICHAEL WINN,  
President of the Board of Directors  
Nipomo Community Services District

**NIPOMO COMMUNITY SERVICES DISTRICT**

**EXHIBIT "A"**

**CHAPTER 3.05 OF THE DISTRICT CODE**

**WATER SERVICE LIMITATIONS**

**3.05.010 Purpose.**

The purposes of this Chapter include the following:

- A. To promote public health and safety and to avoid water shortage emergencies by establishing a maximum annual water allocation for residential water service within the District boundaries.
- B. To promote conservation by establishing goals for the maximum beneficial use of water by residential category.
- C. To allocate water service by categories to avoid a particular category from being excluded from participation and receiving water service.
- D. To establish a maximum allocation for any one project during an allocation year, so as to allow greater opportunity for all projects in a category to participate and to receive water service.
- E. To avoid speculation by requiring applicants to diligently process their projects consistent with the rules and regulations of the County of San Luis Obispo.
- F. To grant a priority for the provision of available resources to proposed housing developments which help meet the County of San Luis Obispo's share of regional housing need for lower income households as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors.
- G. To provide flexibility by allowing the Board to consider redistributing allocations at the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year.

**3.05.020 Definitions.**

- A. **AFY** – means acre feet per year.
- B. **Allocation Year** – means October 1<sup>st</sup> through September 30<sup>th</sup> of each calendar year.



C. **Lower income housing** – means lower income housing as identified in the Housing Element of the San Luis Obispo County General Plan, as amended from time to time.

D. **Multi-family dwelling unit** – means a building or portion thereof designed and used as a residence for three or more families living independently of each other under a common roof, including apartment houses, apartment hotels and flats, but not including automobile courts, or boardinghouses.

E. **Two family dwelling unit (duplex)** – means a building with a common roof containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other.

F. **Single family dwelling unit** – means a building designed for or used to house not more than one family.

G. **Secondary dwelling units** – means an attached or detached secondary residential dwelling unit on the same parcel as an existing single-family (primary) dwelling. A secondary unit provides for complete independent living facilities for one or more persons.

### **3.05.030. Limitations on Water Use.**

The following total demand limitations, including landscaping, are established for the following uses:

- A. 0.18 AFY per Multi-Family Dwelling Unit;
- B. 0.3 AFY per Dwelling Unit for duplexes and Secondary Dwellings;
- C. 0.3 AFY per Single Family Dwelling Unit located on a parcel size of four thousand five hundred (4,500) square feet or less;
- D. Subject to subsection C, above 0.45 AFY per Single Family Dwelling Unit located on a parcel size between four thousand five hundred (4,500) and ten thousand (10,000) square feet.;
- E. 0.55 AFY per Single Family Dwelling Unit located on a parcel size that exceeds ten thousand (10,000) square feet.

### **3.05.040 Water Allocation per Allocation Year.**

A. Fifty-one (51) acre feet per allocation year is allocated to non-exempt projects on a first come first served basis as follows:

1. Category 1: A total of thirty-five (35) AFY, including landscaping, is reserved for:

- a. For Single Family Dwelling Units; and

b. Two Family Dwelling Units (duplexes).

2. Category 2: A total of eleven (11) AFY, including landscaping, is reserved for Multi-Family Dwelling Units.
3. Category 3: A total of five (5) AFY is reserved for Secondary Dwelling Units and local agency maintained landscaping projects.

B. During the end of the second (2<sup>nd</sup>) quarter and in the middle of the fourth (4<sup>th</sup>) quarter of each allocation year the unused allotments for Categories referenced in Section A, above, may be re-allocated by the Board of Directors to other Categories referenced in Section A, above.

C. Notwithstanding subparagraph B, above, the District shall reserve 3.3 AFY for proposed housing developments which help meet the County of San Luis Obispo's share of regional housing needs for lower income housing as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisor's. Said reservation shall be applied only to Category 1 and Category 2 projects referenced in Subparagraph A, above. Further, said reservation may only be re-allocated during the fourth (4<sup>th</sup>) quarter of each allocation year.

### **3.05.050 Water Demand Certifications Required.**

A. Will Serve Letters: All applications for Will Serve Letters for Single Family Dwelling Units on existing parcels and for Secondary Dwelling Units require an engineer's or architect's certification that:

1. Low use landscape irrigation systems will be installed to irrigate landscaping; and
2. The Maximum total water demand, including landscaping does not:
  - a. For Single Family Dwelling Units – exceed the limitations established in Section 3.05.030, above for single family dwelling units;
  - b. For Secondary Dwelling Units – exceed a total water demand of 0.8 AFY for both the secondary and the primary dwelling units.

B. Intent to Serve Letters: All applications for Intent to Serve Letters require a registered engineer's or architect's certification that:

1. That low use landscape irrigation systems will be installed to irrigate landscaping; and

2. That the design maximum total water demand, including landscaping, does not exceed the limitations on water use established in 3.05.030, above.

**3.05.060 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. Application shall be made on District's Application for Intent-to-Serve Letter or Will-Serve Letter form. In order to be considered for an Intent-to-Serve Letter or Will-Serve Letter applications shall contain a verification that applicant has submitted the proposed project for initial review to the County Planning and Building Department.

B. Intent-to-Serve Letters shall automatically terminate on the first to occur:

1. Failure of the applicant to provide District with written verification that County application for the project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
2. Two (2) years. However, applicant shall be entitled to a one year extension upon proof of reasonable due diligence in processing the project.

**3.05.70 Exempt Projects.**

The following projects are exempt from the requirements of Section 3.05.040:

A. Commercial Projects that submit a landscape plan consistent with best management practices, including that low use landscape irrigation systems will be installed.

B. Projects with existing Intent-to-Serve Letters that have not expired.

C. Projects with existing Will-Serve Letters.

D. Remodels, and changes of use (i.e. commercial to residential) where the resulting water demand does not exceed the requirements of Section 3.05.030, above.

E. Projects that require annexation and are supported by supplemental water pursuant to the District's Annexation Policy as amended from time to time.

### **3.05.080 Mixed Use Projects.**

Projects that include both commercial and dwelling units (mixed use) will only be approved if the dwelling units associated with the project meet the Dwelling Unit Standard set forth in Section 3.05.030 (A), above.

### **3.05.090 Limitation on Secondary Units**

In addition to the other requirements contained in this Chapter, applications for water service to secondary units will only be accepted that include an engineer's or architect's certification that the total water demand for the secondary unit and the primary dwelling unit will not exceed 0.8 AFY. Applications for secondary units will be allocated Will-Serve Letters under 3.05.040 (A)(3), above.

### **3.05.100 Limitations on Allocations**

A. Only one (1) request for an Intent-to-Serve Letter will be considered for any one (1) project or parcel. The District will not allocate more than twenty percent (20%) of the allocations referenced in 3.05.040 (A) (1) (2) or (3) to a project during any one allocation year.

B. A maximum of fifty percent (50%) of the annual water allocation for each successive allocation year may be reserved for projects requiring phasing of water commitments.

### **3.05.110. Waiting List**

A. The General Manager shall maintain a waiting list for the issuance of Intent-to-Serve Letters.

B. Only applicants who have submitted a completed Intent to Serve/Will Serve application shall be placed on the waiting list and/or considered for approval.

### **3.05.120 Transfer of Allocations**

Allocations provided in the District's Intent-to-Serve Letter shall run with the land and cannot be transferred to other parcels.

### **3.05.130 Implementing Procedures**

The General Manager is hereby authorized to develop and implement procedures for allocating Intent to Serve Letters and Will Serve Letters consistent with this Chapter and its purposes and intent.

### **3.05.140 Annual Review**

A. During the fourth quarter of each allocation year, the District Board of Directors shall hold a public hearing to:

- Evaluate the water allocation formulas contained in this Ordinance; and
- To evaluate the water allotment for ensuing year.

B. The Board of Directors reserves the right, at any time, to evaluate, amend or modify this Ordinance.

### **3.05.150 Re-evaluation**

The District Board of Directors will re-evaluate Chapter 3.05 concurrently with any final agreement that obligates the parties for the delivery of supplemental water.

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RESOLUTION NO. 2004- 917

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A NEGATIVE DECLARATION AND AUTHORIZING THE ADOPTION OF  
CHAPTER 3.05 TO THE DISTRICT CODE THAT ESTABLISHES WATER SERVICE  
LIMITATIONS WITHIN THE NIPOMO COMMUNITY SERVICES DISTRICT**

**WHEREAS**, the Nipomo Community Services District ("District") is a community services district that is formed and operates pursuant to Sections 61600 et seq. of the Government Code; and

**WHEREAS**, pursuant to Government Code Section 61600 (a) the Nipomo Community Services District is authorized to:

"To supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation"; and

**WHEREAS**, the project ("Project") is the adoption of an Ordinance that adds Chapter 3.05 to the District Code that imposes a water service limitation of fifty-one (51) AFY for non-exempt residential projects within the District. Said Chapter also establishes procedures and regulations regarding application for District service; and

**WHEREAS**, the California Environmental Quality Act (CEQA) requires the District to assess the impact of the Project on the environment, and circulate such assessment for public comment; and

**WHEREAS**, as part of the environmental review process the District retained Garing Taylor and Associates ("District's Consulting Engineer") to assess the impacts of the Project on the environment; and

**WHEREAS**, District's Consulting Engineer has prepared an Initial Study ("Initial Study") and Environmental Determination for the proposed project; and

**WHEREAS**, the Initial Study proposes that a Negative Declaration be approved for the Project (herein "Negative Declaration"); and

**WHEREAS**, public notice of the proposed Negative Declaration was given as required by Section 21092 of the Public Resource Code; and

**WHEREAS**, on September 29, 2004, the District held a Public Hearing on the proposed Negative Declaration, wherein Staff responded to written comments, and public testimony received by the Board of Directors and accepted further public testimony related to adoption of the proposed Negative Declaration and continued the Public Hearing; and

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A NEGATIVE DECLARATION AND AUTHORIZING THE ADOPTION OF CHAPTER 3.05 TO THE  
DISTRICT CODE THAT ESTABLISHES WATER SERVICE LIMITATIONS WITHIN THE NIPOMO COMMUNITY  
SERVICES DISTRICT

**WHEREAS**, on October 13, 2004, the District held a continued Public Hearing on the proposed Negative Declaration, wherein Staff responded to written comments, and public testimony received by the Board of Directors and accepted further public testimony related to adoption of the proposed Negative Declaration;

**WHEREAS**, having received, reviewed and considered the foregoing information, as well as any and all information in the record regarding the adoption of Chapter 3.05 to the District Code, and based on the staff analysis, oral and written testimony, the Initial Study, and this Negative Declaration, the Board of Directors hereby makes these Findings of Fact:

1. The Negative Declaration has been completed in compliance with the California Environmental Quality Act (Public Resources Code Section 21000, et seq) (CEQA), and CEQA Guidelines (14 Cal. Code Regs §§15000 et seq.), and the Board of Directors has received, reviewed and considered the information contained in the Initial Study, all hearings and submissions of testimony from the public and other agencies and organizations related to the Project and the adoption of a Negative Declaration.
2. Based on the independent objective review of the information contained in the administrative record for this matter, including those documents referenced in the Ordinance and the prior environmental documentation and determinations made by the County of San Luis Obispo in adopting Title 26 and its implementing Ordinances, the District Board of Directors finds that there is no substantial evidence supporting a fair argument that the Project will result in any substantial or potentially substantial adverse change in the environment.
3. The District's record supporting these Findings of Fact, includes but is not limited to the following, which are located at the Nipomo Community Services District Offices, 148 S. Wilson, Nipomo, California, 93444:
  - A. Documentary and oral evidence, testimony, and staff comments and responses received and reviewed by the Board during public hearings regarding the Project.
  - B. The Initial Study prepared by Garing, Taylor and Associates and documents referenced therein.

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

RESOLUTION NO. 2004- 917 .

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NIPOMO COMMUNITY SERVICES DISTRICT  
ADOPTING A NEGATIVE DECLARATION AND AUTHORIZING THE ADOPTION OF CHAPTER 3.05 TO THE  
DISTRICT CODE THAT ESTABLISHES WATER SERVICE LIMITATIONS WITHIN THE NIPOMO COMMUNITY  
SERVICES DISTRICT

1. That the Board of Directors of the Nipomo Community Services District, based on the Board of Directors review and independent judgment, does hereby approve and adopt a Negative Declaration for the Project.
2. The General Manager is authorized to file a Notice of Determination in compliance with Section 21108 and/or 21152 of the Public Resource Code and the State Department of Fish & Game, Certificate of Fee Exemption.
3. The above Recitals and findings of fact are true and correct and incorporated into this Order by reference.

On motion of Board Member Vierheilig, seconded by Board Member Trotter, and on the following roll call vote, to wit:

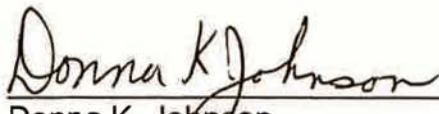
AYES: Directors Vierheilig, Trotter, Wirsing, and Winn  
NOES: Director Blair  
ABSENT: None

the foregoing resolution was passed and adopted this 13<sup>th</sup> day of October, 2004.



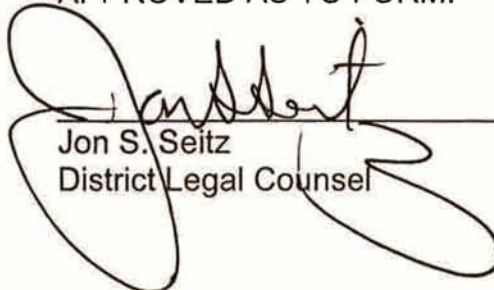
Michael Winn, President  
Nipomo Community Services District

ATTEST:



Donna K. Johnson  
Secretary to the Board

APPROVED AS TO FORM:



Jon S. Seitz  
District Legal Counsel



Notice of Exemption

Appendix E

To:  Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: (Public Agency) NCSO  
148 Jo. Wilson St  
Nipomo, Ca 93444  
(Address)

County Clerk  
County of San Luis Obispo

Project Title: Adoption of Ordinance Amending NCSO water  
Project Location - Specific: water allocation program

Project Location - City: Nipomo Project Location - County: San Luis Obispo

Description of Nature, Purpose, and Beneficiaries of Project:  
Adoption of Ordinance would reduce the volume of  
waters available for NCSO and to serve others

Name of Public Agency Approving Project: Nipomo CSD  
Name of Person or Agency Carrying Out Project: Nipomo CSD

Exempt Status: (check one)  
 Ministerial (Sec. 21080(b)(1); 15268);  
 Declared Emergency (Sec. 21080(b)(3); 15269(a));  
 Emergency Project (Sec. 21080(b)(4); 15269(b)(c));  
 Categorical Exemption. State type and section number: 15307 & 15308  
 Statutory Exemptions. State code number:

Reasons why project is exempt: Adoption of Ordinance protect environment

Lead Agency Contact Person: BRUCE BUEL Area Code/Telephone/Extension: 805 929 1133

If filed by applicant:  
1. Attach certified document of exemption finding.  
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

Signed by Lead Agency Date received for filing at OPR:  
 Signed by Applicant

Revised October 1989