

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BSB*
DATE: JUNE 6, 2008

AGENDA ITEM

E-1

JUNE 11, 2008

INTENT-TO-SERVE LETTER & EMERGENCY WATER SHORTAGE REGULATIONS

ITEM

Consider status of Intent-to-Serve Letter processing suspension and Emergency Water Shortage regulations in light of Spring 2008 groundwater storage calculations [PROVIDE POLICY GUIDANCE].

BACKGROUND

In February 2008, your Honorable Board tabled further consideration of the draft Emergency Water Shortage (EWS) Regulations and in March, your Honorable Board adopted Resolution No. 2008-1070, temporarily suspending the processing of Intent-To-Serve Letters (attached). In both cases, the Board directed staff to report back at this meeting regarding the volume of NMMA groundwater in storage above sea level (see agenda item C-3 for a copy of the report). Resolution No. 2008-1070 automatically sunsets on June 30, 2008.

As detailed in the SAIC Technical Memorandum, the current NMMA groundwater storage above sea level is 83,000 acre feet (This report has not been reviewed by the NMMA Technical Group). This Spring 2008 volume is 10,000 acre feet lower than the 93,000 acre feet of storage available in spring 2007, but it is 24,000 acre feet higher than the lowest recorded NMMA spring storage of 59,000 acre feet in 1989. This 1989 storage is the value set forth in the Court sanctioned Stipulation as the presumed trigger for an Extreme Water Shortage Emergency, however the NMMA Technical Group does have standing to propose additional triggers to the Court.

It should be noted that a total of one Intent-To-Serve Letter application has been received during the suspension period (3/12/08 to date).

Also attached is a copy of Governor Schwarzenegger's 6/4/08 statewide drought proclamation.

RECOMMENDATION

Staff recommends that your Honorable Board discuss the status of the EWS Regulations and the suspension of Intent-To-Serve Letter processing and provide policy direction. It is staff's belief that any long-term moratorium on processing of Intent-To-Serve Letters should be part of a comprehensive set of Emergency Water Shortage Regulations, such that there is a logical sequence of demand reductions and delays in response to the severity of the drought and the availability of supply. Staff proposes that the Board request the NMMA TG to expedite development of its trigger proposal to the Court. In the interim, staff supports allowing Resolution 2008-1070 to expire and continuing to hold on the EWS Regulations.

ATTACHMENTS

- Resolution No. 2008-1070
- State Drought Proclamation

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-1070**

**AN RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING APPLICATIONS FOR
INTENT-TO-SERVE LETTERS FOR WATER SERVICE**

WHEREAS, the Nipomo Community Services District's ("District") 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 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 District is in receipt of SAIC's May 29, 2007 Draft Technical Memorandum that estimates that the volume of groundwater underlying the NMMA in storage above sea level was reduced by approximately twelve thousand acre feet (12,000 AF) between April, 2006 and April, 2007; and

WHEREAS, SAIC has been directed to calculate and report, to the District, the Spring 2008 volume of groundwater underlying the NMMA in storage above sea level (Spring SAIC Report); and

WHEREAS, the San Luis Obispo County Board of Supervisors ("County") in June 2007, certified the Nipomo Water Conservation Area as a Severity Level III, meaning that existing water demand equals or exceeds the dependable supply; and

WHEREAS, District Code §3.28.020 provides:

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

WHEREAS, the District Board of Directors, at a public meeting, on March 12, 2008, considered the Staff Report, and public testimony regarding the temporary suspension of Intent-to-Serve Letters; and

WHEREAS, the District Board of Directors finds that it is unable to make the findings required by District Code §3.28.020, "that sufficient excess water ---" exists to serve new projects, until such time as the District has received and evaluated the Spring SAIC Report; and

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

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

Section 1. Suspension of Intent-to-Serve Letters for Water Service

Applications for Intent-to-Serve letters for District water service, that increase the net demand on the groundwater basin are hereby suspended.

RESOLUTION NO. 2008-1070
AN RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING APPLICATIONS FOR
INTENT-TO-SERVE LETTERS FOR WATER SERVICE

Section 2. Applications

Applications for Intent-to-Serve letters that increase the demand on the groundwater basin will be received and filed by District Staff. Application fees are suspended until further order of the Board of Directors.

Section 3. Reconsideration

The District Board shall reconsider the suspension of Intent-to-Serve letters after the receipt and evaluation of the Spring SAIC Report.

Section 4. Effective Date

This Resolution shall take effect immediately and, without further order of the Board of Directors, shall automatically terminate on July 1, 2008.

Section 5. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and support the findings of the District in support of this Resolution.

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

AYES: Directors Eby, Trotter, Vierheilig, and Winn
NOES: Director Harrison
ABSENT: None
CONFLICTS: None

the foregoing resolution is hereby adopted this 12th day of March, 2008.

Michael Winn, President
Nipomo Community Services District
Board of Directors

ATTEST:

APPROVED AS TO FORM

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

PRESS RELEASE

06/04/2008 GAAS:307:08 FOR IMMEDIATE RELEASE

Governor Schwarzenegger Proclaims Drought and Orders Immediate Action to Address Situation

Following two straight years of below-average rainfall, very low snowmelt runoff and the largest court-ordered water transfer restrictions in state history, Governor Arnold Schwarzenegger today proclaimed a statewide drought and issued an Executive Order, which takes immediate action to address a dire situation where numerous California communities are being forced to mandate water conservation or rationing. The lack of water has created other problems, such as extreme fire danger due to dry conditions, economic harm to urban and rural communities, loss of crops and the potential to degrade water quality in some regions.

"For the areas in Northern California that supply most of our water, this March, April and May have been the driest ever in our recorded history," Governor Schwarzenegger said. "As a result, some local governments are rationing water, developments can't proceed and agricultural fields are sitting idle. We must recognize the severity of the crisis we face, so I am signing an Executive Order proclaiming a statewide drought and directing my Department of Water Resources and other entities to take immediate action to address the situation."

Today's Executive Order directs the Department of Water Resources (DWR) to:

- Facilitate water transfers to respond to emergency shortages across the state.
- Work with local water districts and agencies to improve local coordination.
- Help local water districts and agencies improve water efficiency and conservation.
- Coordinate with other state and federal agencies and departments to assist water suppliers, identify risks to water supply and help farmers suffering losses.
- Expedite existing grant programs to help local water districts and agencies conserve.

This Executive Order also encourages local water districts and agencies to promote water conservation. They are encouraged to work cooperatively on the regional and state level to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potential worsening water conditions in 2009. As part of the Executive Order, DWR will work with locals to conduct an aggressive water conservation and outreach campaign.

Last month, DWR's final snow survey of 2008 showed snowpack water content at only 67 percent of normal and the runoff forecast at only 55 percent of normal. As conditions continue to worsen across California, it underscores the state's need for infrastructure improvements to capture excess water in wet years to use in dry years like this one.

"This drought is an urgent reminder of the immediate need to upgrade California's water infrastructure. There is no more time to waste because nothing is more vital to protect our economy, our environment and our quality-of-life. We must work together to ensure that California will have safe, reliable and clean water not only today but 20, 30 and 40 years from now.

Beginning with the first Strategic Growth Plan in 2006, the Governor called for a comprehensive plan to address California's urgent water needs. The Governor renewed that call in his 2008-09 budget by proposing an \$11.9 billion water bond for water management investments that will address population growth, climate change, water supply reliability and environmental needs. Specifically, the bond includes:

- Water Storage: \$3.5 billion dedicated to the development of additional storage.
- Delta Sustainability: \$2.4 billion to help implement a sustainable resource management plan for the Delta.
- Water Resources Stewardship: \$1.1 billion to implement river restoration projects.
- Water Conservation: \$3.1 billion to increase water use efficiency.
- Water Quality Improvement: \$1.1 billion for efforts to reduce the contamination of groundwater.
- Other Critical Water Projects: \$700 million for water recycling, hillside restoration for areas devastated by fire and removal of fish barriers on key rivers and streams.

The Governor is committed to gaining consensus on a bipartisan legislative solution for California's future.

- In February, Governor Schwarzenegger sent a letter to Senators Perata, Steinberg, and Machado clarifying the administrative actions under consideration as part of a comprehensive solution in the Delta.
- Also in February, the Governor hosted a meeting with Senator Feinstein, legislative leaders and key stakeholders to discuss rebuilding California's water infrastructure.
- In December 2007, the Governor applauded the work of the Delta Vision Blue Ribbon Task Force and committed to continuing to work with legislative leaders on a comprehensive water solution.
- In September 2007, the Governor introduced a comprehensive water infrastructure proposal during the legislative special session, building off of the plan he introduced in January 2007 as part of the 2007-08 budget.
- In July 2007, the Governor directed DWR to take immediate action to improve conditions in the Delta, to help restore its natural habitat and protect the Delta smelt and other species.

Text of the Executive Order:

EXECUTIVE ORDER S-06-08

WHEREAS Statewide rainfall has been below normal in 2007 and 2008, with many Southern California communities receiving only 20 percent of normal rainfall in 2007, and Northern California this year experiencing the driest spring on record with most communities receiving less than 20 percent of normal rainfall from March through May; and

WHEREAS California is experiencing critically dry water conditions in the Sacramento and San Joaquin River basins and the statewide runoff forecast for 2008 is estimated to be 41 percent below average; and

WHEREAS water storage in many of the state's major reservoirs is far below normal including Lake Oroville, which supplies the State Water Project, at 50 percent of capacity, Lake Shasta at 61 percent of capacity and Folsom Lake at 63 percent of capacity; and

WHEREAS the Colorado River Basin has just experienced a record eight-year drought resulting in current reservoir storage throughout the river system reduced to just over 50 percent of total storage capacity; and

WHEREAS climate change will increasingly impact California's hydrology and is expected to reduce snowpack, alter the timing of runoff and increase the intensity and frequency of droughts in the western United States; and

WHEREAS diversions from the Sacramento-San Joaquin River Delta for the State Water Project (SWP) and federal Central Valley Project (CVP) are being greatly restricted due to various factors including federal court actions to protect fish species, resulting in estimated SWP deliveries of only 35 percent, and CVP deliveries of only 40 percent, of local agencies' requested amounts for 2008; and

WHEREAS dry conditions have created a situation of extreme fire danger in California, and these conditions resulted in devastating fires last year, resulting in proclamations of emergency for the counties of El Dorado, Los Angeles, Orange, Ventura, Santa Barbara, Riverside, San Bernardino, Santa Clara, Santa Cruz and San Diego, with wildfires there causing millions of dollars in damages; and

WHEREAS on May 9, 2008, I signed an Executive Order directing various agencies and departments within my administration to respond to these dry conditions and prepare for another potentially severe wildfire season; and

WHEREAS the current drought conditions are harming urban and rural economies, and the state's overall economic prosperity; and

WHEREAS some communities are restricting new development and mandating water conservation and rationing, and some farmers have idled permanent crops and are not planting seasonal crops this year, because of unreliable or uncertain water supplies; and

WHEREAS recent supply reductions have jeopardized agricultural production in the San Joaquin Valley; and

WHEREAS it is not possible to predict the duration of present drought conditions; and

WHEREAS while communities throughout the state have worked to significantly improve their drought preparedness, the readiness to cope with current and future drought conditions varies widely; and

WHEREAS immediate water conservation measures are needed this year to address current conditions and prepare for a dry 2009; and

WHEREAS the State of California is committed to enhancing drought response and drought preparedness and to protecting the state's economy and its environment

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, do hereby proclaim a condition of statewide drought, and in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby issue the following orders to become effective immediately

IT IS HEREBY ORDERED that the Department of Water Resources (DWR) shall take immediate action to address the serious drought conditions and water delivery limitations that currently exist in California, and that are anticipated in the future, by taking the following actions:

1. Expedite existing grant programs for local water districts and agencies for new or ongoing water conservation and water use reduction programs and projects that are capable of timely implementation to ease drought conditions in 2008 or 2009.
2. Facilitate water transfers in 2008 to timely respond to potential emergency water shortages and water quality degradation, and prepare to operate a dry year water purchasing program in 2009.
3. In cooperation with local water agencies and other water-related organizations, conduct an aggressive water conservation and outreach campaign.
4. Immediately convene the Climate Variability Advisory Committee to prioritize and expedite drought-related climate research that will assist in responding to current drought conditions and help prepare for a potentially dry 2009.
5. Provide technical assistance for drought response to local water agencies and districts for improving landscape and agricultural irrigation efficiencies, leak detection and other measures as appropriate.
6. Review the water shortage contingency elements of Urban Water Management Plans and work cooperatively with water suppliers to implement improvements.
7. Coordinate and implement State Water Project operations and water exchanges to alleviate critical impacts to San Joaquin Valley agriculture.
8. Implement additional actions to facilitate drought response, preparedness and promote water conservation in 2008 and 2009, and which will contribute to achieving long term reductions in water use.

IT IS FURTHER ORDERED that DWR and the Department of Public Health (DPH) prioritize processing of loan and grant contracts for water suppliers and public water systems demonstrating drought-related hardships.

IT IS FURTHER ORDERED that DWR and DPH coordinate with the State Office of Emergency Services and local offices of emergency services to identify public water systems at risk of experiencing health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts.

IT IS FURTHER ORDERED that DWR and DPH work with local water districts to evaluate system interconnections among the state's large water purveyors, review the status or availability of mutual aid agreements among those large water purveyors, and work with the parties to those mutual aid agreements to correct any deficiencies that restrict the movement of water in an emergency situation

IT IS FURTHER ORDERED that DWR coordinate with the California Public Utilities Commission to identify

investor-owned water utility systems at risk of experiencing health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts.

IT IS FURTHER ORDERED that DWR work with the Department of Food and Agriculture (CDFA), the United States Department of Agriculture and the United States Bureau of Reclamation to identify potential federal funding for local water agencies and farmers to facilitate the rapid installation of best available irrigation management and conservation systems.

IT IS FURTHER ORDERED that the CDFA work with county Agricultural Commissioners and others as necessary to identify and gather data on crop losses and other adverse economic impacts caused by the drought and, when necessary, transmit that information to the appropriate federal and state agencies.

IT IS FURTHER STRONGLY ENCOURAGED that local water agencies and districts work cooperatively on the regional and state level to take aggressive, immediate action to reduce water consumption locally and regionally for the remainder of 2008 and prepare for potential worsening water conditions in 2009.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Executive Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Executive Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of June 2008.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State