

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: NOVEMBER 21, 2008

AGENDA ITEM
E-2
NOVEMBER 26, 2008

MERGER OF BLACKLAKE AND TOWN WATER FUNDS

ITEM

Introduce draft report and ordinance merging Town and Blacklake Water Funds, tentatively approve Blacklake Water Customer Surcharge, and set date for protest hearing [ADOPT RESOLUTION].

BACKGROUND

Your Honorable Board on November 12, 2008 reviewed options for providing water supply to Blacklake; selected the Ad Hoc Committee's recommendation (Merger of the Blacklake Water Fund with the Town Water Fund based on the payment of a \$437 per equivalent 1" Meter buy-in by Blacklake Water Customers); and set this agenda item to proceed with the merger by approving a Final Report on the merger, adopting a resolution tentatively approving the proposed Blacklake water rates, and introducing an ordinance that would ultimately merge the two funds.

In regards to the Final Report, staff has prepared the attached draft Final Report for Board review. The attached draft describes the Ad Hoc Committee Proposal, details the buy-in, and states the 2009 water rate user fees proposed for Blacklake Water Customers if the Proposition 218 protest proceeding is successful. The draft does provide for the option of Blacklake Customers to pay off the equity surcharge as a one time lump sum payment as opposed to paying a surcharge every two months for ten years.

In regards to the Resolution, District Legal Counsel has referenced the Final Report, tentatively proposed new Water Rates for Blacklake Water customers and proposes the Proposition 218 protest proceeding. Should your Honorable Board adopt the attached resolution, staff would be directed to provide notice in December such that each property owner and tenant in Blacklake would have standing to submit protests up to the close of the protest hearing to be held on Wednesday January 28, 2009.

In regards to the Ordinance, District Legal Counsel has proposed revisions to the District Code to provide for the merger of the Blacklake Water Division with the Town Water Division to form the District Water System should there not be a majority protest in the Proposition 218 proceeding. Staff anticipates that this ordinance will be introduced at this meeting but not considered for adoption until February 2009.

RECOMMENDATION

Staff recommends that your Honorable Board:

1. Edit and then adopt the attached Final Report;
2. Edit and then adopt the attached resolution;

3. Receive the introduction version of draft ordinance and set consideration for adoption at the February 11, 2009 Board Meeting if there is not a majority protest at the January 28, 2009 Board Meeting.

ATTACHMENTS

- Draft Final Report
- Draft Resolution
- Draft Ordinance

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**BLACKLAKE WATER FUND MERGER WITH TOWN WATER FUND
FINANCIAL PLAN AND USER RATES
FINAL REPORT**

PREPARED BY: BRUCE BUEL, NCSD GENERAL MANAGER

NOVEMBER 26, 2008

**BLACKLAKE WATER FUND MERGER WITH TOWN WATER FUND
FINANCIAL PLAN AND USER RATES
FINAL REPORT**

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**BLACKLAKE WATER FUND MERGER WITH TOWN WATER FUND
FINANCIAL PLAN AND USER RATES
FINAL REPORT**

I. OVERVIEW AND SUMMARY

This final report presents a financial plan and water user fee rate recommendations for the District's Blacklake water customers assuming that the Blacklake Water Fund is merged with the District Water Fund (Previously described as the Town Water Fund) effective July 1, 2009. The final report is intended to describe the buy-in charge that Blacklake customers will pay to access the assets of the District Water Fund so that all customers of the combined fund will have a parity of investment. In combining the two water funds, District customers in Blacklake avoid paying for the estimated \$800,000 cost of reconstruction of the Blacklake Water System including replacement of the Blacklake Water Booster Station.

The overall concept for the merger is for District customers in Blacklake to pay the same user fees and water rates as all other NCSD customers within the Town Water Division plus either a one-time buy-in charge or a bi-monthly buy-in surcharge over a ten year period. The 2009 user fee water rates for the Blacklake and Town Water Divisions were set by Ordinance 2005-103 on June 8, 2005. It is anticipated that the Board will consider revising these user fee water rates sometime in 2009 for a new rate period starting in 2010. The 2009 District water user fee rates are attached as Appendix A and incorporated by reference herein by this reference.

In regards to the buy-in to be paid by all District Customers within Blacklake, the total equity buy-in is computed at \$437 per equivalent one inch meter. Each District Customer within the Blacklake Water Division will have the option to either pay one lump sum payment of \$437 per equivalent one inch meter during the month of March 2009 or to pay off the \$437 per equivalent one inch meter in sixty (60) bi-monthly installment payments of \$8.44 over a ten year term (through June 2019). A three percent interest rate is included on any equity surcharge payment to be made over time. Details of the surcharge are included in section II of this report.

**BLACKLAKE WATER FUND MERGER WITH TOWN WATER FUND
FINANCIAL PLAN AND USER RATES
FINAL REPORT**

II. BUY-IN CHARGE CALCULATION

The buy-in charge is calculated by adding Blacklake's share of select future improvements to the District Water Fund (Blacklake Tank Rehabilitation, Misty Glen Interconnect and Augusta Drive Interconnect) to the contribution required for Blacklake to achieve a fifteen percent (15%) match to the projected District Water Fund FY08-09 Year End Operating Reserves.

In regards to the Blacklake Tank Rehabilitation Project, Boyle Engineering estimated the contractor's construction cost at \$150,000 in the April 2008 "2007 Water and Sewer Replacement Study" for repairs to both the inside and the outside of this water storage reservoir. Since all District Water Fund customers would benefit from this work and since the customers in Blacklake constitute fifteen percent (15%) of the total District Water Fund customers, Blacklake's share of this project's contractor construction cost is computed by multiplying the \$150,000 contractor construction cost by fifteen percent to get \$22,500.

In regards to the Misty Glen Interconnect, Cannon and Associates estimated the contractor's construction cost at \$30,000 in the December 2007 "Water and Sewer Master Plan". Since only customers in Blacklake will benefit from this work, Blacklake's share of the contractors construction cost constitute one hundred percent (100%). Thus, Blacklake's share of this project's contractor construction cost would be \$30,000.

In regards to the Augusta Interconnect, Cannon and Associates estimated the contractor's construction cost at \$21,000 in the December 2007 "Water and Sewer Master Plan". Since only customers in Blacklake will benefit from this work, Blacklake's share of the contractors construction cost constitute one hundred percent (100%). Thus, Blacklake's share of this project's contractor construction cost would be \$21,000.

Adding Blacklake's share of the contractor's construction cost for these three projects (Blacklake Tank at \$22,500; Misty Glen Interconnect at \$30,000 and Augusta Interconnect at \$21,000) results in a subtotal of \$73,500. Multiplying the \$73,500 subtotal by thirty percent estimated to cover the engineering, construction management and construction contingency results in an estimate of indirect costs of \$22,050 to be paid by Blacklake customers. Adding the \$73,500 in contractor's construction cost to the \$22,050 in indirect costs results in a total Blacklake share of the project cost of \$95,550.

Blacklake's contribution to projected FY2008-09 year-end District Water Fund Operating Reserves is based on the September 24, 2008 Reed Group Letter Report entitled "Water System Financial Plans and Equity Study". Attached in Appendix B is a summary of the calculation. As detailed in the summary, the contribution of \$182,192 is calculated as follows:

- The District Water Fund Total FY08-09 "Ending Balance" of \$1,614,882 is computed by dividing the projected FY2008-09 year-end Town Water Fund "Ending Balance" of \$1,372,650 (Column 4 of page 7 of the Reed Group Letter Report) by the .85 ratio of Town Water Customers to District Water Fund Customers;
- Blacklake's share of the FY08-09 Ending Balance is computed by multiplying the \$1,614,882 by the .15 ratio of Blacklake Water Customers to District Water Fund Customers resulting in \$242,232; and
- Subtracting the \$60,040 in projected Blacklake Water Fund FY08-09 "Ending Balance" (Column 4 of page 6 of the Reed Group Letter Report) from the \$242,232 to get the additional contribution \$182,192.

Blacklake's total contribution of \$277,742 is computed by adding the \$95,500 share of the cost of the three projects to the \$182,192 in contributions to operating reserves. The \$437 cost per equivalent 1" meter is computed by dividing the \$182,192 by the 636 equivalent 1" meters in Blacklake. Attached in Appendix B is a summary showing this computation.

Following is a chart detailing the Lump Sum Payment by meter size for those who opt to pay off their share of the Buy-In as a one time payment:

	METER SIZE		
	UP TO 1"	1 ½"	2"
LUMP SUM PAYMENT	\$437	\$1,311	\$2,098

Following is a chart detailing the bi-monthly surcharge payment by meter size for those who opt to pay off their share of the buy-in in sixty installments over a ten year period:

	METER SIZE		
	UP TO 1"	1 ½ "	2"
Bi-Monthly Surcharge	\$8.44	\$25.32	\$40.51

**BLACKLAKE WATER FUND MERGER WITH TOWN WATER FUND
FINANCIAL PLAN AND USER RATES
FINAL REPORT**

III. FINANCIAL PLAN AND USER FEES

For the period from July 1, 2009 through the next rate adjustment, each District Water Customer in Blacklake would pay the following User Fee Water Rates. Following is a chart illustrating the 2009 Bi-Monthly Availability Charges, Litigation Charges and Equity Surcharge per meter size (the equity surcharge shall not apply to customers who have made the one Lump Sum Payment prescribed in Section II of this report):

BI-MONTHLY CHARGES EXCLUDING USAGE CHARGES				
METER SIZE	AVAILABILITY CHARGE	LITIGATION CHARGE	BUY-IN CHARGE	TOTAL
1" or Less	\$24.52	\$6.32	\$8.44	\$39.28
1 ½"	\$69.61	\$14.36	\$25.32	\$109.29
2"	\$110.25	\$19.92	\$40.51	\$170.68

Following is a chart illustrating the 2009 Bi-Monthly Residential Usage Rates for all units of water consumed:

	USAGE RATE
Tier 1 (0-40 units)	\$1.64 per unit
Tier 2 (> 40 units)	\$2.80 per unit

Following is a chart illustrating the 2009 Bi-Monthly Non-Residential Usage Rates for all units of water consumed:

	USAGE RATE
All Water Use	\$2.06 per unit

For reference, the adopted 2009 Blacklake Water Rates for a 1" meter prescribe a \$24.52 Bi-Monthly Availability Charge; a \$6.32 Bi-Monthly Litigation Charge; a Tier 1 Residential Usage Rate of \$1.98 per Unit (748 gallons); and a Tier 2 Residential Rate of \$3.47 per Unit (748 gallons). The following chart compares the Blacklake total bi-monthly water payment for a 1" residential meter under Ordinance 2005-103 and the proposed merged rates at different levels of consumption:

	LEVEL OF CONSUMPTION		
	30 Units	45 Units	60 Units
Ordinance 2005-103 Bi-Monthly Total Payment	\$90.24	\$127.09	\$178.24
Merged System Bi-Monthly Total Payment (w Surcharge)	\$88.48	\$118.88	\$160.88
Decrease to Blacklake	\$1.40	\$8.21	\$17.36

It should be noted that the total 1" meter bi-monthly cost for Blacklake residents will decrease by \$8.44 after ten years.

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APPENDIX A

ORDINANCE 2005-103

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED
TO WATER AND SEWER SERVICE**

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to:

- A. Operate and maintain its water production and distribution facilities so as to provide adequate water service and fire protection to District water customers;
- B. Maintain adequate levels of revenue, equitably collected from District water customers, to meet the District's financial commitments including operation, maintenance, replacement and administrative costs of District's water production and distribution facilities and acquiring supplemental water to augment the District's current water production facilities to prevent impairment to the Groundwater Basin and maintaining adequate reserves;
- C. Operate and maintain its sewer distribution facilities so as to provide adequate sewer treatment services to District's sewer customers;
- D. Maintain equitable levels of revenue equitably collected from District sewer customers, to meet the District's financial commitments including the operation, maintenance, replacement and administrative costs of District sewer collection and treatment facilities and maintaining adequate reserves; and

WHEREAS, the District has reviewed a number of reports and studies related to the capacity of the Groundwater Basin to supply current and future growth on the Mesa. Said reports are referenced in the Staff Report for Agenda Item E-10 for the Board of Directors meeting of April 13, 2005. Said Staff Report and referenced studies and reports are incorporated herein by this reference; and

WHEREAS, the District commissioned Robert Reed, of the Reed Group, Inc., to perform a Water and Sewer Rate Study Update (herein "Study"). The Study includes an analysis of both the water and sewer operating rates and charges for the District's Town Division and Blacklake Division. The intent of the Study is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current rate structure and the relationship (nexus) between the rates charged and the services provided. The Study further identifies a new rate structure for the Town Division and Blacklake Divisions that enables the District to meet revenue requirements for water and sewer operations and to provide for supplemental water while maintaining fairness and equity among existing and future rate payers; and

WHEREAS, the draft Study was received and filed on April 13, 2005, and has been available for public inspection at the District office since that date; and

WHEREAS, the Study was made final on May 25, 2005; and

WHEREAS, certain District Code Sections require amendment to facilitate the implementation of the new bi-monthly rates for water and sewer fees and charges; and

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WHEREAS, based upon facts and analysis presented by Robert Reed, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);
- B. That notice has been provided as required by law; and
- C. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services, for which the fees and/or charge or charges are imposed; and
- D. The rates and charges established by this Ordinance are imposed as an incident of requesting or using District water and sewer treatment services.
- E. That the tiered water rate structure approved by this Ordinance is implemented, in part, to achieve the goals of the District's Urban Water Management Plan and Section 2, Article X of the California Constitution and Section 100 of the California Water Code related to water conservation.
- F. That the public benefits from the logical, long-range approach to financing of public facilities.
- G. Pursuant to the provisions of Proposition 218, NCSO did deliver written public notices of the hearing and find that the protests did not meet the required 50% of the notices mailed. NCSO did not receive any protests, written or oral, to the proposed rates for water and sewer charges.

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

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, and 61623.

Section 2. Appendices A and B to Chapter 3.03 of the District Code (Bi-Monthly Water Rates for Town Division and Blacklake Division) are repealed in their entirety and replaced with the Bi-Monthly Rates and Charges reflected in Exhibit "A", attached hereto and incorporated into this Ordinance by reference.

Section 3. Appendix A to Chapter 4.12 of the District Code (Calculation of Bi-Monthly Sewer Rates and Charges for the Town Division and Blacklake Division) are repealed in its entirety and replaced with the Bi-Monthly Calculation of Rates and Charges reflected in Exhibit "B", attached hereto and incorporated into this Ordinance by reference.

**NIPOMO COMMUNITY SERVICES DISTRICT
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**AN ORDINANCE OF THE BOARD OF DIRECTORS
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Section 4. Section 3.20.035 A is repealed in its entirety and replaced with the following:

3.20.035 A The charge for water pursuant to District Code Section 3.20.03(A) shall be charged at the then current water rate for non-residential water users as stated in Appendix B of Chapter 3.03 to the District Code.

Section 5. Section 4.12.150 A of the District Code is repealed in its entirety and replaced with the following:

4.12.150 A Bi-monthly User Fee. The bi-monthly sewer user rates and fees are set forth in Appendix A to this Chapter 4.12.

Section 6. Section 4.12.180 is repealed in its entirety and replaced with the following:

4.12.180 SPECIAL RULES FOR MEDIUM AND HIGH STRENGTH DISCHARGERS:

The District reserves the right to require medium strength and high strength discharges as referenced in Appendix A to Chapter 4.12 to provide pretreatment of sewer discharges. Said requirements may include pretreatment, a monitoring program, and a plan check and monitoring agreement to allow the District to recover its costs in approving and monitoring pretreatment facilities.

Section 7. 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 Ordinance.

Section 8. Effect of Repeal on Past Actions and Obligations.

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

Section 9. CEQA Findings

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Ordinance fall within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Rules and Regulations may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10. Severance Clause.

NIPOMO COMMUNITY SERVICES DISTRICT
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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 11. Effect of Headings in Ordinance.

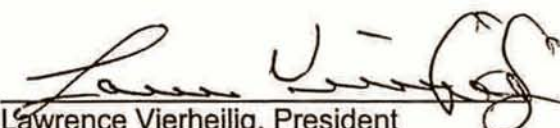
Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 12. 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 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 Tribune.

Introduced at its regular meeting of the Board of Directors held on April 13, 2005, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 8th day of June, 2005, by the following roll call vote, to wit:

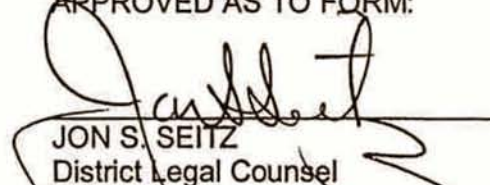
AYES: Director Winn, Eby, Wirsing, Trotter and Vierheilig
NOES: None
ABSENT: None
CONFLICTS: None


Lawrence Vierheilig, President
Nipomo Community Services District
Board of Directors

ATTEST:


DONNA K. JOHNSON
Secretary to the Board

APPROVED AS TO FORM:


JON S. SEITZ
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "A"

APPENDIX A TO CHAPTER 3.03

WATER RATES AND CHARGES

BI-MONTHLY AVAILABILITY CHARGES*

(The bi-monthly availability charge shall take effect August 1, 2005, and Future increases shall take effect on January 1, of each succeeding year.)

TOWN DIVISION

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.76	\$18.43	\$20.64	\$22.71	\$24.52
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$47.56	\$52.32	\$58.60	\$64.46	\$69.61
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$75.33	\$82.86	\$92.81	\$102.09	\$110.25
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$140.17	\$154.18	\$172.68	\$189.95	\$205.15
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$232.77	\$256.05	\$286.77	\$315.45	\$340.68
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$464.07	\$510.48	\$571.73	\$628.91	\$679.22
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$741.74	\$815.92	\$913.83	\$1,005.21	\$1,085.63
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

BLACKLAKE DIVISION

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$15.09	\$18.10	\$22.08	\$26.06	\$30.75
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$41.73	\$50.07	\$61.09	\$72.08	\$85.06
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$65.74	\$78.89	\$96.24	\$113.57	\$134.01
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$121.81	\$146.17	\$178.33	\$210.43	\$248.31
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$201.90	\$242.28	\$295.58	\$348.78	\$411.56
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$401.93	\$482.32	\$588.42	\$694.34	\$819.32
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$642.06	\$770.48	\$939.98	\$1,109.18	\$1,308.83
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

*The above bi-monthly availability charge reflects the adjusted rate established by Ordinance 2003-95 to meet the District's financial obligations. Litigation charges off-set District financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District vs the City of Santa Maria, the Nipomo Community Services District, et al. When the District's financial obligation regarding this lawsuit have been satisfied, the litigation charge will be removed.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "A" (Continued)

APPENDIX B TO CHAPTER 3.03

WATER RATES AND CHARGES

(The bi-monthly usage rates shall take effect August 1, 2005, and future increases shall take effect on January 1, of each succeeding year.)

TOWN DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$1.12	\$1.23	\$1.38	\$1.52	\$1.64
Tier 2 (> 40 Units)	\$1.91	\$2.10	\$2.35	\$2.59	\$2.80

TOWN DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.41	\$1.55	\$1.74	\$1.91	\$2.06

BLACKLAKE DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$0.97	\$1.16	\$1.42	\$1.68	\$1.98
Tier 2 (> 40 Units)	\$1.70	\$2.04	\$2.49	\$2.94	\$3.47

BLACKLAKE DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.18	\$1.42	\$1.73	\$2.04	\$2.41

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "B"

APPENDIX A TO CHAPTER 4.12

BI-MONTHLY SEWER SERVICE CHARGES

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1 of each succeeding year.)

TOWN DIVISION

RESIDENTIAL (PER DWELLING UNIT)

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$41.60	\$43.27	\$45.00	\$46.80	\$48.67
Multi-Family	\$32.17	\$33.46	\$34.80	\$36.19	\$37.63

NON-RESIDENTIAL (1)

BI-MONTHLY SERVICE CHARGE

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.08	\$16.72	\$17.39	\$18.09	\$18.81
1 ½ Inch	\$46.01	\$47.85	\$49.77	\$51.76	\$53.83
2 Inch	\$72.99	\$75.91	\$78.95	\$82.11	\$85.39
3 Inch	\$135.99	\$141.43	\$147.09	\$152.97	\$159.09
4 Inch	\$225.97	\$235.01	\$244.41	\$254.19	\$264.36
6 Inch	\$450.72	\$468.75	\$487.50	\$507.00	\$527.28
8 Inch	\$720.53	\$749.35	\$779.32	\$810.49	\$842.91

NON-RESIDENTIAL (1) (2)

USAGE RATE

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.22	\$1.27	\$1.32	\$1.37	\$1.43
Medium Strength	\$1.35	\$1.40	\$1.46	\$1.52	\$1.58
High Strength	\$1.75	\$1.82	\$1.89	\$1.97	\$2.05

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "B" (Continued)

APPENDIX A TO CHAPTER 4.12

BI-MONTHLY SEWER SERVICE CHARGES

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1, of each succeeding year.)

BLACKLAKE DIVISION

RESIDENTIAL (PER DWELLING UNIT)

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$71.70	\$74.56	\$77.55	\$80.65	\$83.87
Multi-Family	\$38.42	\$39.96	\$41.56	\$43.22	\$44.95

NON-RESIDENTIAL (1)

BI-MONTHLY SERVICE CHARGE

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$32.76	\$34.07	\$35.44	\$36.86	\$38.33
1 ½ Inch	\$94.24	\$98.01	\$101.93	\$106.01	\$110.25
2 Inch	\$149.66	\$155.64	\$161.87	\$168.34	\$175.08
3 Inch	\$279.05	\$290.21	\$301.82	\$313.89	\$326.45
4 Inch	\$463.85	\$482.40	\$501.70	\$521.77	\$542.64
6 Inch	\$925.45	\$962.46	\$1,000.96	\$1,041.00	\$1,082.64
8 Inch	\$1,479.58	\$1,538.76	\$1,600.31	\$1,664.33	\$1,730.90

NON-RESIDENTIAL (1) (2)

USAGE RATE

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.38	\$1.44	\$1.49	\$1.55	\$1.61
Medium Strength	\$1.88	\$1.96	\$2.03	\$2.11	\$2.20
High Strength	\$3.00	\$3.12	\$3.24	\$3.37	\$3.51

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.

APPENDIX B

EXHIBITS SUPPORTING BUY-IN CHARGE CALCULATION

NIPOMO COMMUNITY SERVICES DISTRICT

Blacklake Water System Improvements

Improvement	Estimated Co Cost	BL % SHARE	BL COST
Blacklake Tank Rehabilitation	\$150,000	15	\$22,500
Interior Coating	\$130,000		
Exterior Coating	\$20,000		
Misty Glen Interconnect	\$30,000	100	\$30,000
85 LF 8 inch pipe	\$12,000		
Pressure Reducing Station	\$18,000		
Augusta Drive Interconnect (Assuming pipe installed in Pomeroy)	\$21,000	100	\$21,000
20 LF 8-inch pipe	\$3,000		
Pressure Reducing Station	\$18,000		
Improvement Cost Subtotal	\$201,000		\$73,500
30% Contingency (Engineering, Construction Management, and Construction Contingency)	\$60,300		\$22,050
Improvement Cost Total	\$261,300		\$95,550
CONTRIBUTION TO OPERATING RESERVES - Committee	\$182,192	100	\$182,192
TOTAL (IMPROVEMNET COST AND RESERVES)			\$277,742
Surcharge per Equivalent 1" Meter			\$436.70

CALCULATION OF BL RESERVE CONTRIBUTION - COMMITTEE RECOMMENDATION

ITEM	AMOUNT
Town Projected 06-09 Reserves	\$1,372,650
BL Projected 06-09 Reserves	\$60,040
85% - 15% Split	
Divide Town Reserves by .85 to get total reserves	
Total for split	\$1,614,882
Subtract Town Reserves to get total BL Contribution	
Total BL Contribution	\$242,232
Subtract \$60,040 available	
Additional BL Reserve	\$182,192

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-_____

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
TENTATIVELY APPROVING THE MERGER OF THE TOWN WATER DIVISION AND
THE BLACKLAKE WATER DIVISION, APPROVING THE DISTRICT FINAL REPORT AND
ESTABLISHING JANUARY 28, 2009 TO CONSIDER PROTESTS TO THE PROPOSED
MERGER AND RATE ADJUSTMENT.
(BLACKLAKE DIVISION)

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to maintain adequate levels of revenue, equitably collected to meet the financial commitments for the operation, maintenance and replacement of District operated water divisions; and

WHEREAS, the District is considering the merger of the Blacklake Water Division and the Town Water Division whereby:

- The temporary bypass intertie constructed in October, 2006, would be declared permanent.
- The Blacklake Water Division projects known as the Blacklake Booster Station and Blacklake Hydromatic Tank would no longer be required to provide fire service and potable water within the Blacklake Water Division and would be abandoned.
- Town Water Division and the Blacklake Water Division would be merged into a single water division known as the Nipomo Community Services District Water System or District Water System.
- The Town Division Water rates adopted by Ordinance 2005-103 would be the initial District Water System user rates subject to a Buy-In Charge to be paid by Blacklake water customers; and

WHEREAS, consistent with Government Code §61040 (c) the District Board of Directors has :

- Received an reviewed a September 24th, 2008 Reed Group Letter Report titled "Water System Financial Plan and Equity Study"; and
- Formed an Ad Hoc committee that met with a committee of Blacklake residents to analyze capital improvements required to finalize the merger of the two divisions and establish a formula to establish Blacklake water customers' contribution to the combined operating reserve account; and

WHEREAS, the District General Manager has authored a report titled "Blacklake Water Fund Merger and Town Water Fund Financial Plan and User Rates Final Report" ("District Final Report") that provides a financial analysis and contribution formula for the capital improvements required to finalize the merger of the two divisions and establishes Blacklake's contribution to existing Town Division operating water reserves to establish a merged systems' operating reserve account. The Final Report establishes Blacklake water customers' total contribution of \$277,742 (two hundred and seventy-seven thousand, seven hundred and forty-two dollars) to the merged system or \$437 (four hundred and

thirty-seven dollars) per equivalent one inch Blacklake meter (herein "Buy-In Charge"). The District Final Report is on file with the District and is available for inspection; and

WHEREAS, on November 26, 2008, the District Board of Directors tentatively approved the District Final Report for establishing the Blacklake Water Division user rates and Buy-In Charge and introduced Ordinance 2008-109 that, if adopted, would merge the two water divisions.

WHEREAS, based upon facts and analysis presented by the Technical Reports and studies, the District Final Report, the Staff Report, and public testimony received, the Board of Directors finds that:

- 1) The Final Report establishes a reasonable methodology for establishing the water user rates and Blacklake Buy-In Charges for the merger of the two water divisions; and
- 2) If the merger is approved, the corresponding rates, charges (including the Buy-In Charge) will not exceed the current funding requirements to provide water service to the merged divisions and the proportional cost of water service attributed to parcels receiving such service.

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

Section 1 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.

Section 2 The proposed merger is tentatively approved.

Section 3 District Staff is directed to provide Blacklake water customers and property owners with notice and the procedures for protesting the merger, rate adjustment and Buy-In Charge pursuant to the protest procedures of Section 6 Article XIID of the California Constitution and Government Code Section 53755.

Section 4 January 28, 2009 is tentatively set as the public hearing date for the District Board of Directors to consider written protests and public comment to the proposed merger of the two water divisions and the adoption of the proposed Blacklake Water Division rate adjustment and Buy-In Charge.

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

AYES:
NOES:
ABSENT:
CONFLICTS:

the foregoing resolution is hereby adopted this ____ day of _____ 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

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-_____**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN WATER DIVISION AND BLACKLAKE WATER DIVISION**

WHEREAS, it is a major responsibility of the Nipomo Community Services District (“District”) to:

- A. Operate and maintain its water production and distribution facilities so as to provide adequate fire protection and water service to District water customers;
- B. Maintain adequate levels of revenue, equitably collected from District water customers, to meet the District’s financial commitments including operation, maintenance, replacement and administrative costs of District’s water production and distribution facilities; and

WHEREAS, the District operates two (2) water divisions, commonly known as the Town Water Division and the Blacklake Water Division; and

WHEREAS, the Town Water Division, by design, uses water tanks and a gravity water system to provide water pressure for potable water and fire protection; and

WHEREAS, the Blacklake Water Division, by design, uses a hydro-pneumatic pump station that includes tanks and variable speed pumps (collectively “Booster Station”) to provide water pressure for potable water and fire protection; and

WHEREAS, the District has adopted separate water rates for the operation and maintenance of the two water divisions. The current rates and charges are identified in Appendix “A” to Chapter 3.03 of the District Code and are attached hereto and incorporated herein by this reference; and

WHEREAS, the Blacklake Booster Station is worn out and cannot provide reliable pressure for potable water and fire protection within the Blacklake System; and

WHEREAS, to address the immediate need to provide Blacklake residents with potable water and fire protection, the District, in October of 2006, constructed a second and larger intertie between the Town Division and the Blacklake Division that provides a temporary bypass of the Booster Pump Station; and

WHEREAS, the District is considering the merger of the Blacklake Water Division and the Town Water Division whereby:

- The temporary bypass intertie constructed in October, 2006, would be declared permanent.
- The Blacklake Water Division projects known as the Blacklake Booster Station and Blacklake Hydromatic Tank would no longer be required to provide fire service and potable water within the Blacklake Water Division and would be abandoned.
- Town Water Division and the Blacklake Water Division would be merged into a single water division known as the Nipomo Community Services District Water System or District Water System.
- The Town Division Water rates adopted by Ordinance 2005-103 would be the initial District Water System user rates subject to a Buy-in Charge to be paid by Blacklake water customers; and

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN DIVISION AND BLACKLAKE WATER DIVISION

WHEREAS, consistent with Government Code §61040 (c) the District Board of Directors has :

- Received an reviewed a September 24th, 2008 Reed Group Letter Report titled "Water System Financial Plan and Equity Study"; and
- Formed an Ad Hoc committee that met with a committee of Blacklake residents to analyze capital improvements required to finalize the merger of the two divisions and establish a formula to establish Blacklake water customers' contribution to the combined operating reserve account; and

WHEREAS, the District General Manager has authored a report titled "Blacklake Water Fund Merger and Town Water Fund Financial Plan and User Rates Final Report" ("District Final Report") that provides a financial analysis and contribution formula for the capital improvements required to finalize the merger of the two divisions and establishes Blacklake's contribution to existing Town Division operating water reserves to establish a merged systems' operating reserve account. The Final Report establishes Blacklake water customers' total contribution of \$277,742 (two hundred and seventy-seven thousand, seven hundred and forty-two dollars) to the merged system or \$437 (four hundred and thirty-seven dollars) per equivalent one inch Blacklake meter (herein "Buy-in charge"). The District Final Report is on file with the District and is available for inspection; and

WHEREAS, on November 26, 2008, the District Board of Directors tentatively approved the District Final Report for establishing the Blacklake Water Division user rates and Buy-in Charge and the merger of the two water divisions; and

WHEREAS, based upon facts and analysis presented by the Technical Reports and studies, the District Final Report, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);
- B. The Final Report establishes a reasonable methodology for establishing the water user rates and Blacklake Buy-in charges for the merger of the two water divisions.
- C. The application of this Ordinance is conditioned on Blacklake Water Division customers' approval of the merger and adjusted rates pursuant to the protest procedures of Article XIII D of the California Constitution. Therefore, this Ordinance does not adjust water rates within the Blacklake Water Division.

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

Section 1. Protest Procedures (Article XIII D of the California Constitution)

The merger of the Blacklake Water Division and the Town Water Division and the application of Sections 1, 2, 3, and 4 of this Ordinance are conditioned on Blacklake Water Division customers and property owners approval of the merger and the adjusted water rates pursuant to the protest provisions of Article XIII D of the California Constitution (commonly known as Proposition 218) and Government Code §53755.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN DIVISION AND BLACKLAKE WATER DIVISION

Section 2. Chapter 3.04 titled Merger of District Water Divisions shall be added to the District Code as follows:

3.40.010 Merged Water Divisions

- A. The District's Town Water Division and the Blacklake Division Water Division are hereby merged into a single water division known as the Nipomo Community Services District Water System or the District Water System.
- B. Subject to the provisions of Section 3.40.020, below, the Town Division water rates shall be the initial water rates of the merged divisions.
- C. The temporary intertie constructed in October, 2006, and the four inch emergency intertie are hereby declared to be permanent connections.
- D. The Blacklake Water Division projects known as the Blacklake Booster Station and the Blacklake Hydro-Pneumatic Tank are no longer required and are hereby abandoned.

3.40.020 Buy-in Charge

- A. There is hereby established a total Blacklake Buy-in Charge of \$277,742 (two hundred seventy-seven thousand seven hundred forty-two dollars) which equates to \$437 (four hundred and thirty-seven dollars) per equivalent one inch meter.
- B. The increase in the Blacklake customer water rates over the Town Division water rates (herein "Differential Water Rates") for payment of the Buy-in Charge along with the merger of the two water divisions shall be approved by the Blacklake water customers and property owners pursuant to the protest procedures of Article XIII D of the California Constitution and Government Code §53755.
- C. The Buy-in Charge shall be paid, with interest accumulating at three percent (3%) per annum, to the District Water System from the Differential Water Rates until paid in full (approximately 10 years).
- D. Blacklake Water Division customers will be given the opportunity during the month of March 2009 to make a lump sum payment of the Buy-in Charge to avoid the three percent (3%) interest rate.

3.40.030 Rates and Charges

- A. The Buy-in charge shall constitute a separate surcharge on individual water bills within Blacklake until paid in full. The Buy-in charge (Differential Water Rate), once established, shall not be considered or adjusted in future rate adjustments for the merged water divisions (District Water System).
- B. District Water System rates and charges shall be adjusted from time to time pursuant to the provisions of Article XIII D of the California Constitution (commonly known as Proposition 218).

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN DIVISION AND BLACKLAKE WATER DIVISION

Section 3. Budget Adjustment

The District Staff is directed to return to the Board with a budget adjustment, for the construction of the Misty Glen and Augusta Drive intertie and the rehabilitation of the Blacklake water tank

Section 4. Accounting

For Accounting purposes:

- A. Blacklake Water Division Fund Account 140 and Town Water Division Water Fund Account 120 will be combined into a single fund; and
- B. Blacklake Water Division Fund Account 820 and Town Water Division Water Fund Account 800 will be combined into a single fund; and
- C. Blacklake Water Division Accounts and Town Water Division Accounts will be operated under a single accounting system effective July 1st, 2009.

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 Ordinance.

Section 6. Effect of Repeal on Past Actions and Obligations.

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

Section 7. Severance Clause.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance.

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADDING CHAPTER 3.40 TO THE DISTRICT CODE MERGING
TOWN DIVISION AND BLACKLAKE WATER DIVISION

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 be published once with the names of the members of the Board of Directors voting for and against the Ordinance in the Santa Maria Times and the San Luis Obispo Tribune.

Introduced at its regular meeting of the Board of Directors held on November 26, 2008 and passed and adopted by the Board of Directors of the Nipomo Community Services District on the _____ day of _____, 2008 by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICTS:

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

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED
TO WATER AND SEWER SERVICE**

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to:

- A. Operate and maintain its water production and distribution facilities so as to provide adequate water service and fire protection to District water customers;
- B. Maintain adequate levels of revenue, equitably collected from District water customers, to meet the District's financial commitments including operation, maintenance, replacement and administrative costs of District's water production and distribution facilities and acquiring supplemental water to augment the District's current water production facilities to prevent impairment to the Groundwater Basin and maintaining adequate reserves;
- C. Operate and maintain its sewer distribution facilities so as to provide adequate sewer treatment services to District's sewer customers;
- D. Maintain equitable levels of revenue equitably collected from District sewer customers, to meet the District's financial commitments including the operation, maintenance, replacement and administrative costs of District sewer collection and treatment facilities and maintaining adequate reserves; and

WHEREAS, the District has reviewed a number of reports and studies related to the capacity of the Groundwater Basin to supply current and future growth on the Mesa. Said reports are referenced in the Staff Report for Agenda Item E-10 for the Board of Directors meeting of April 13, 2005. Said Staff Report and referenced studies and reports are incorporated herein by this reference; and

WHEREAS, the District commissioned Robert Reed, of the Reed Group, Inc., to perform a Water and Sewer Rate Study Update (herein "Study"). The Study includes an analysis of both the water and sewer operating rates and charges for the District's Town Division and Blacklake Division. The intent of the Study is to assess the District's revenue requirements and to provide an independent evaluation of the equity of the District's current rate structure and the relationship (nexus) between the rates charged and the services provided. The Study further identifies a new rate structure for the Town Division and Blacklake Divisions that enables the District to meet revenue requirements for water and sewer operations and to provide for supplemental water while maintaining fairness and equity among existing and future rate payers; and

WHEREAS, the draft Study was received and filed on April 13, 2005, and has been available for public inspection at the District office since that date; and

WHEREAS, the Study was made final on May 25, 2005; and

WHEREAS, certain District Code Sections require amendment to facilitate the implementation of the new bi-monthly rates for water and sewer fees and charges; and

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED
TO WATER AND SEWER SERVICE

WHEREAS, based upon facts and analysis presented by Robert Reed, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The public meetings adopting this Ordinance have been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);
- B. That notice has been provided as required by law; and
- C. The fees, rates and charges that are the subject of this Ordinance do not exceed the estimated reasonable cost of providing the services, for which the fees and/or charge or charges are imposed; and
- D. The rates and charges established by this Ordinance are imposed as an incident of requesting or using District water and sewer treatment services.
- E. That the tiered water rate structure approved by this Ordinance is implemented, in part, to achieve the goals of the District's Urban Water Management Plan and Section 2, Article X of the California Constitution and Section 100 of the California Water Code related to water conservation.
- F. That the public benefits from the logical, long-range approach to financing of public facilities.
- G. Pursuant to the provisions of Proposition 218, NCS D did deliver written public notices of the hearing and find that the protests did not meet the required 50% of the notices mailed. NCS D did not receive any protests, written or oral, to the proposed rates for water and sewer charges.

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

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code Sections 61600(a) and (b), 61621, 61621.5, and 61623.

Section 2. Appendices A and B to Chapter 3.03 of the District Code (Bi-Monthly Water Rates for Town Division and Blacklake Division) are repealed in their entirety and replaced with the Bi-Monthly Rates and Charges reflected in Exhibit "A", attached hereto and incorporated into this Ordinance by reference.

Section 3. Appendix A to Chapter 4.12 of the District Code (Calculation of Bi-Monthly Sewer Rates and Charges for the Town Division and Blacklake Division) are repealed in its entirety and replaced with the Bi-Monthly Calculation of Rates and Charges reflected in Exhibit "B", attached hereto and incorporated into this Ordinance by reference.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED
TO WATER AND SEWER SERVICE

Section 4. Section 3.20.035 A is repealed in its entirety and replaced with the following:

3.20.035 A The charge for water pursuant to District Code Section 3.20.03(A) shall be charged at the then current water rate for non-residential water users as stated in Appendix B of Chapter 3.03 to the District Code.

Section 5. Section 4.12.150 A of the District Code is repealed in its entirety and replaced with the following:

4.12.150 A Bi-monthly User Fee. The bi-monthly sewer user rates and fees are set forth in Appendix A to this Chapter 4.12.

Section 6. Section 4.12.180 is repealed in its entirety and replaced with the following:

4.12.180 SPECIAL RULES FOR MEDIUM AND HIGH STRENGTH DISCHARGERS:

The District reserves the right to require medium strength and high strength discharges as referenced in Appendix A to Chapter 4.12 to provide pretreatment of sewer discharges. Said requirements may include pretreatment, a monitoring program, and a plan check and monitoring agreement to allow the District to recover its costs in approving and monitoring pretreatment facilities.

Section 7. 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 Ordinance.

Section 8. Effect of Repeal on Past Actions and Obligations.

This Ordinance does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

Section 9. CEQA Findings

The Board of Directors of the District finds that the fees and charges adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The Board of Directors further finds that the adoption of the Rules and Regulations established by this Ordinance fall within the activities described in Section 15378(b)(3) of the CEQA Guidelines which are deemed not to be "projects" for the purposes of CEQA, because it can be seen with certainty that the adoption of the Rules and Regulations may have a significant effect on the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10. Severance Clause.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING TITLE 3 AND TITLE 4 OF THE
NIPOMO COMMUNITY SERVICES DISTRICT CODE TO
ESTABLISH BI-MONTHLY RATES FOR WATER AND SEWER SERVICE
FOR THE TOWN DIVISION AND BLACKLAKE DIVISION
AND TO REVISE VARIOUS DISTRICT CODE SECTIONS RELATED
TO WATER AND SEWER SERVICE

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 11. 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 12. 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 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 Tribune.

Introduced at its regular meeting of the Board of Directors held on April 13, 2005, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 8th day of June, 2005, by the following roll call vote, to wit:

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


Lawrence Vierheilig, President
Nipomo Community Services District
Board of Directors

ATTEST:


DONNA K. JOHNSON
Secretary to the Board

APPROVED AS TO FORM:


JON S. SEITZ
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "A"

APPENDIX A TO CHAPTER 3.03

WATER RATES AND CHARGES

BI-MONTHLY AVAILABILITY CHARGES*

(The bi-monthly availability charge shall take effect August 1, 2005, and Future increases shall take effect on January 1, of each succeeding year.)

TOWN DIVISION

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.76	\$18.43	\$20.64	\$22.71	\$24.52
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$47.56	\$52.32	\$58.60	\$64.46	\$69.61
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$75.33	\$82.86	\$92.81	\$102.09	\$110.25
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$140.17	\$154.18	\$172.68	\$189.95	\$205.15
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$232.77	\$256.05	\$286.77	\$315.45	\$340.68
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$464.07	\$510.48	\$571.73	\$628.91	\$679.22
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$741.74	\$815.92	\$913.83	\$1,005.21	\$1,085.63
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

BLACKLAKE DIVISION

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$15.09	\$18.10	\$22.08	\$26.06	\$30.75
Litigation Charge	\$6.32	\$6.32	\$6.32	\$6.32	\$6.32
1 ½ Inch	\$41.73	\$50.07	\$61.09	\$72.08	\$85.06
Litigation Charge	\$14.36	\$14.36	\$14.36	\$14.36	\$14.36
2 Inch	\$65.74	\$78.89	\$96.24	\$113.57	\$134.01
Litigation Charge	\$19.92	\$19.92	\$19.92	\$19.92	\$14.36
3 Inch	\$121.81	\$146.17	\$178.33	\$210.43	\$248.31
Litigation Charge	\$27.92	\$27.92	\$27.92	\$27.92	\$27.92
4 Inch	\$201.90	\$242.28	\$295.58	\$348.78	\$411.56
Litigation Charge	\$36.00	\$36.00	\$36.00	\$36.00	\$36.00
6 Inch	\$401.93	\$482.32	\$588.42	\$694.34	\$819.32
Litigation Charge	\$59.58	\$59.58	\$59.58	\$59.58	\$59.58
8 Inch	\$642.06	\$770.48	\$939.98	\$1,109.18	\$1,308.83
Litigation Charge	\$68.08	\$68.08	\$68.08	\$68.08	\$68.08

*The above bi-monthly availability charge reflects the adjusted rate established by Ordinance 2003-95 to meet the District's financial obligations. Litigation charges off-set District financial obligations relating to the lawsuit entitled Santa Maria Valley Water Conservation District vs the City of Santa Maria, the Nipomo Community Services District, et al. When the District's financial obligation regarding this lawsuit have been satisfied, the litigation charge will be removed.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103

EXHIBIT "A" (Continued)

APPENDIX B TO CHAPTER 3.03

WATER RATES AND CHARGES

(The bi-monthly usage rates shall take effect August 1, 2005, and future increases shall take effect on January 1, of each succeeding year.)

TOWN DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$1.12	\$1.23	\$1.38	\$1.52	\$1.64
Tier 2 (> 40 Units)	\$1.91	\$2.10	\$2.35	\$2.59	\$2.80

TOWN DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.41	\$1.55	\$1.74	\$1.91	\$2.06

BLACKLAKE DIVISION

RESIDENTIAL USAGE RATES

	AUGUST 1, 2005	2006	2007	2008	2009
Tier 1 (0-40 Units)	\$0.97	\$1.16	\$1.42	\$1.68	\$1.98
Tier 2 (> 40 Units)	\$1.70	\$2.04	\$2.49	\$2.94	\$3.47

BLACKLAKE DIVISION

NON-RESIDENTIAL USAGE RATES

(Multi-family, Commercial, Irrigation, Agriculture, Industry and Construction)

	AUGUST 1, 2005	2006	2007	2008	2009
All Water Use	\$1.18	\$1.42	\$1.73	\$2.04	\$2.41

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103

EXHIBIT "B"

APPENDIX A TO CHAPTER 4.12

BI-MONTHLY SEWER SERVICE CHARGES

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1 of each succeeding year.)

TOWN DIVISION

RESIDENTIAL (PER DWELLING UNIT)

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$41.60	\$43.27	\$45.00	\$46.80	\$48.67
Multi-Family	\$32.17	\$33.46	\$34.80	\$36.19	\$37.63

NON-RESIDENTIAL (1)

BI-MONTHLY SERVICE CHARGE

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$16.08	\$16.72	\$17.39	\$18.09	\$18.81
1 ½ Inch	\$46.01	\$47.85	\$49.77	\$51.76	\$53.83
2 Inch	\$72.99	\$75.91	\$78.95	\$82.11	\$85.39
3 Inch	\$135.99	\$141.43	\$147.09	\$152.97	\$159.09
4 Inch	\$225.97	\$235.01	\$244.41	\$254.19	\$264.36
6 Inch	\$450.72	\$468.75	\$487.50	\$507.00	\$527.28
8 Inch	\$720.53	\$749.35	\$779.32	\$810.49	\$842.91

NON-RESIDENTIAL (1) (2)

USAGE RATE

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.22	\$1.27	\$1.32	\$1.37	\$1.43
Medium Strength	\$1.35	\$1.40	\$1.46	\$1.52	\$1.58
High Strength	\$1.75	\$1.82	\$1.89	\$1.97	\$2.05

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2005-103**

EXHIBIT "B" (Continued)

APPENDIX A TO CHAPTER 4.12

BI-MONTHLY SEWER SERVICE CHARGES

(The bi-monthly sewer service charges shall take effect August 1, 2005, and future increases shall take effect on July 1, of each succeeding year.)

BLACKLAKE DIVISION

RESIDENTIAL (PER DWELLING UNIT)

	AUGUST 1, 2005	2006	2007	2008	2009
Single Family	\$71.70	\$74.56	\$77.55	\$80.65	\$83.87
Multi-Family	\$38.42	\$39.96	\$41.56	\$43.22	\$44.95

NON-RESIDENTIAL (1)

BI-MONTHLY SERVICE CHARGE

SIZE OF METER	AUGUST 1, 2005	2006	2007	2008	2009
1 Inch or Less	\$32.76	\$34.07	\$35.44	\$36.86	\$38.33
1 ½ Inch	\$94.24	\$98.01	\$101.93	\$106.01	\$110.25
2 Inch	\$149.66	\$155.64	\$161.87	\$168.34	\$175.08
3 Inch	\$279.05	\$290.21	\$301.82	\$313.89	\$326.45
4 Inch	\$463.85	\$482.40	\$501.70	\$521.77	\$542.64
6 Inch	\$925.45	\$962.46	\$1,000.96	\$1,041.00	\$1,082.64
8 Inch	\$1,479.58	\$1,538.76	\$1,600.31	\$1,664.33	\$1,730.90

NON-RESIDENTIAL (1) (2)

USAGE RATE

	AUGUST 1, 2005	2006	2007	2008	2009
Low Strength	\$1.38	\$1.44	\$1.49	\$1.55	\$1.61
Medium Strength	\$1.88	\$1.96	\$2.03	\$2.11	\$2.20
High Strength	\$3.00	\$3.12	\$3.24	\$3.37	\$3.51

- (1) Sewer rates for non-residential customers include a service charge based on the size of the water meter and a usage charge based on sewer strength category and metered water usage.
- (2) The District has established a category of users to determine strength of sewer discharge. Said categories of uses are for reference only and establish minimum strength standards. The District retains the discretion to assign a higher strength category to individual discharges.