

NIPOMO COMMUNITY SERVICES DISTRICT

MONDAY, MAY 4, 2009

9:00 AM

SPECIAL MEETING NOTICE & AGENDA WATER CONSERVATION COMMITTEE

COMMITTEE MEMBERS

**MICHAEL WINN, CHAIR
LARRY VIERHEILIG, MEMBER**

PRINCIPAL STAFF

**BRUCE BUEL, GENERAL MANAGER
LISA BOGNUDA, ASSIST. GENERAL MANAGER
DONNA JOHNSON, BOARD SECRETARY
JON SEITZ, GENERAL COUNSEL
CELESTE WHITLOW, CONSERVATION COORDINATOR**

MEETING LOCATION

**District Board Room
148 S. Wilson Street
Nipomo, California**

- 1. CALL TO ORDER, ROLL CALL AND FLAG SALUTE**
- 2. INITIATE DEVELOPMENT OF EMERGENCY WATER SHORTAGE REGULATIONS**
ACTION REQUESTED: Provide Feedback on Policy and Process
- 3. DISCUSS WATER WASTE ORDINANCE VIOLATIONS.**
ACTION REQUESTED: Forward Recommendations to the Board
- 4. DISCUSS DRAFT TURF REPLACEMENT PROGRAM**
ACTION REQUESTED: Forward Recommendations to the Board
- 5. SET NEXT COMMITTEE MEETING**
ACTION REQUESTED: Set Meeting Date/Time/Location
- 6. ADJOURNMENT**

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TO: COMMITTEE MEMBERS
FROM: BRUCE BUEL *BB*
DATE: MAY 1, 2009

AGENDA ITEMS
2
MAY 4, 2009

INITIATE DEVELOPMENT OF EMERGENCY WATER SHORTAGE REGULATIONS

ITEMS

Initiate development of Emergency Water Shortage Regulations [PROVIDE FEEDBACK ON POLICY AND PROCESS].

BACKGROUND

In April, the NCSD Board referred the development of a draft set of Emergency Water Shortage Regulations to this Committee with the expectation that the Committee would provide a status update at the May 27, 2009 Board Meeting. The Board requested that the Committee consider both the needs of the District and the needs of the other purveyors given the likelihood that the Santa Clara Superior Court will require the other major purveyors to implement a Well Management Program including demand reduction requirements.

In the interim, the Wallace Group has published a memorandum documenting use per lot size per land use type and the NMMA Technical Group has submitted both the 2008 Annual Report and a Water Shortage Condition and Response Plan to the Santa Clara Superior Court. Although both documents are public records, the Technical Group has requested that none of the members rely on these submittals until and unless the Court accepts them. Staff understands that the Court has scheduled a review hearing for May 22, 2009, but there is no guarantee that action will be taken at that time.

The NMMA Technical Group has agreed to provide a forum to review the proposed Well Management Program and has requested that the purveyors submit a draft of such a program no later than the end of August 2009.

Attached is a copy of a set of draft Emergency Water Shortage Regulations that staff assembled following the Board's discussions in late 2007 and early 2008. It should be noted that this set of regulations was not adopted. Also attached are memos from Lisa Bognuda, Celeste Whitlow and Ed Eby commenting on aspects of the regulations or the process.

RECOMMENDATION

Staff recommends that the Committee use the attached set of regulations as a starting point for developing NCSD's Emergency Water Shortage Regulations. Following is a section by section commentary of recommended changes. Committee feedback is needed at this meeting so that a new draft set of regulations can be prepared for subsequent Committee and Board review after the Court has approved the Response Plan. Once the Committee has developed a recommended set of Regulations, staff proposes to share those regulations with the other purveyors and to set up meetings so that a draft Well Management Program can be developed and submitted to the NMMA Technical Group by the end of August. In addition to the following recommendations, the Committee may also wish to discuss some or all of the issues raised in the three attached memorandums.

SECTION 3.24.010 PURPOSE – RECOMMENDATION: Add text regarding the development of a Well Management Program

SECTION 3.24.020 FINDINGS – RECOMMENDATION: Add new Findings regarding the Wallace Group research, the 2008 Annual Report and the Water Shortage Condition and Response Plan and update the previous findings as necessary.

SECTION 3.24.025 AUTHORITY – RECOMMENDATION: Add text regarding the Stipulation and the Water Shortage Condition and Response Plan.

SECTION 3.24.030 DEFINITIONS – RECOMMENDATION: Add new definitions of the Stipulation and the Water Shortage Condition and Response Plan.

SECTION 3.24.035 ADJUDICATION – RECOMMENDATION: Re-write to describe the Court's approved Response Plan.

SECTION 3.24.040 TRIGGER POINTS – RECOMMENDATION: Revise to provide for three stages instead of four with Stage I as Water Watch; Stage II as Potentially Severe; and Stage III as severe. Stages II and III would be triggered as set forth in the Court approved Response Plan. Stage I would be triggered by the NCSD Board in any sequence of below normal precipitation years as set forth in the Well Management Program that does not warrant a higher stage according to the Court approved Response Plan.

SECTION 3.24.050 STAGE IMPLEMENTATION – RECOMMENDATION: Revise to reflect the Court approved Response Plan.

SECTION 3.24.060A STAGE I – RECOMMENDATION: Revise old Stage I Text to add a 15% demand reduction.

SECTION 3.24.060B STAGE II – RECOMMENDATION: Revise old Stage II Text to achieve a 30% demand reduction and revise the ccf target to correspond to the residential land use categories described in the Wallace Report. It should be noted that the 200% Surcharge translates to a 50% increase in the water portion of the customer's bill. Determine if notices will be mailed on a monthly basis.

SECTION 3.24.060C STAGE II – RECOMMENDATION: Combine and Revise old Stages III and IV Text to achieve a 50% demand reduction and revise the ccf target to correspond to the residential land use categories described in the Wallace Report. It should be noted that the 400% Surcharge translates to a 100% increase in the water portion of the customer's bill. Determine if notices will be mailed on a monthly basis.

SECTION 3.24.070 TERMINATION OF STAGES – RECOMMENDATION: Revise per Court approved Response Plan.

SECTION 3.24.080 CALCULATIONS – RECOMMENDATION: No changes proposed.

SECTION 3.24.085 ENFORCEMENT – RECOMMENDATION: No changes proposed.

SECTION 3.24.090 APPEALS – RECOMMENDATION: No changes proposed.

SECTION 3.24.100 EXCEPTIONS – RECOMMENDATION: Determine impact on other customers.

ATTACHMENTS

- 2008 Draft Emergency Water Shortage Regulations
- Memo from Lisa Bognuda
- Memo from Celeste Whitlow
- Memo from Ed Eby

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Nipomo Community Services District Draft Ordinance
Chapter 3.24
Emergency Water Shortage Regulations

3.24.010 Purpose

It is the purpose and intent of this Chapter to provide rules, regulations and procedures by which the Nipomo Community Services District ("District") Board of Directors can restrict water use upon a determination that there exists, or there is a threat of, a water shortage that affects the District's ability to supply its customers with potable water. The rules, regulations and procedures of this Chapter are in addition to water conservation measures that are adopted by the Board of Directors to avoid water shortage conditions and or conservation measures adopted by the County of San Luis Obispo in response to certification of Severity Level III for the Nipomo Mesa Water Conservation Area.

3.24.020 Findings

- A. The District has been pumping from the underlying groundwater basin since 1965. In 2006 the District's wells extracted approximately 3,000 plus acre feet and supplied approximately 4,000 connections. The District's boundaries are largely within the Nipomo Mesa Water Conservation Area (NMWCA) as referenced in San Luis Obispo County Ordinance 3090.
- B. The District's current water supply is groundwater extracted primarily from the NMWCA. A small proportion of District's water is pumped from groundwater in the Nipomo Valley.
- C. The primary source of recharge of the NMWCA is deep percolation of rainwater, with contributions from agricultural and urban return flows, and sub-surface inflows within the Santa Maria Basin. The dependence on deep percolation as the major source of recharge makes the groundwater supply within the NMWCA vulnerable during prolonged periods of low rainfall.
- D. Since July 1997 the Santa Maria Groundwater Basin has been the subject of ongoing litigation between nearly eight hundred parties (800), including the District, with competitive claims to pump groundwater. (Superior Court of the State of California, County of Santa Clara, Case No. 770214).

- E. As part of the Groundwater Adjudication referenced in Finding D, above, a majority of parties, including the District, ConocoPhillips, 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 Nipomo Mesa Management Area's (NMMA) long-term sustainability (herein "Stipulation"). The NMMA's boundaries are substantially similar to the boundaries referred to herein as the NMWCA. 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.
- F. In November 2004, the County Board of Supervisors received a Resource Capacity Study ("RCS") prepared by the San Luis Obispo County Planning Department for the NMWCA. The RCS reached the same conclusions as other groundwater reports that pumping from the NMWCA exceeds safe yield and recommended a Severity Level III be adopted pursuant to the County's Resource Management System. The RCS concluded that in 2003 the Nipomo Mesa water demand exceeded safe yield by 2,602 AFY and further concluded that the deficit would increase to 4,020 AFY by the year 2010.
- G. On August 22, 2007, Science Applications International Corporation ("SAIC") issued Technical Memorandum regarding Groundwater in Storage Above Sea Level for the Nipomo Mesa Management Area as of Spring, 2007. That Memorandum summarizes the decline in groundwater storage in the NMWCA from Spring of 2000 through Spring of 2007. The Technical Memorandum concluded that between Spring of 2000 and Spring of 2007, the groundwater in storage declined by 15,000 AF, with 14,000 AF decline between Spring of 2006, and Spring of 2007.
- H. On June 26, 2007, the County, at the recommendation of the Planning Commission, certified a Severity Level III for water resources of the NMWCA pursuant to the County's Resource Management System. Under the County system, Level III indicates an "Unavoidable Resource Deficiency," defined as follows: "This is the most critical level of concern. Level III occurs when the capacity (maximum safe yield) of a resource has been met or exceeded. At Level III there is a deficiency of sufficient magnitude that drastic actions may be needed to protect public health and safety".
- I. The San Luis Obispo County Public Works Department measures groundwater surface elevations in monitoring wells located within the NMWCA in the Spring and Fall of each year ("DPW Reports").

- J. Science Applications International Corporation (SAIC), using the DPW Reports and other data, has developed a method of calculating groundwater in storage above mean sea level within the NMWCA.
- K. SAIC Reports have been presented to the District Board of Directors, with the most recent report dated January 6, 2008. The January 6, 2008, SAIC Report provides a historical analysis of the water demand and groundwater in storage of the NMMA. The January 6, 2008,, SAIC Report recommends the use of groundwater in storage to establish trigger points to implement water shortage regulations.
- L. Using groundwater in storage above mean sea level within the NMMA provides a logical method of establishing the threat or existence of water shortages and the adoption of regulations to conserve the water resource.
- M. This Chapter is adopted to conserve a public water supply for the protection of the health, welfare and safety of the residents of the Nipomo Community Services District.

3.24.025 Authority

The District's authority includes, but is not limited, to Government Code §61100 (A) and §§ 71640 et seq. of the Water Code.

3.24.030 Definitions

AF means acre feet of water.

Base Year means the calendar year immediately prior to the District Board of Directors declaring an initial Water Conservation Stage.

CCF means 100 cubic feet of water or one unit.

Customer means the owner of property that receives District water service.

GWS means groundwater in storage above mean sea level, as reported to the District.

Irrigation Use means and includes all uses other than residential use and commercial use and includes water supplied to parks, recreational facilities such as golf courses, landscaping, and water supplied to schools to irrigate turf.

K means one thousand (1,000)

Mixed Use SM means and includes buildings designed and used for both residential and commercial use that are served by a single water meter.

Multi-family Residential means (A): a building(s) or portion thereof designed and used as residence for two or more families living independently of each other under a common roof. Such uses shall include but are not limited to: duplexes, triplexes, apartments, planned unit developments, condominiums and townhouses, and (B) mobile homes used as residential units within mobile home parks. Multi-family Residential does not include secondary units.

Non-Residential Use means all uses other than residential uses, including commercial use, agricultural use, institutional use (eg. . schools, churches, libraries, etc.) Mixed Use SM and irrigation use, that receive District water.

Owner means one who has title to the property being served, or is legally authorized to represent the title owner.

Person includes a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business, trust organizer, or the manager, lessee, agent, servant officer, or employee of any of them.

SF means square feet.

Single Family Residence or SFR means a stand-alone building not connected to another dwelling, and designed for residential occupancy by one family regardless of zoning of the property. A single family residence may, or may not, have a secondary unit.

3.24.035 Santa Maria Groundwater Adjudication

With reference to the adjudication of the Santa Maria Groundwater Basin and the formation of the NMMA Technical Group, the following are incorporated into the most appropriate stage referenced in Section 3.24.040 by reference:

- A. The Court- approved criteria for declaring a Potentially Severe Water Shortage Condition and Severe Water Shortage Condition.
- B. The conservation measures recommended by the NMMA Technical Group to address Potentially Severe Water Shortage Conditions.
- C. Water conservation programs approved by the Court for Severe Water Shortage Conditions.

3.24.040 Trigger Points

Water Shortage Conservation Stages I – IV shall be triggered by the following conditions when the GWS is at or below the relevant Trigger Condition:

Stage I Conservation – Water Watch

Trigger Condition: The GWS is less than 100,000 AF but greater than the Stage II Trigger Point.

Stage II Conservation – Water Warning

Trigger Condition: The GWS is less than 90,000 AF but greater than the Stage III Trigger Point.

Stage III Conservation – Water Emergency

Trigger Condition: The GWS is less than 80,000 AF but greater than the Stage IV Trigger Point.

Stage IV Conservation – Extreme Water Emergency

Trigger Condition: The GWS is less than 70,000 AF.

3.24.050 Stage Implementation

The General Manager shall monitor the groundwater in storage above mean sea level and the demand for water and shall report in writing to the Board, on or before June 1 of each year, the appropriate water conservation stage, if any, referenced in Sections 3.24.040, above. The Board shall, no later than four weeks after receipt of such report, consider the General Manager's report at a public hearing. Notice of the time and place of the public hearing shall be published one time at least seven days prior to the date of the hearing in a newspaper of general circulation within the District. If the Board concurs that any such events have occurred, it shall immediately adopt a resolution implementing a water conservation stage referenced in Section 3.24.060.

3.24.060 Water Shortage Conservation Stages.

A. Stage I Conservation – Water Watch.

1. Upon a determination by the Board of Directors that a Stage I condition exists, the following recommendations shall take effect:
 - (a) All outdoor irrigation of vegetation should occur only after 8 p.m. and before 9 a.m.
 - (b) The use of potable water to wash sidewalks, walkways, driveways, parking lots, open ground and other hard-surface areas by direct application is discouraged.
 - (c) The use of non-drinking water fountains, except for those using recirculated water, is discouraged.
 - (d) Use of potable water which results in run-off in gutters or streets is discouraged.

2. In addition to those measures stated above, the Board of Directors by resolution and/or ordinance may adopt additional water conservation measures.
3. The General Manager shall provide notice to all District customers, regarding the Board of Directors declaration of Water Watch condition and activation of Stage I Water Conservation Program. Such notice shall be mailed within fourteen (14) days of the Board's action.

B. Stage II Conservation – Water Warning.

1. Upon a determination by the Board of Directors that the a Stage II condition exists, the following measures and prohibitions shall take effect, with the goal of achieving a **ten percent (10%)** reduction in water consumption:
 - (a) The water conservation recommendations referenced in Stage 1 shall be mandatory and constitute prohibitions.
 - (b) Water deliveries for residential uses shall be limited as follows:
 1. 24 ccf of water bi-monthly or 295 gallons per day per multi-family residential unit.
 2. 27 ccf of water bi-monthly or 329 gallons per day per single family residential unit on lots <4500 sf.
 3. 36 ccf of water bi-monthly or 442 gallons per day per single family residential unit on lots 4.5k – 10k sf.
 4. 64 ccf of water bi-monthly or 787 gallons per day on single family residential lots >10k sf.
 - (c) Non-Residential Uses shall be limited to ninety percent (90%) of their water consumption for the same billing cycle during the Base Year.
 - (d) A surcharge of **two hundred percent (200%)** will be levied on all water use in excess of the maximum water use allotment referenced in subparagraphs (b) and (c) above and shall be assessed to the account of the Customer .
 - (e) Use of water from fire hydrants shall be limited to fire suppression and/or other activities immediately necessary to maintain health, safety and welfare of residents within the boundaries of the Nipomo Community Services District.

- (f) The use of District potable water, including fire hydrant water, for dust control and compaction for construction projects shall be prohibited.
 - (g) The washing of automobiles, golf carts, pickup trucks, horse trailers, boats and other types of mobile equipment not occurring upon the immediate premises of a commercial car wash and/or commercial service station that use recirculated water shall be prohibited. Emergency service vehicles are subject to Section 3.24.100.
 - (h) Restaurants shall not serve water to their customers except upon specific request.
 - (i) Applications for Intent-to-Serve Letters shall be received and placed on a waiting list, but further processing shall be suspended.
 - (j) Water main flushing shall only occur in emergency situations as declared by the District General Manager.
 - (k) All swimming pools and spas shall be covered when not in use.
 - (l) Water transfers, through emergency interties, to adjoining water purveyors will only be allowed upon written proof, to the satisfaction of the General Manager, of the existence of a water delivery emergency.
2. The General Manager is authorized and directed to pursue a vigorous public information program about water supply conditions and the need to reduce water consumption by such means deemed appropriate by the General Manager.
 3. The District will meet with other water purveyors, public school districts, park agencies, and golf courses, that use water sources other than District supplied water, to seek voluntary reduction in irrigation of decorative landscape and reduce irrigation of turf and play areas.
 4. In addition to those measures stated above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

C. Stage III Conservation – Water Emergency.

1. Upon a determination of the Board of Directors, that Stage III conditions exist, the following measures and prohibitions shall take effect, with a goal of achieving a **thirty-five percent (35%)** reduction in water consumption:
 - (a) The water conservation measures and prohibitions referenced in Stage 2 , above.
 - (b) Water deliveries for residential uses shall be limited as follows:
 1. 17 ccf of water bi-monthly or 214 gallons per day per multi-family residential unit.
 2. 19 ccf of water bi-monthly or 238 gallons per day per single family residential units <4500 sf.
 3. 26 ccf of water bi-monthly or 319 gallons per day per single family residential units 4.5k – 10k sf.
 4. 46 ccf of water bi-monthly or 569 gallons per day per single family residential units >10k sf.
 - (c) Non-Residential Uses shall be limited to **sixty-five percent (65%)** of their water consumption for the same billing cycle during the Base Year.
 - (d) A surcharge of **four hundred percent (400%)** will be levied on all water use in excess of the maximum water use allotment reflected in subparagraphs (a) and (b) above, and shall be assessed to the account of the Customer.
 - (e) Will-Serve Letters shall be suspended and the setting of new water meters shall be prohibited.
2. In addition to those measures stated above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

D. Stage IV Conservation – Extreme Water Emergency

1. Upon a determination of the Board of Directors that Stage IV conditions exist, the following measures and prohibition measures shall be take effect, with the goal of achieving a **fifty percent (50%)** reduction in water consumption:

- (a) Water conservation measures and prohibitions referenced in Stages 2 and 3, above.
 - (b) Water deliveries for residential uses shall be limited as follows:
 1. 14 ccf per of water bi-monthly or 170 gallons per day per multi-family residential unit.
 2. 15 ccf of water bi-monthly or 183 gallons per day per single family residential unit <4500 sf lot.
 3. 20 ccf of water bi-monthly or 246 gallons per day per single family residential unit 4.5k -10k sf lot.
 4. 36 ccf of water bi-monthly or 437 gallons per day per single family residential unit >10k sf lot.
 - (c) Non-Residential Uses shall be limited to **fifty per cent (50%)** of the water consumption for the same billing cycle during the Base Year.
 - (d) A surcharge of **five hundred percent (500%)** will be levied on all water use in excess of the maximum water use allotment reflected in subparagraph a and b above and shall be assessed to the account of the Customer.
 - (e) The use of potable water to irrigate grass, lawns, ground cover, shrubbery, crops, vegetation, and ornamental trees, etc. shall be prohibited; and all irrigation meters within the District shall be locked.
2. In addition to those measures stated above, the Board of Directors, by resolution and/or ordinance, may adopt additional water conservation measures on an urgency basis.

3.24.070 Termination of Stages

The Board of Directors may terminate water conservation stages based upon a finding that the groundwater storage above mean sea level within the NMWCA is at or above 100,000 AF or the Board of Directors may reduce a water conservation stage to a lower level by Resolution based on a finding that the GWS is capable of providing sufficient water at a reduced water conservation stage to meet the demands and requirements of the District's water customers.

3.24.080 Calculations

A. When Multi-Family units are served by a single water meter, the total volume of metered water shall be divided by the number of units to determine compliance with conservation stages.

B. Limitations of water use referenced in 3.24.060 B(1)(b), C (1)(b) and D (1)(b) shall be based on the gross square footage of the relevant parcels.

C. The surcharge calculations for exceeding water allotments referenced in 3.24.060 B(1)(b), C(1)(b) and D(1)(b) shall be based on the standard charge for water use over the limitation times the surcharge. For example, if a multifamily residential unit used 27 ccf of water during a bi-monthly period instead of the 17 ccf maximum water allotment referenced in 3.24.060 C(1)(b)(1), then the excess use over the allotment would be 10 ccf and if the standard cost per ccf was \$1, the surcharge for the multi-family unit in addition to the normal bill would be \$40 (10 ccf times \$1 times 4).

3.24.090 Enforcement

A. In addition to the water surcharges referenced in Section 3.24.060, the following applies to customers violating the water allotment provisions of this Chapter commencing with Stage II:

1. First Violation. A Notice of Violation shall be both mailed to the customer by first class mail, return receipt requested, and posted by door hanger on the affected property.
2. Second Violation. A Notice of Violation shall be sent to the customer by certified mail, return receipt requested, and by door hanger, with an explanation of the gravity of the situation and the penalties for future violations. A delinquent bill, including the appropriate surcharge, shall be increased by a penalty of ten percent (10%).
3. Third Violation. Water service will be discontinued and the water meter will be locked, or if necessary, removed from the premises of the violator. The District will send notice via certified mail at least seventy-two (72) hours prior to discontinuance of service and will attempt to contact an adult person at the premises by telephone or personal contact at least twenty-four (24) hours prior to discontinuance of service.

The meter will be reinstalled on conditions set by the District and after the payment of District reconnection charges and the payment of all other charges, surcharges and penalties owing.

B. Violation of Conservation Measures Other Than Water Allotment.

1. First Violation. A Notice of Violation shall be both mailed to the customer or person other than the customer, (i.e. tenant), by first class mail, return receipt requested, and posted by door hanger on the affected property.
2. Successive Violations. The second violation and each and every violation thereafter shall be subject to the provisions of Section 3.24.080 C, below.

C. Violations Unlawful.

1. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. A violation of any of the provisions or failure to comply with any of the requirements shall constitute a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600) or by imprisonment in the County Jail for a period not exceeding thirty (30) days or by both such fine and imprisonment.
2. Notwithstanding subparagraph 1, above, any misdemeanor violation or failure to comply may, in the discretion of District Legal Counsel, be initially charged and subsequently prosecuted as an infraction. Each and every infraction or violation is punishable by a fine not exceeding fifty dollars (\$50) for the first violation; a fine not exceeding one hundred dollars (\$100) for the second violation of this Chapter within one year; and a fine not exceeding two hundred fifty dollars (\$250) for the third violation of this Chapter within one year.
3. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued, or permitted by such person and shall be punishable accordingly.

D. Injunctive Relief

The District may petition the Superior Court for the issuance of a permanent or temporary injunction, or both, as may be appropriate, in restraining any person or customer from the continued violation of this Chapter.

E. Enforcement Officer.

1. The General Manager, or designee, shall be the Code Enforcement Officer primarily charged with enforcement of this Chapter.
2. For new construction, the General Manager has the authority to establish monthly Base Year water consumption for Non-Residential Use.

F. Collections.

1. Charges, surcharges and penalties authorized by this Chapter shall constitute a lien on the property, and the District Manager is authorized to record a certificate declaring the amount of the charges, surcharges and penalties due pursuant to Government Code § 61115(c).
2. The Board of Directors may order that the charges, surcharges and penalties be collected on the tax roll in the same manner as property taxes pursuant to the procedures of Government Code §61115(b).

G. Remedies Cumulative

The remedies available to the District to enforce this Chapter are cumulative and may be pursued consecutively by the District. The District's use of any one of the remedies and/or legal actions prescribed herein shall not bar the use of any other remedies provided in this Chapter, or other District ordinances or by law for the purpose of enforcing the provisions hereof.

3.24.090 Appeals

A. Water Allotment Appeals.

1. The General Manager may, in his/her discretion, grant exceptions to the water delivery limitations referenced in Section 3.24.060, if he/she finds based on a certification by a California-licensed physician or other California-licensed health care provider that the water delivery limitations would cause undue hardship or emergency medical conditions. The application for an exception shall be on a District form provided by the General Manager.
2. In determining whether or not to grant the exception and the terms and conditions of the exception, the General Manager shall consider the water conservation measures currently implemented by the applicant, (eg. low flush toilets, aerated shower fixtures,

landscape conservation, etc.) and the appropriate water conservation stage that should be applied to the applicant.

B. Lot Size Appeals

The General Manager will consider appeals based on the District's determination of lot size for the purposes of imposing water delivery limitations. Said appeals shall be in writing and shall include proof of gross lot size based on square footage.

C. Change in Commercial Use

When commercial use is changed, (eg. when an office building is converted to restaurant use), the General Manager may consider appeals to adjust the Base Year for the purposes of compliance with the water use limitations. Requests shall be in writing and shall contain an engineer's or architect's water use calculation of the new use. The General Manager shall consider other similar existing uses in considering whether or not an adjustment is warranted.

D. Applicable to All Appeals

1. The terms of any exception or determination shall be set forth in writing and may contain conditions. The General Manager's determination shall be kept on file with the District and a copy will be furnished to the applicant. All exceptions granted shall be reported to the Board of Directors at a regularly scheduled meeting.
2. An applicant may appeal the General Manager's decision to the Board of Directors. A request for appeal must be submitted to the District in writing not more than ten (10) days after the General Manager's decision. The Board of Directors shall consider the appeal within thirty (30) days of receipt of the request for appeal.

3.24.100 Exceptions

A. Public safety departments, such as fire departments and police departments, are exempt from the requirements of this Chapter, provided that said departments first lodge with the General Manager a water conservation plan.

B. Commercial car washes that provide proof of the use of recycled water, to the satisfaction of the General Manager, are exempt from the requirements of this Chapter.

Subject: Emergency Water Shortage Reg Draft Questions
From: Lisa Bognuda (and edited)

1. Will we treat our Agriculture customers the same as Commercial customers?
2. What about a mixed-use project with residential rental unit on top and commercial on bottom, with one single water meter?
3. Base Year--what if the current owner did not own the property during the base year period? For example, I am a new owner with five children and I bought a house from a single elderly lady that never watered her yard. Using the elderly lady's base year would be unfair.
4. Are the public schools and fire department going to get special treatment (excluding irrigation)?
5. In Stage 1 would we continue to sell construction water? Should we consider limiting the amount of construction water used per day, week, etc.?
6. Are the Code sections that address stealing from a fire hydrant strict enough if we are in an emergency water shortage? Can these be beefed up? (Because theft will probably become a more common problem.)
7. Each subsequent stage should include the prohibitions from the previous stage, if applicable. I.e., restaurants not serving water in stage II should also be prohibited in stage III and IV.
8. Operation of the emergency inter-ties with Golden State and Woodlands need to be addressed if we are in an emergency situation.
9. Will the Nipomo Park be shut off?
10. Will we shut off our own Miller Park?
11. The lot size dictates the water usage allowances. Is the lot size gross or net, and how are we going to make the lot size determination?
12. Will we (staff) use the assessor parcel maps or ask the home owner to provide us that information?
13. If a customer appeals allotment due to medical conditions, will the board make the determination of limiting outdoor use, etc.? Also, will any surcharges apply?

Subject: About the Emergency H2O Shortage Regulations
From: "Celeste Whitlow" <cwhitlow@ncsd.ca.gov>
Date: Sat, 5 Jan 2008
To: "Bruce Buel" <buel@ncsd.ca.gov>, <mwwinn@sbcglobal.net>, <lvorchid50@earthlink.net>

A couple of things occurred to me, triggered by the discussion yesterday:

[?] 1) Regarding allocations of water to Ag and Larry's observations about an orchardist's losses if his entire crop was unsuitable for market: In situations of water shortage, what orchardists can do is determine how much of the orchard can be irrigated to produce a marketable crop, with the rest of the orchard being irrigated just enough to keep the trees/vines alive until the following year's rainy season. Orchardists know exactly how much they need to irrigate, and making these types of decisions are part of being an orchard manager. What they will typically do for the remaining trees with low irrigation is to de-fruit them and reduce their leaf mass so that the demands on the tree will be less. Also, orchardists may also take this as an opportunity to remove the low-irrigated trees and replace them with a different cultivar they have wanted to try anyway.

Orchardists, like other Ag interests, can (and do) pass on the costs to the customer. Elevated avocado prices are predicted for next year due to the large number of avocado orchards lost in the San Diego fires. Lettuce may rise to \$4 a head next summer because of the decrease in water deliveries to California farmers. If local vineyards and orchardists decide to irrigate their entire orchard and incur surcharges, and need to raise prices to reflect increased charges, they will not be the only Ag interests doing so in California.

[NO] 2) Regarding the Fire Department's exemptions: Is it possible for them to train at another station which is outside of the NMMA? Is it possible for them to wash their vehicles at a station outside of the NMMA? Yes, they will have to drive their vehicles there to get them washed, but we are dealing with an emergency situation. In addition, should their conservation plan fail to produce the needed results, I hope they will not be exempt from excess use charges. Coming up with a conservation plan is a great idea, but only if they are penalized like everyone else if they don't decrease their water use to the amount required. Also, I believe it will be viewed as "unfair" if we allow any customer to set their own conservation % requirements and not let others do so.

[NO] 3) Regarding car washes: Businesses increase their charges when resources become more expensive. We've seen it in increased prices for some services because of the cost of gasoline. If the carwash ends up having to pay excess water use charges, like other increases costs of doing business, they will pass it on to their customers. Customers can choose to go to the carwash or not, but I believe that, with the rising cost of gasoline, it may well be more cost effective to continue to support the local carwashes and pay the increased price.

Example: If a vehicle gets 20 mpg, and is driven 10 miles one way to another community's carwash, that would equal one gallon of gas (round-trip). I have no idea what portion of the carwash's charges is due to water costs, but even at 50%, if the carwash charges \$10 for a carwash, \$5 would be the portion that represents water costs. If gasoline is \$3.25/gallon, for the carwash with its excess-use charges passed on to the customers to equal the \$3.25/gallon of gasoline costs to drive 20 miles round-trip to get a car washed, the carwash would have to raise their prices for a \$10 carwash by 32.5%, which would reflect an increase in price due to water charges of 65%.

What I'm trying to say that business owners frequently have to raise prices when their costs increase, and the amount they would have to raise their charge for a carwash would likely be less than it would cost for the customer to drive to another community to get it done more cheaply.

[NO] 4) Regarding bringing in new classifications of customers ("institutional" and "public safety"): It might be wise to consult with Lisa about the practical administrative impacts of this, the amount of time it may delay being able to implement the emergency regulations, etc.

[!] 5) Regarding asking schools and parks to curtail their water use: We know how [un]successful [our] attempts have been to get Nipomo Park to stop wasting water by inefficient irrigation, even with a substantial incentive (\$24,000 a year in water savings for them). In addition, Donna had to make three calls to Nipomo High School to get them to fix a sprinkler (which runs at night), which was producing a river of water. If it is within the District's ability to do so, wouldn't it make more sense to treat them like commercial entities, and let them figure out the best way to decrease their water use, paying for the excess charge if they can't do so?

6) I think our biggest challenge in carrying off a successful emergency response will be in uniting the community into a common cause, and it will be difficult to do so if our customers are confronted with too many exemptions. There seems to be a lack of cohesiveness in our community, and this will create problems for us during a drought emergency. Farmers throw their rubbish into the creeks, with blatant disregard to how residents down-stream (and the environment at large) will be impacted. Many customers fight tooth and nail any efforts towards conservation, even when faced with the aquifer's overdraft and the current extraordinary water shortage situation California is facing. Contractors steal water from hydrants. Despite the fact that Nipomo residents just had a free pick-up of large-item discards, Reed came across a backroad on the Mesa that has recently become another dumping ground for trash and large items.

During a drought emergency, it's going to be an uphill battle to develop community commitment to sacrificing for the common good, and exemptions (which will predictably be viewed as "special treatment") for classes of users will make it just that much more difficult.

Just my opinion--your mileage may vary.

Celeste Whitlow
Conservation and Public Outreach Specialist
cwhitlow@ncsd.ca.gov
Nipomo Community Services District

Emergency Water Shortage Regulations (AKA Water Rationing), Part 2

This water rationing ordinance is a contingency plan recognizing the danger of past, continuing, and increasing over pumping the Nipomo Mesa Subarea beyond the 6,000 AFY safe yield. At this point we have the luxury of adequate time to develop a thorough and effective strategy to reduce the risk of a serious problem in advance of the problem's arrival.

I believe we should be very careful in drafting and enacting this ordinance because of the likelihood that it may be necessary to enforce in the near future because:

1. We have successively exceeded the safe yield by an increasing amount for the last four years.
2. We had less rainfall last year than any of the last 32 years.
3. The expected arrival date of supplemental water continues to stretch further into the future with no date certain in sight.

The ordinance needs to be logical, defensible, linked to goals, and free of low impact measures if it is to gain respect and compliance. Mass disregard for an ordinance deemed silly will make it unenforceable.

In my 11/4/07 memo, "Emergency Water Shortage Regulations (AKA Water Rationing)," I outlined several elements the ordinance should logically address to make it effective in reducing or avoiding the hazards. In this memo, I want to address some of the comments made in the 11/9/07 meeting of the Water Conservation Committee and suggest changes to the draft ordinance.

Automatic Enforcement - In the 11/9/07 meeting a suggestion was made that the conservation measures should automatically be enforced when the trigger points are reached. The draft wording requires a determination by the Board of Directors that a certain water shortage level exists, then the Board is to consider certain prohibitions or conservation measures. I believe the draft wording should be retained, as it gives the Board future flexibility that may be needed if extenuating conditions not currently envisioned are in effect. While the conservation measures may seem complete and effective now, time may show us that they are not all required or effective.

Frequency of Meter Readings - The draft ordinance has the Board evaluating the shortage condition early in June. The Board then has up to four weeks (or early July) to order enforcement of conservation measures. On a bimonthly billing cycle, it could take as late as early September for most residents to know how well they complied (Most residents will have neither the skill, physical ability, nor incentive to read their own meter.). By September, the heaviest irrigation period will have passed, and attempts to comply with the measures will have

less an effect on the total water conserved. In fact, by the time the next bill arrives in November, the irrigation season will be finished. Under this schedule it is doubtful that the first violation level would be reached and unlikely that the second violation level would ever be experienced. Monthly meter readings would significantly shorten this cycle and make the feedback to customers more effective.

An analysis was provided at the 11/9/07 meeting showing the costs of monthly and bi-monthly meter readings. As expected, the cost of monthly readings would be higher. The higher cost is a necessary cost to bear if the conservation measures are to be effective. A mechanism should be developed that would change from bi-monthly to monthly readings as water shortage conditions appear. This would allow immediate conversion to the monthly readings to closely track and enforce water rationing. If the water shortage conditions pass, we can revert to bi-monthly billing.

Conflicting Measures and Prohibitions - A general flaw threads through the draft ordinance. First, an amount of rationing is allocated, then additional behaviors are demanded. If the trigger level requires a fixed limit on water consumption for effectiveness, additional prohibitions should not be required. If the customers are able to stay within their allocations, other behavior (washing cars, etc.) should not be restricted. This multiple prohibition mandate may have a serious consequence. Customers may resent being told to do something, then being told how to do it. A contradictory ordinance may lose respect and compliance. We should give them credit for having the intelligence to accomplish the goal in their own way and not seem to impose on their liberties or privacy.

Water Conservation Measures - Water rationing levels should be based on individual historic usage. A flat limit on gallons per day lays a heavy penalty on larger families; one that more than a few might not be able to bear.

Inconsequential Measures - The effect of the requirement to cover swimming pools is extremely questionable. There are few swimming pools on the Nipomo Mesa. Most are covered already to save the high energy cost to keep them warm or to keep the water clean. Only about a foot per year of water would be evaporated by a continuously uncovered pool. This, compared to the rationing limits, is an inconsequential measure that will surely invite disrespect for the ordinance.

Specifying which days irrigation may be performed is a very questionable conservation measure. Extending the duration of irrigation over fewer days can use as much or more water than irrigating every day. This is another measure which conflicts with limited water delivery rations.

Overly Punitive Measures - The maximum penalty for violations should be disconnection of the meter. Fines are redundant to surcharges and should not be part of the ordinance.

There should be no threat of imprisonment. Identification of the violator may be impossible, and one family member (the bill payer) could be fined or imprisoned for another resident's behavior. How could a bill payer, in jail for 6 months, pay subsequent bills his family is incurring? This penalty has no place in a CSD ordinance, and will create ridicule that will threaten compliance with rationing.

Ed Eby
11/18/07

TO: COMMITTEE MEMBERS
FROM: BRUCE BUEL *BBB*
DATE: MAY 1, 2009

AGENDA ITEMS
3
MAY 4, 2009

DISCUSS WATER WASTE ORDINANCE VIOLATIONS

ITEMS

Discuss Water Waste Ordinance Violations [FORWARD RECOMMENDATIONS TO BOARD].

BACKGROUND

The Committee agreed to brainstorm mechanisms to implement enforcement at this meeting.

RECOMMENDATION

Staff proposes to discuss enforcement mechanisms at this Meeting.

ATTACHMENT

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TO: COMMITTEE MEMBERS

FROM: BRUCE BUEL

TBB

DATE: MAY 1, 2009

AGENDA ITEMS

4

MAY 4, 2009

DISCUSS DRAFT TURF REPLACEMENT PROGRAM

ITEMS

Discuss draft turf replacement program [FORWARD RECOMMENDATIONS TO BOARD].

BACKGROUND

Attached is a draft turf replacement program with policy issues highlighted in red. Staff is seeking Committee feedback on these policy issues as well as the overall program.

RECOMMENDATION

Staff supports the implementation of a Turf Replacement program and respectfully requests feedback from the Committee on the highlighted policy issues as well as the program.

ATTACHMENT

- DRAFT PROGRAM

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TURF-REPLACEMENT PROGRAM

The Nipomo Community Services District (NCSD) is offering residential customers cash in return for reducing the amount of lawn area in their landscapes. NCSD will [rebate to your water bill] [pay in the form of a rebate] [**\$amount per square foot**]. The [rebate to your water bill] [pay in the form of a rebate] is limited to [**\$amount total**], providing the conditions and the requirements of the program are met by the applicant.

Eligibility Requirements

- Applicant must be District single-family water customer (one rebate-program participant per property or account).
- Tenants [are not eligible for this program] [are eligible for this program and receive a rebate only upon written authorization from the property owner].
- Submit a drawing (with measurements) indicating the following:
 - Dimensions of entire yard;
 - Dimensions and location of landscape area to be converted to drought-tolerant planting;
 - Plant placement, plant identification, and placement and basic canopy size of trees to be conserved.
 - Irrigation changes to be made for new landscaping.
- Applicant must submit representative photographs of the areas to be converted to drought-resistant landscape.
- Applicant must sign a contract representing the requirements and benefits of programs.
- Applicant must agree to a brief pre-installation and post-installation inspection as part of the approval process.
- Applicant must agree to not re-install turf/lawn.
- Applicant must choose drought-tolerant plant material from a District-approved list.
- Applicant must modify or eliminate the existing lawn irrigation system (if applicable) to irrigate the newly landscaped areas (if at all) through a separate valve(s) controlled independently of remaining turf area.
- Approved turf substitute [may] [may not] be used to replace the existing turf/lawn.
- Water-permeable landscape/hardscape structures (such as decks, gravel, mulch, rocks, bark or uncemented pavers) [may] [may not] be used as a substitute for the existing turf/lawn.

You are ineligible for this program if:

- You replace your lawn with a pool, building structures/extensions, impermeable pavement, or plant materials not considered water efficient.
- Your dwelling is a commercial building or owned by a commercial or government entity.
- You are replacing a former lawn or turf area which is not currently being irrigated.
- You change your landscape plans after approved by the District, without receiving prior approval of changes before landscape changes are made.

Other Considerations

- NCSD reserves all rights in making a final determination for approval or non-approval on a case-by-case basis.
- The replacement area measured will be rounded to the nearest 50 square feet and paid accordingly in \$25 increments.
- The approximate time between final approval and issuance of [water-bill credit] [rebate] is four weeks.
- [Rebates] [Water bill credit] are only available for projects approved in advance. This program is not for previously installed, NCSD-unapproved landscape modifications.

How to Apply and Program Steps

- Complete and sign application form and return by mail or personal delivery to:

Nipomo Community Services District
148 S. Wilson Street
Nipomo, CA 93444

- You will be notified of acceptance, rejection, or need for further information, by mail within 30 days after receipt of the completed application.
- Complete your lawn/turf replacement project. Do not modify District-approved plans without prior acceptance by the District.
- Call the District or email cwhitlow@ncsd.ca.gov to schedule a post-installation inspection for final District approval.

**NIPOMO COMMUNITY SERVICES DISTRICT
TURF REPLACEMENT REBATE PROGRAM**

APPLICATION FORM

Name: _____

Property Address: _____

Telephone: _____

NCSD Account #: _____

Property Owner/Applicant Signature: _____
(By signing this application, customer agrees abide by the conditions and requirements of the turf-replacement program)

Total Square Footage of Lawn/Turf: _____

Total Square Footage of Lawn/Turf to be Replaced: _____

List of Plants or Hardscape Materials to be used: _____

Does existing lawn have an irrigation system? _____

Will new landscaping include an irrigation system? _____

Anticipated date of turf replacement completion: _____

NOTE:

- Attach a list of existing plants and/or hardscape materials to be replaced.
 - Attach representative photograph of area to undergo turf removal.
 - Attach a list of new plants and/or hardscape materials to be used.
 - Attach a drawing (with measurements) indicating the following:
 - Dimensions of entire yard;
 - Dimensions and location of landscape area to be converted to drought-tolerant planting;
 - Plant placement, plant identification, and placement and basic canopy size of trees to be conserved.
 - Irrigation changes to be made for new landscaping.
-

FOR NCSD STAFF USE ONLY

NCSD Pre-Inspection by Date Approved: Yes No
NCSD Post-Inspection by Date Approved: Yes No

TO: COMMITTEE MEMBERS
FROM: BRUCE BUEL
DATE: MAY 1, 2009



AGENDA ITEMS

5

MAY 4, 2009

SET NEXT COMMITTEE MEETING

ITEMS

Set next committee meeting [Set Meeting Date/Time/Location].

BACKGROUND

Staff should be able to produce a draft set of EWS Regulations within two weeks of this meeting at which point the Committee should conduct a review.

RECOMMENDATION

Set a Meeting date/time/location.

ATTACHMENT – NONE

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