

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: JUNE 19, 2009

**AGENDA ITEM  
E-1  
JUNE 24, 2009**

DISCUSS DEVELOPMENT OF EMERGENCY WATER SHORTAGE REGULATIONS

**ITEM**

Discuss development of Emergency Water Shortage Regulations [PROVIDE POLICY GUIDANCE]

**BACKGROUND**

Your Honorable Board previously directed staff to interact with the members of the NMMA TG to determine the possibility of implementing a common set of Mesa-Wide Emergency Water Shortage Regulations. The General Manager and District Legal Counsel did present a proposal for a three stage regulation with one voluntary and two mandatory stages of conservation to the TG, however, the two PUC regulated utilities pointed out that the PUC had its own process for determining if there was a Water Shortage Emergency and even then, the program to be implemented was prescribed by the PUC (See attached Rule 14.1). The GSWC did share its current voluntary program and indicated that they would cooperate in a larger mesa-wide effort build around their voluntary program. This program was then reviewed by the Water Conservation Committee at its June 5, 2009 meeting. As detailed in the attached minutes, the Committee supported development of a voluntary program predicated on Rule 14.1 in the short term and to approach the PUC regarding a determination on the need for a mandatory program.

**FISCAL IMPACT**

Development of this draft did use previously budgeted staff time and legal consulting cost.

**RECOMMENDATION**

Staff recommends that the Board authorize staff to jointly develop a voluntary program predicated on Rule 14.1 for subsequent Board consideration and request that the two public utilities petition the CPUC to determine if the Commission will recognize the need for a mandatory program.

**ATTACHMENTS**

- Rule 14.1
- Minutes from June 5, 2009 Water Conservation Committee Meeting

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MAY 26 2009

NIPOMO COMMUNITY  
SERVICES DISTRICT

May 19, 2009

Advice Letter No. 1325-W

(U 133 W)

## California Public Utilities Commission

Golden State Water Company (GSWC) hereby transmits one original and three conformed copies of the following tariff sheets applicable to its water operations:

### Title of Sheet

Rule No. 14.1, p.1  
Water Conservation and Rationing Plan

Rule No. 14.1, p.2  
Water Conservation and Rationing Plan

Rule No. 14.1, p.3  
Water Conservation and Rationing Plan

Rule No. 14.1, p.4  
Water Conservation and Rationing Plan

Rule No. 14.1, p.5  
Water Conservation and Rationing Plan

Rule No. 14.1, p.6  
Water Conservation and Rationing Plan

Rule No. 14.1, p.7  
Water Conservation and Rationing Plan

Rule No. 14.1, p.8  
Water Conservation and Rationing Plan

Rule No. 14.1, p.9  
Water Conservation and Rationing Plan

**Subject: Update Rule No. 14.1**

**Purpose**

The purpose of this advice letter is to update GSWC's Rule No. 14.1, Water Conservation and Rationing Plan. GSWC is seeking to revise the language in its existing Rule No. 14.1 to adopt and conform to the language in the recent (March 2009) update of the Division of Water and Audits' Standard Practice U-40, Instructions For Water Conservation, Rationing and Service Connection Moratoria.

**Effective Date**

GSWC is requesting that this filing and tariffs herein become effective on June 20, 2009.

**Tier Designation**

Pursuant to D. 07-01-024, this advice letter is submitted with a Tier 2 designation.

**Protest and Responses**

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds are:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding; or
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require re-litigating a prior order of the Commission.)

A protest shall provide citations or proofs where available to allow staff to properly consider the protest.

A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

Tariff Unit, Water Division, 3<sup>rd</sup> floor  
California Public Utilities Commission,  
505 Van Ness Avenue, San Francisco, CA 94102  
E-mail: [water\\_division@cpuc.ca.gov](mailto:water_division@cpuc.ca.gov)

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy by mail (or e-mail) to us, addressed to:

Golden State Water Company  
ATTN: Ronald Moore  
630 East Foothill Blvd.  
San Dimas, CA 91773  
Fax: 909-394-7427 or  
E-mail: [regulatoryaffairs@gswater.com](mailto:regulatoryaffairs@gswater.com)

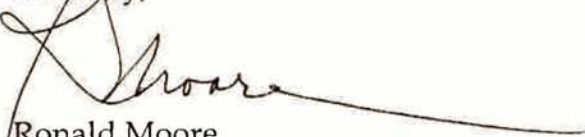
If you have not received a reply to your protest within 10 business days, contact this person at 909-394-3600 ext. 682.

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Water Division, within the 20 day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

No individuals or utilities have requested notification of filing of tariffs. Distribution of this advice letter is being made to the attached service list in accordance with General Order No. 96-B.

Sincerely,



Ronald Moore  
Senior Regulatory Analyst, Regulatory Affairs

c: Danilo Sanchez, CPUC- Water and Natural Gas Branch, DRA  
Fred Curry, CPUC- Division of Water and Audits  
Hani Moussa, CPUC- Water and Natural Gas Branch, DRA

**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

Page 1

GENERAL INFORMATION

(N)

1. If water supplies are projected to be insufficient to meet normal customer demand, and are beyond the control of the utility, the utility may elect to implement voluntary conservation using the portion of this plan set forth in Section A of this Rule, after notifying the Director of the Commission's Division of Water and Audits of its intent, via a letter in both hard-copy and e-mailed formats.
2. Prior to declaration of mandatory rationing, a utility may request authorization of a Schedule 14.1 – Staged Mandatory Water Conservation and Rationing tariff, via a Tier 2 advice letter.
3. If, in the opinion of the utility, more stringent water measures are required, the utility shall request Commission authorization to implement the staged mandatory conservation and rationing measures set forth in Sections B through E.
4. The utility shall file a Tier 1 advice letter to request activation of a particular stage of Schedule 14.1 – Staged Mandatory Water Conservation and Rationing tariff.
  - a. If a Declaration of Mandatory Rationing is made by utility or governing agency, or
  - b. If the utility is unable to address voluntary conservation levels set by itself, supplier, or governing agency, or
  - c. If the utility chooses to subsequently activate a different stage
5. When Schedule 14.1 is in effect and the utility determines that water supplies are again sufficient to meet normal demands, and mandatory conservation and rationing measures are no longer necessary, the utility shall seek Commission approval via a Tier 1 advice letter to de-activate the particular stage of mandatory rationing that had been authorized.

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ISSUED BY R. J. SPROWLS Date Filed \_\_\_\_\_  
Advice Letter No. 1325-W Effective Date \_\_\_\_\_  
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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

Page 2  
(N)

GENERAL INFORMATION (Continued)

6. In the event of a water supply shortage requiring a voluntary or mandatory program, the utility shall make available to its customers water conservation kits as required by its version of Rule 20. The utility shall notify all customers of the availability of conservation kits via a bill insert or direct mailers.

A. CONSERVATION - NON-ESSENTIAL OR UNAUTHORIZED WATER USE

No customer shall use utility-supplied water for non-essential or unauthorized uses, including but not limited to:

1. Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
2. Use through any meter when the company has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days;
3. Use of potable water which results in flooding or runoff in gutters or streets;
4. Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;
5. Use of potable water washing buildings, structures, , driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
6. Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific schedule, for example: 1) before 8:00 a.m. and after 7:00 p.m.; 2) every other day; or 3) selected days of the week;

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

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GENERAL INFORMATION (Continued)

(N)

7. Use of potable water for watering streets with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
8. Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used.
9. Use of potable water for construction purposes unless no other source of water or other method can be used;
10. Use of potable water for street cleaning;
11. Operation of commercial car washes without recycling at least 50% of the potable water used per cycle;
12. Use of potable water for watering outside plants, lawn, landscape and turf areas during certain hours if and when specified in Schedule No. 14.1 when the schedule is in effect;
13. Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
14. Use of potable water for the filling or refilling of swimming pools.
15. Service of water by any restaurant except upon the request of a patron; and
16. Use of potable water to flush hydrants, except where required for public health or safety.

**B. STAGED MANDATORY RATIONING OF WATER USAGE**

1. Prior to declaration of mandatory rationing, a utility may request authorization of a Schedule 14.1 – Staged Mandatory Water Conservation and Rationing tariff, via a Tier 2 advice letter, with full justification. The utility may not institute Schedule 14.1 until it has been authorized to do so by the Commission.

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

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(N)

STAGED MANDATORY RATIONING OF WATER USAGE (Continued)

- a. A staged Schedule 14.1 that has been authorized by the Commission shall remain dormant until triggered by specific conditions detailed in the Schedule 14.1 tariff and utility has requested and received authorization for activating a stage by Commission.
- b. Notice of the Tier 2 advice letter (example shown in Appendix C) and associated public participation hearing shall be provided to customers under General Order (GO) 96-B rules.
- c. Utility shall comply with all requirements of Sections 350-358 of the California Water Code.
- d. The Tier 2 advice letter requesting institution of a Schedule 14.1 shall include but not be limited to:
  - i. Proposed Schedule 14.1 tariff, which shall include but not be limited to:
    - 1. Applicability,
    - 2. Territory applicable to,
    - 3. A detailed description of each Stage of Rationing,
    - 4. A detailed description of the Trigger that Activates each Stage of Rationing,
    - 5. A detailed description of each water use restriction for each stage of rationing.
    - 6. Water use violation levels, written warning levels, associated fines, and exception procedures,

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

STAGED MANDATORY RATIONING OF WATER USAGE (Continued)

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- 7. Conditions for installation of a flow restrictor, (N)
- 8. Charges for removal of flow restrictors, and
- 9. Special Conditions
  - ii. Justification for, and documentation and calculations in support of plan, including but not limited to each item in B.1.d.i above.
- 2. Number of Stages requested by each utility/district may vary, depending on specifics of water shortage event.
- 3. The utility shall file a Tier 1 advice letter to request activation of a particular stage of Schedule 14.1 – Staged Mandatory Water Conservation and Rationing tariff.
  - a. If a Declaration of Mandatory Rationing is made by utility or governing agency,
  - b. If the utility is unable to address voluntary conservation levels set by itself or governing agency, or
  - c. If the utility chooses to subsequently activate a different stage.
  - d. The Tier 1 advice letter requesting activation of a Schedule 14.1 shall include but not be limited to:
    - i. Justification for activating this particular stage of mandatory rationing, as well as period during which this particular stage of mandatory conservation and rationing measures will be in effect.
    - ii. When the utility requests activation of a particular Stage, it shall notify its customers as detailed in Section E, below.
- 4. All monies collected by the utility through water use violation fines shall not be accounted for as income.
- 5. All expenses incurred by utility to implement Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by Commission.

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

STAGED MANDATORY RATIONING OF WATER USAGE (Continued)

Page 6

(N)

- a. These monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.

C. ENFORCEMENT OF STAGED MANDATORY CONSERVATION AND RATIONING

1. The water use restrictions of the conservation program, in Section A of this rule, become mandatory when the authorized Schedule 14.1-Staged Mandatory Rationing Program is triggered, the utility files a Tier 1 advice letter requesting activation of a particular stage, and authorization is received from the Commission.
  - a. In the event a customer is observed to be using water for any nonessential or unauthorized use as defined in Section A of this rule, the utility may charge a water use violation fine in accordance with Schedule No. 14.1.
2. The utility may, after one written warning and one non-essential or unauthorized use violation notice, install a flow-restricting device on the service line of any customer observed by utility personnel to be using water for any non-essential or unauthorized use as defined in Section A above.
3. A flow restrictor shall not restrict water delivery by greater than 50% of normal flow.. The restricting device may be removed only by the utility, only after a three-day period has elapsed, and only upon payment of the appropriate removal charge as set forth in Schedule No. 14.1.
4. After the removal of the restricting device, if any non-essential or unauthorized use of water shall continue, the utility may install another flow-restricting device. This device shall remain in place until water supply conditions warrant its removal and until the appropriate charge for removal has been paid to the utility.
5. Any tampering with flow restricting device by customer can result in fines or discontinuation of water use at the utility's discretion.

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

**ENFORCEMENT OF STAGED MANDATORY CONSERVATION AND RATIONING**

(Continued)

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(N)

6. If, despite installation of such flow-restricting device pursuant to the provisions of the previous enforcement conditions, any such non-essential or unauthorized use of water shall continue, then the utility may discontinue water service to such customer. In such latter event, a charge as provided in Rule No. 11 shall be paid to the utility as a condition to restoration of service.
7. All monies collected by the utility through water use violation fines shall not be accounted for as income. All expenses incurred by utility to implement Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by Commission. These additional monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.
8. The charge for removal of a flow-restricting device shall be in accordance with Schedule No. 14.1.

**D. APPEAL PROCEDURE**

1. Any customer who seeks a variance from any of the provisions of this water conservation and rationing plan shall notify the utility in writing, explaining in detail the reason for such a variation. The utility shall respond to each such request in writing.
2. Any customer not satisfied with the utility's response may file an appeal with the staff of the Commission. The customer and the utility will be notified of the disposition of such appeal by letter from the Executive Director of the Commission.

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(Continued)

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ISSUED BY

**R. J. SPROWLS**

President

Date Filed \_\_\_\_\_

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**RULE 14.1  
WATER CONSERVATION AND RATIONING PLAN**

APPEAL PROCEDURE (Continued)

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(N)

- 3. If the customer disagrees with such disposition, the customer shall have the right to file a formal complaint with the Commission. Except as set forth in this Section, no person shall have any right or claim in law or in equity, against the utility because of, or as a result of, any matter or thing done or threatened to be done pursuant to the provisions of this water conservation and rationing plan.

**E. PUBLICITY**

- 1. As stated under Section B.1.b and c, when a utility requests authorization of a Schedule 14.1 – Staged Mandatory Water Conservation and Rationing tariff, via a Tier 2 advice letter, it shall provide notice of the Tier 2 advice letter (example shown in Attachment C) and associated public meeting provided to customers, under General Order (GO) 96-B rules, and shall comply with all requirements of Sections 350-358 of the California Water Code (CWC), including but not limited to the following:
  - a. In order to be in compliance with both the GO and CWC, the utility shall provide notice via both newspaper and bill insert/direct mailing.
  - b. Utility shall file one notice for each advice letter filed, that includes both notice of the filing of the Tier 2 advice letter as well as the details of the public meeting (date, time, place, etc).
  - c. The public meeting shall be held after the utility files the Tier 2 advice letter, and before the Commission authorizes implementation of the tariff.
  - d. Utility shall consult with Division of Water and Audits staff prior to filing advice letter, in order to determine details of public meeting.
- 2. In the event that a Schedule 14.1-Staged Mandatory Rationing Plan is triggered, and an utility requests activation through the filing of a Tier 1 advice letter, the utility shall notify its customers and provide each customer with a copy of Schedule 14.1 by means of bill insert or direct mailing. Notification shall take place prior to imposing any fines associated with this plan.

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**RULE 14.1**  
**WATER CONSERVATION AND RATIONING PLAN**

PUBLICITY (Continued)

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3. During the period that a stage of Schedule 14.1 is activated, the utility shall provide customers with updates in at least every other bill, regarding its water supply status and the results of customers' conservation efforts.

(N)

(N)

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ISSUED BY

**R. J. SPROWLS**

President

Date Filed \_\_\_\_\_

Effective Date \_\_\_\_\_

Resolution No. \_\_\_\_\_



# NIPOMO COMMUNITY SERVICES DISTRICT

148 SOUTH WILSON STREET  
POST OFFICE BOX 326  
NIPOMO, CA 93444 - 0326  
(805) 929-1133 FAX (805) 929-1932  
Web site address WWW.NCSD.CA.GOV

## MINUTES OF THE 6/05/09 SPECIAL MEETING OF THE WATER CONSERVATION COMMITTEE

### 1. CALL TO ORDER, ROLL CALL AND FLAG SALUTE

Chairman Winn called the Special Meeting to order at 2:30pm in the NCSD Board Chambers. Both Chairman Winn and Director Vierheilig were in attendance along with District Legal Counsel Jon Seitz and staff members Bruce Buel and Celeste Whitlow. Three members of the public were present.

### 2. DISCUSS EMERGENCY WATER SHORTAGE REGULATIONS

Bruce Buel and Jon Seitz summarized the June 1<sup>st</sup> NMMA Technical Group Meeting's review of NCSD's Draft Emergency Water Shortage Regulations, with the following feedback:

- In similar situations, the CPUC has rejected community-based requests to declare mandatory water regulations;
- Both GSWC and RWC would need to follow the CPUC process before implementing any mandatory program and this process is slow and difficult;
- The demand reduction targets proposed in any staged mandatory program would need to be justified with clear and relevant physical criteria;
- The CPUC will require all of its investor owned utilities to follow the demand reduction strategies set forth in Rule 14.1; and
- GSWC has established a voluntary program designed to reduce average per customer demand in its service areas by 20%

Bruce Buel distributed copies of the revised Draft Emergency Water Shortage Regulations developed by District Legal Counsel, CPUC Rule 14.1, and GSWC's 20% Voluntary Program. Bruce Buel requested that the Committee discuss the above and provide feedback regarding the potential re-write of NCSD's Draft Emergency Water Shortage Regulations in light of the feedback from the Technical Group. In particular, staff asked the Committee if the District should continue to work with the Technical Group, if the District should develop regulations specific to NCSD or both.

Significant Committee discussion followed on the Technical Group feedback, the CPUC process and the limitations of CPUC Rule 14.1. Larry Vierheilig expressed his concern that it was not possible to craft one common program given the complexity of the review process. Mike Winn questioned the CPUC's actual position as compared to the interpretation offered from the Technical Group; observed that GSWC and RWC were not the same entity with the same interests; observed that the process was contentious with multiple interests influencing the behaviors of the participants; predicted that Judge Komar would have more influence than predicted; and questioned the baseline target set forth in the "20x2020" proposal as compared to the targets proposed in the Draft Emergency Water Shortage Regulations. Mike Winn urged staff to initiate discussions

## MINUTES OF THE 6/05/09 MEETING OF THE

### WATER CONSERVATION COMMITTEE

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immediately with the Woodlands to determine their preferences so that the non-CPUC water suppliers could better coordinate their activities.

Jon Seitz reminded the Committee that Section VI (A) 5 of the stipulation sets forth the ground-rules for development of the Water Providers Emergency Response Plan in the absence of Supplemental Water.

Bruce Buel expressed his belief that the mechanism to get CPUC feedback on the Emergency Water Shortage Program was for one or both of the CPUC regulated utilities to petition the CPUC. Bruce Buel agreed with Mike Winn that it was critical for NCS D to coordinate with the Woodlands Mutual Water Company and that the initial discussions should be fast-tracked.

Mike Winn observed that the RWC was growing in spite of the absence of available supply to meet new demand. He expressed a serious concern that RWC's behavior could undermine the health of the basin and the integrity of NCS D's Waterline Intertie Project. He indicated that the County would need to respect the water resource limitations as it reviewed land use proposals on the Nipomo Mesa.

Mike Winn proposed that NCS D lead by example and develop regulations that addressed flagrant wastes of water. Mike Winn indicated that it was OK for GSWC to pursue a voluntary program, but that voluntary programs would not be adequate.

Larry Vierheilg proposed that NCS D and the other water companies develop and start with a voluntary program that included portions of Rule 14.1 that the water reduction goals be based on projected savings and that the results be monitored for achievement. Larry Vierheilg expressed his hope that such a joint effort would give the participants a chance to work together and reach consensus.

Bruce Buel urged the Committee to pursue a two component strategy with the development of a voluntary program including water waste prohibitions at the same time developing the petitions to the CPUC to get CPUC guidance on the Mandatory Program.

Mike Winn expressed his support for NCS D proposing a 20% voluntary demand reduction program instead of the 15% target set forth in the Water Conservation Plan. Celeste Whitlow indicated that the recent CUWCC review of the Best Management Practices provided NCS D with an opportunity to mix programs and restrictions in order to achieve any particular target. Ms. Whitlow questioned how long NCS D could wait given the downward trend in basin groundwater storage. Mike Winn emphasized the critical role that an effective multi-tier rate structure plays in reducing demand.

Mike Winn moved that the Committee recommend the immediate development of a voluntary program including relevant provisions of Rule 14.1; immediate negotiations with the Woodlands Mutual Water Company regarding voluntary and mandatory regulations; continued negotiations the technical group regarding voluntary and mandatory regulations; expedite the rate study to evaluate multi-tiered rate structures and support the submittal of a petition to the CPUC to determine the CPUC's response to NMMA's situation. Larry Vierheilg seconded the motion.

## MINUTES OF THE 6/05/09 MEETING OF THE

### WATER CONSERVATION COMMITTEE

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Bill Nelson urged the District to establish clear goals for both the voluntary and mandatory program. He also expressed a concern regarding a flat target per household for all six billing periods when it was easy to comply in winter and almost impossible to comply in summer.

The motion described above was approved unanimously.

Bruce Buel proposed to use the 2008 NMMA Annual Report as the basis for developing the demand reduction targets set forth in the mandatory regulations. In particular, Bruce Buel suggested that NCS D look at the annual differential between demand and supply as a unit of demand reduction and compare that value or multiples of that value with total water supplier deliveries as the basis of drought year demand reduction.

Mike Winn indicated that the proposed targets should be greater than a simple 20% target set forth in the "20x2020" proposal under consideration by the state, because 20% is the target for the entire state. Some areas – definitely including the Central Coast – will be given higher targets.

The Committee agreed to meet again at 10am on Thursday June 18<sup>th</sup>, to discuss the development of a voluntary program, the development of a mandatory program and the basis for setting demand management triggers.

#### **3. DISCUSS WATER CONSERVATION STRATEGIES**

Celeste Whitlow provided updates on the various programs staff was working on. Committee discussion followed regarding measurement of results. There was no public comment.

#### **4. ADJOURNMENT**

Chairman Winn adjourned the meeting at 4:20pm.

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