


TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL   
DATE: SEPT. 25, 2009

**AGENDA ITEM**  
**E-3**  
**SEPT. 30, 2009**

**VOLUNTARY EMERGENCY WATER SHORTAGE REGULATIONS**

**ITEM**

Introduce ordinance establishing voluntary emergency water shortage regulations and set hearing for adoption [EDIT AND SET HEARING]

**BACKGROUND**

Your Board has evaluated different regulations over the past two years; you rescinded the old regulations and you have interacted with the over purveyors. On Sept. 9, 2009 you reviewed a draft listing and set this hearing. Attached is the draft ordinance prepared by District Legal Counsel.

At the last Technical Group Meeting, these measures were supported by the other purveyors.

Separate regulations would be necessary for the mandatory regulations.

**FISCAL IMPACT**

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

**RECOMMENDATION**

Staff recommends that the Board review the attached ordinance, edit as desired, approve as to introduction and set a hearing for October 14, 2009 for Introduction of the Ordinance.

**ATTACHMENTS**

- Voluntary Emergency Water Shortage Ordinance

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**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-\_\_\_\_\_**  
**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE**

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

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

**WHEREAS**, it is the purpose and intent of this Ordinance to protect the District's important groundwater resources, by establishing voluntary water conservation measures.

**WHEREAS**, the District is a party to a groundwater adjudication, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation").

**WHEREAS**, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008, Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area.

**WHEREAS**, the San Luis Obispo County Department of Planning and Building's 2004 Resource Capacity Study for the Water Supply in the Nipomo Mesa Area recommends a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Area and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

**WHEREAS**, on June 26, 2007, the San Luis Obispo County Board of Supervisors certified the waters underlying the NMMA at a Severity Level III.

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

**WHEREAS**, the District Board of Directors, at a public meeting, on September 9, 2009, revised and edited the proposed amendment to Chapter 3.24; and

**WHEREAS**, the District Board of Directors, at a public meeting, on September 30<sup>th</sup> and October \_\_\_\_\_, 2009, considered a Staff Report, and public testimony regarding the proposed revisions to Chapter 3.24 as adopted by this Ordinance; and

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

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-\_\_\_\_\_  
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE

**Section 1. Amendments to Chapter 3.24 of the District Code**

The Nipomo Community Services District Board of Directors, hereby adopts and approves the Amendment and Restatement of Sections 3.24.010 and 3.24.020 of the District Code as referenced in Exhibit "A" attached hereto and incorporated herein by this reference.

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, are incorporated herein by this reference and constitute findings in support of the amendments approved and adopted herein.

**Section 3. Severability**

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

**Section 4. Effect of headings in Ordinance**

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

**Section 5. Inconsistency**

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations or any County Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**Section 6. CEQA Findings**

The Board of Directors of the District finds that the adoption of this Ordinance does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.) or its implementing Guidelines (14 California Code of Regulations Section 15000 et seq.) ("CEQA Guidelines"). The Board further finds that the adoption of this Ordinance falls within the activities described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of this Ordinance were a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-\_\_\_\_\_  
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE

provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance and the approval of the provisions contained herein may have a significant effect on the environment. The District General Manager is authorized to prepare, execute and file a notice of exemption pursuant to the above provisions.

**Section 7. Effective Date.**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15<sup>th</sup>) day after passage Exhibit "A" shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

Introduced at regular meeting of the Board of Directors held on September 30, 2009, and passed and adopted by the District Board of Directors on the \_ day of October, 2009, by the following roll call vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAINING:

\_\_\_\_\_  
JAMES HARRISON,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
DONNA K. JOHNSON  
Secretary to the Board

\_\_\_\_\_  
JON S. SEITZ  
District Legal Counsel

**Exhibit "A"**

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-\_\_\_\_\_  
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE  
WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS**

**BE IT ORDAINED**, by the Board of Directors of the Nipomo Community Services District as follows:

**Section 1. Amendments to Chapter 3.24 of the District Code**

The Nipomo Community Services District Board of Directors, hereby adopts and approves the Amendment and Restatement of Sections 3.24.010 and 3.24.020 of Chapter 3.24 of the District Code as follows:.

3.24.010 Definitions.

- A. "Applicant" means person who requests water from the District.
- B. "Customer" means person receiving water from the District distribution system.
- C. "District" means Nipomo Community Services District.
- D. "HFC" means hundred cubic feet.
- E.. "Potentially Severe Water Shortage Conditions" means the finding of the Nipomo Mesa Management Area Technical Group that a Potentially Sever Water Shortage Condition exists within the Nipomo Mesa Management Area pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008, Final Judgment in the Groundwater Litigation (Santa Maria Valley Water Conservation District vs. The City of Santa Maria, et al. Case No. CV 770214)

3.24.020 Voluntary Restrictions on Non-Essential and/or Wasteful Use of Water.

- A. The waste of District water includes:
  - (1) Use through any meter when the utility has notified the customer in writing to repair a broken or defective lateral, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days;
  - (2) Use of potable water for washing streets with trucks, except to protect the health and safety of the public;
  - (3) Operation of commercial car washes without recycling at least 50% of the potable water used per cycle; and
  - (4) The use of potable water to jet wash sewer lines, except where required for public health or safety.
  - (5) Individual private washing of cars, trucks, trailers, and commercial vehicles with a hose except with the use of a positive action shut-off nozzle;

Exhibit "A"

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-  
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE  
WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS**

- B. In addition to those restrictions referenced in subparagraph A above, during periods of Potentially Severe Water Shortage Conditions, the waste of District water includes:
- (1) Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping between the hours of 7 a.m. and 7 p.m. without quick acting positive action shut-off nozzle;
  - (2) 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 recirculated water; and
  - (3) Service of water by any restaurant except upon request of a patron.
- C. The General Manager shall institute a public awareness campaign regarding the waste of District water, including notices to each District water customer within fourteen (days) of the District's approval of Sections 3.24.020 A and B.

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: SEPT. 25, 2009

**AGENDA ITEM**  
**E-4**  
**SEPT. 30, 2009**

**INTRODUCE ALLOCATION AMENDMENTS ORDINANCE**

**ITEM**

Introduce Ordinance amending allocation program and Intent-To-Serve Process and set date for adoption [SET HEARING]

**BACKGROUND**

Your Honorable Board, on September 9, 2009, directed staff to present potential revisions to the allocation ordinance to reflect the recent assessment research and to provide more time for developers to complete projects following the issuance of the Intent-To-Serve Letter. Attached is a draft of this ordinance structured for its introduction and first reading. Also enclosed is a copy of the assessment research and a sheet illustrating the changes from the existing allocation program (Ordinance No. 2007-06) and the allocation program proposed in the attached draft.

It should be noted that staff is not only recommending changes in the consumption per use groupings but we are also recommending that the total allocation for the year be reduced to deduct the assumed commercial consumption that accompanies residential growth. In addition, the draft would enable Board adjustment of the 20% limitation on water available for any one project during the 4<sup>th</sup> quarter (See Section 3.05.110 d).

**FISCAL IMPACT**

Development of this draft did use previously budgeted staff time and legal consulting cost. Adoption of the Allocation Ordinance is expected to be revenue neutral in regards to future development.

**RECOMMENDATION**

Staff recommends that the Board review the proposed amendments and order edits as appropriate. If the Board can reach closure on the text, then staff further recommends that the second reading be set for October 14, 2009.

**ATTACHMENTS**

- Draft Text
- Assessment Research
- Sheet Comparing Ordinance No. 2007-106 with Proposed Draft

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**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- \_\_\_\_**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS**

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

**WHEREAS**, the District's current water supply is groundwater extracted primarily from the Nipomo Mesa Management Area (NMMA), (also referred to as the Nipomo Water Conservation Area by the County of San Luis Obispo), of the Santa Maria Groundwater Basin. A small proportion of NCSD's water is pumped from groundwater in the Nipomo Valley; and

**WHEREAS**, the District is a party to a groundwater adjudication, Santa Maria Valley Water Conservation District v. City of Santa Maria, etc. et al., Case No. CV 770214 ("Groundwater Litigation").

**WHEREAS**, pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008, Final Judgment in the Groundwater Litigation the Nipomo Mesa Management Area Technical Group has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area.

**WHEREAS**, the San Luis Obispo County Department of Planning and Building's 2004 Resource Capacity Study for the Water Supply in the Nipomo Mesa Area recommends a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Area and that measures be implemented to lessen adverse impacts of future development (said Study and referenced documents are incorporated herein by reference); and

**WHEREAS**, on June 26, 2007, the San Luis Obispo County Board of Supervisors certified the waters underlying the NMMA at a Severity Level III.

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

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.
- Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels; and

**WHEREAS**, the County of San Luis Obispo has adopted a "Growth Management Ordinance" (Title 26 of the County Code) that imposes a 1.8 percent growth limitation for non-exempt projects for the Nipomo Mesa area (said Title 26 and implementing Ordinance and supporting studies, including the supporting CEQA analysis are incorporated herein by this reference). The stated purpose of Title 26 is to establish regulations to protect and promote the public health, safety and welfare including:



**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- \_\_\_\_**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS**

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

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

**WHEREAS**, the District Board of Directors, at a public meeting, on September 9, 2009, reviewed and edited the purposed revisions to various sections of Charter 3.05 of the District Code; and

**WHEREAS**, on September 30, 2009, the District Board of Directors, at a public meeting, took the following actions in considering the proposed amendments to Chapter 3.05:

- A. Considered the facts and analysis as presented in the Staff Report prepared for the adoption of this Ordinance;
- B. Conducted a public hearing to obtain public testimony on the proposed Ordinance;

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

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

- A. That the purpose and intent in further amending Chapter 3.05 is consistent with the purposes found in Section 3.05.010 of Chapter 3.05, the Judgment and Stipulation in the Ground Water Litigation imposing a physical solution to assure longterm sustainability of the groundwater basin and the San Luis Obispo County's certification of a Severity Level III for the waters underlying the Nipomo Mesa Management Area;
- B. Allocating Intent-to-Serve Letters for water service will provide greater assurance that there will be adequate groundwater to meet present and future needs of District residents consistent with the resource protection goals of the San Luis Obispo County South County Area Plan;

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- \_\_\_\_**

**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS**

- C. That adopting the amendments to Chapter 3.05 will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection.
- D. The District's authority to adopt the Amendments referenced herein include, but are not limited to, Government Code Sections 61040(a), 61045 and 61060 (a, b, and n).

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

**Section 1. Amendments to Certain Sections of Chapter 3.05 of the District Code**

The District Board of Directors hereby adopts and approves the Amendments and Restatements of Sections 3.05.030, 3.05.040, 3.05.050, 3.05.060, 3.05.070, 3.05.100 and 3.05.110 of Chapter 3.05 of the District Code as provided in Exhibit A attached hereto and incorporated herein by this reference.

The District Board of Directors hereby adopts and approves new sub-section D to Section 3.05.020 of Chapter 3.05 of the District Code as provided in Exhibit A attached hereto and incorporated herein by this reference.

**Section 2. Incorporation of Recitals**

The recitals to this Ordinance are true and correct, are incorporated herein by this reference, including the referenced documents, and constitute further findings for the implementation of the Water Service Limitations adopted by this Ordinance.

**Section 3. Severability**

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

**Section 4. Effect of headings in Ordinance**

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

**Section 5. Inconsistency**

To the extent that the terms of provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject

NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009- \_\_\_\_

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.05 OF THE DISTRICT CODE  
WATER SERVICE LIMITATIONS

matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed.

**Section 6. CEQA**

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

**Section 7. Effective Date**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of the fifteenth (15<sup>th</sup>) day after passage Exhibit A shall be published once with the names of the members of the Board of Directors voting for or against the Ordinance in a newspaper of general circulation within the District.

Introduced on the 30<sup>th</sup> day of September, 2009, and adopted by the Board of Directors of the Nipomo Community Services District \_\_\_\_\_, 2009, by the following roll call vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAINING:

\_\_\_\_\_  
JAMES HARRISON,  
President of the Board of Directors  
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
DONNA K. JOHNSON  
Secretary to the Board

\_\_\_\_\_  
JON S. SEITZ  
District Legal Counsel

Exhibit "A"

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-\_\_\_\_\_**  
**AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE  
WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS**

**BE IT ORDAINED**, by the Board of Directors of the Nipomo Community Services District as follows:

**Section 1. Amendments to Chapter 3.24 of the District Code**

The Nipomo Community Services District Board of Directors, hereby adopts and approves the Amendment and Restatement of Sections 3.24.010 and 3.24.020 of Chapter 3.24 of the District Code as follows:.

3.24.010 Definitions.

- A. "Applicant" means person who requests water from the District.
- B. "Customer" means person receiving water from the District distribution system.
- C. "District" means Nipomo Community Services District.
- D. "HFC" means hundred cubic feet.
- E.. "Potentially Severe Water Shortage Conditions" means the finding of the Nipomo Mesa Management Area Technical Group that a Potentially Sever Water Shortage Condition exists within the Nipomo Mesa Management Area pursuant to Section VI D(1) of the June 2005 Stipulation as incorporated into the January 25, 2008, Final Judgment in the Groundwater Litigation (Santa Maria Valley Water Conservation District vs. The City of Santa Maria, et al. Case No. CV 770214)

3.24.020 Voluntary Restrictions on Non-Essential and/or Wasteful Use of Water.

- A. The waste of District water includes:
  - (1) Use through any meter when the utility has notified the customer in writing to repair a broken or defective lateral, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days;
  - (2) Use of potable water for washing streets with trucks, except to protect the health and safety of the public;
  - (3) Operation of commercial car washes without recycling at least 50% of the potable water used per cycle; and
  - (4) The use of potable water to jet wash sewer lines, except where required for public health or safety.
  - (5) Individual private washing of cars, trucks, trailers, and commercial vehicles with a hose except with the use of a positive action shut-off nozzle;

Exhibit "A"

**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-  
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE  
WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS**

- B. In addition to those restrictions referenced in subparagraph A above, during periods of Potentially Severe Water Shortage Conditions, the waste of District water includes:
- (1) Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping between the hours of 7 a.m. and 7 p.m. without quick acting positive action shut-off nozzle;
  - (2) 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 recirculated water; and
  - (3) Service of water by any restaurant except upon request of a patron.
- C. The General Manager shall institute a public awareness campaign regarding the waste of District water, including notices to each District water customer within fourteen (days) of the District's approval of Sections 3.24.020 A and B.

## MEMORANDUM

Date: April 15, 2009  
To: Bruce Buel  
From: Kari Wagner, P.E.  
Subject: DRAFT NCSD Assessment District Research

The Nipomo Community Services District (District) is currently in the process of designing an inter-tie water main between the City of Santa Maria and the District to bring a supplemental water supply for existing and future water demands. This project is estimated to cost the District \$21 million dollars. Wallace Group prepared a Preliminary Assessment Report discussing the formation of the assessment District in November 2008. The Board authorized staff to proceed with the formation of an Assessment District as the method of payment for the project.

As Wallace Group prepared the Preliminary Assessment Report, the database that was used to estimate the benefit units was determined to be unreliable. The information received was from the County's Assessor's database, which has errors in the information that is inputted. At the time of the Preliminary Assessment Report, Wallace Group made some assumptions in order to provide preliminary estimates on a per unit basis for the assessment district.

Following the completion of the Preliminary Assessment Report, Wallace Group discussed the database with District staff and it was recommended to review the entire database to confirm two things: 1) The accuracy of the information inputted. 2) Determine the development potential for each parcel. It was recommended to complete this task prior to the preparation of the engineer's report to allow adequate time for the research.

The District authorized Wallace Group to proceed with the review of the database on January 28, 2009. Wallace Group has been diligently working on reviewing over 5,000 parcels for the past 6 weeks and analyzing the data against water consumption. The following are the assumptions that were made, the references that were used, and various other information that was used to assist us with developing the database. Finally, an analysis was completed on the existing development against water consumption to determine a correlation between water use and parcel size.

### DATABASE ANALYSIS

Below describes the means and methods Wallace Group took to determine the existing uses and the development potential for every parcel within the District.



CIVIL ENGINEERING  
CONSTRUCTION  
MANAGEMENT  
LANDSCAPE  
ARCHITECTURE  
MECHANICAL  
ENGINEERING  
PLANNING  
PUBLIC WORKS  
ADMINISTRATION  
SURVEYING /  
GIS SOLUTIONS  
WATER RESOURCES  
WALLACE SWANSON  
INTERNATIONAL

WALLACE GROUP  
A California Corporation

612 CLARION CT  
SAN LUIS OBISPO  
CALIFORNIA 93401

T 805 544-4011  
F 805 544-4294

[www.wallacegroup.us](http://www.wallacegroup.us)





### Reference Sources

1. SLO County Land Use Ordinance Title 22
2. South County Planning Area Standards Chapter 22.112
3. Black Lake Specific Plan
4. County Tax Assessor's database
5. County GIS parcel aerial database and Tidemark permit tracking system
6. Google Earth aerial information

### Notes on the Data Evaluation

1. Assessor's land use descriptions were not necessarily reliable. If the descriptions were backed by other information, we accepted it.
2. Assessor's parcels are not necessarily legal parcels – some legal lots contain several Assessor's parcels with different tax bases due to use.
3. Land Uses listed as "allowed" include those allowed with a conditional use permit.
4. Secondary units in a SF zone are on the same meter and subordinate to the primary residence, while in MF zoning, multiple detached units are each on their own meter and are each considered a "primary" unit.
5. Although nearly all RSF lots over 6,000 sf in size are potentially allowed a secondary unit, in reality the configuration of existing development may preclude the ability to construct one without demolition.
6. Although most RSF lots over 12,000 sf in size are potentially allowed by ordinance to subdivide, the configuration of the parcel shape, regardless of existing development, may preclude that ability due to frontage requirements. Where these lots are already developed, many could only be subdivided with demolition of the existing unit.
7. Parcels with incorrect or retired Assessor's numbers were placed on a separate tab along with split-zoned parcels to be analyzed individually.

### Assumptions & Thresholds

1. All parcels within District boundary are, or will be, served by community water and wastewater (Sec. 22.22.080).
2. Residential Single-Family lots of less than 6,000 sf do not have Secondary Dwelling Unit capability (Sec. 22.10.130.B.2).
3. All RSF lots over 6,000 sf in size have potential for adding a Secondary Dwelling unit, unless on septic systems. If parcel is on a septic system, all RSF lots under two acres do not have Secondary Dwelling Unit capability.
4. Black Lake parcels do not have Secondary Unit potential, regardless of size, because REC zoning does not permit them (22.06.030 Table 2-2). We



assume that any attempt to increase density would require a Specific Plan Amendment.

5. Residential Multi-Family lots do not have potential for Secondary Dwelling units, regardless of parcel size (22.10.130).
6. Residential Multi-Family lots may have two (or more) units if over 6,000 sf; where if less than 6,000 sf only one unit is allowed (22.10.110.C).
7. Specific density standards for RMF and certain RSF lots were evaluated per South County Area Plan Section 22.112.080.
8. Minimum lot size for an existing, legally created lot to establish a SF residence is 1,750 sf (22.10.110.C).
9. Minimum newly created lot size in AG zoning is 20 acres (22.22.040).
10. Minimum newly created lot size in RR zone is 5 acres (22.22.050).
11. Minimum newly created lot size in RS is 1 acre (22.22.060).
12. Minimum newly created lot size in RSF is 6,000 sf (22.22.070), except where density is dictated by the Area Plan standards
13. Development potential for parcels with split zoning will be evaluated per Section 22.02.020.D, and/or in consult with County staff
14. If parcel is on septic, the minimum lot size is 1 acre.

#### **Verification Method**

##### Assessor's Information Accepted (AI)

1. Parcels described as "vacant", with no assessed improvement value, and no address, were accepted as vacant.
2. Parcels in RSF, RS, and RR zones, assessed for improvement value, less than 6,000 square feet in size, and not described by the Assessor as having more than one unit, were assumed to have one residential unit as a maximum.
3. Parcels in RSF, RS, and RR zones, assessed for improvement value, more than 6,000 sf in size but less than twice minimum lot size, and not described as having more than one unit, were assumed to have one residential unit, with potential for a secondary unit, and no potential for further subdivision, unless the parcel is on a septic system. If parcel is on a septic system, parcels under 2 acres do not have the potential for a secondary unit. In addition, parcels on septic systems can not be subdivided to less than 1 acre.
4. Residential parcels in single-family zoning described as "Duplex", "SFR w/2<sup>nd</sup> Living", "SFR w/Sec" etc. were assumed to have legally permitted secondary dwelling units, and were evaluated for further development potential on that basis.



5. We assumed that parcels in zones other than OS that are designated as open space by the assessor (and assessed as such) have a deed restriction limiting any development.

#### Online Data Verification (OD)

1. Where the Assessor Land Use description was unclear (ie, "Government", Residual Land Segment", Misc Imps"), we reviewed the parcel online using County GIS aerial, permit tracking system, and/or Google Earth to verify use and development status.
2. All CR and CS parcels were checked online against aeriels and the County's permit tracking system.
3. Because residential MF density on CR-zoned lots is determined by Conditional Use Permit, the density is discretionary. Secondary units are not allowed on CR-zoned lots.
4. Well parcels located within residential lots, smaller than 1,500 sf in size, are assumed to have no development potential. Most are probably not separate legal lots and were created to assess a well site that may or may not still contain a functioning well.

#### Field Check (FC):

Field checking was used to verify construction or demolition on parcels where the data suggested that a building permit was in effect, but the aerial did not show it (or vice versa). In some cases, the field review did not clarify the uses on site because it was not possible to tell the use of some structures from the public right-of-way.

#### County Land Uses

- AG (Agriculture); 3 parcels
- CR (Commercial Retail); 126 parcels
- CS (Commercial Services); 26 parcels
- OP (Office Professional); 34 parcels
- OS (Open Space); 2 parcels
- PF (Public Facilities); 9 parcels
- REC (Recreation); 605 parcels
- RL (Rural Lands); 2 parcels
- RMF (Residential Multi-Family); 526 parcels
- RR (Residential Rural); 277 parcels
- RS (Residential Suburban); 835 parcels

## RSF (Residential Single-Family); 2044 parcels

There are also parcels in several land use categories with split zoning that are grouped separately. These were addressed individually per County requirements.



## ENGINEERING ANALYSIS

Wallace Group requested the water use records from the District for the past two years to assist in the benefit unit analysis. This information was linked to the database and sorted based on existing development. The analysis was completed on developed parcels since vacant parcels do not have water use.

There were some anomalies and assumptions in the data that required the data to be either set aside and not used or slightly altered. These anomalies or assumptions that were made are as follows:

- Not all records were provided to Wallace Group. Since water records are tied to an account number, the account number changes if residents change. Therefore, if the account number changed within the past two years, this information was not provided to Wallace Group
- Some records were provided to Wallace Group that still did not contain two full years of data. Any records that did not have two full years of water data were not included in the analysis.
- Some water records were altered slightly to adjust water usage that did not appear to be correct. Example, typical bi-monthly water usage of 120 units. One of the month's readings was 1,137 units. This is most likely a data entry error and was altered to a typical bi-monthly reading.

Once all the viable parcels were either altered or non-viable parcels were removed from the selection, Wallace Group separated the database according to the following categories:

- Residential Single Family (RSF) – All parcels that had one RSF home, regardless of lot size or zoning.
- Residential Single Family – 2 (RSF-2) – All parcels that have two RSF units on a parcel, regardless of lot size or zoning. These second units are either granny units or two RSF houses. These parcels were identified to have permitted second units. Those parcels that may have a granny unit or second dwelling unit on the parcel that is not permitted is not accounted for.
- Residential Single Family >2 (RSF>2) – All parcels that have more than two RSF units on the same parcel. This includes triplex units. This does not include identified residential multi-family parcels such as apartments or condominiums.
- Residential Multi-Family (RMF) – All identified residential multi-family parcels such as apartments and condominiums. These are individual units that typically do not have any land attributed to the parcel. They typically have a central common area for several units, which has its own parcel number.
- Commercial (Com) – All non-residential parcels providing services to the community. This includes office and professional, retail services, industrial, etc.



- Other – There are other parcels, such as public facilities, schools, parks, churches, open space, etc. These parcels will ultimately need to be assessed on a case by case basis and therefore, were not analyzed at this time. Once a method of assessment is identified, these parcels will be re-evaluated to determine their proper assessment.

### **Water Use Analysis Results**

Over 2,700 RSF parcels were evaluated ranging in size from 0.10 acres to 18.20 acres. When the water usage for all viable parcels is plotted against parcel size, the amount of water used by any one parcel of the same size was vastly different. For example: A parcel of 0.10 acres used between 23 gpd on the low end and 1,080 gpd on the high end. The delta between high and low got even greater for larger parcels. For the 1.00 acre parcels, on the low end, parcels used only 25 gpd. On the other hand, there were parcels that used up to almost 3,800 gpd. Exhibit 1 depicts the water usage for all viable RSF parcels against the parcel size. For clarity, Exhibit 1 only shows parcels up to 10 acres. There are few parcels greater than 10 acres and these parcels all used less water than any 10 acre parcels. This analysis does not provide any concrete method for assessment, except that it can be determined that the larger parcels have the "potential" for significantly more water use.

The next step in the analysis used the law of averages to determine how much water RSF parcels of the same size were using. The parcel sizes were rounded to the nearest 0.10 of an acre and grouped together. The water use was averaged for both 2007 and 2008 and plotted on Exhibit 2. The parcels were graphed for every 0.10 acre up to 1.0 acre. Parcels between 1.10 and 2.00 acres were grouped together and parcels greater than 2.00 acres were grouped together. This grouping method gave a large enough sample size that reduces the impacts from those few parcels that used small or large quantities of water and skewed the results.

This analysis provided interesting results. The average water use consistently increased as parcel size increased excluding those parcels greater than 1.0 acre. Parcels greater than 1.0 acre used approximately the same amount of water or less water than 1.0 acre parcels. The average consumption for 2007 and 2008 were similar for each grouping, except 0.70 acres. There was a difference of 110 gpm between 2007 water consumption and 2008 water consumption for 0.7 acre parcels.

Although the water usage continuously goes up, there are three obvious breaks in the water consumption.

- Group 1: Includes parcel sizes of 0.10, 0.20, and 0.30 acres. These parcels used between 370 and 480 gpd.
- Group 2: Includes parcel size of 0.40, 0.50, and 0.60 acres. These parcels used between 680 and 740 gpd.
- Group 3: Includes parcel sizes 0.7 acres and greater. These parcels used between 760 and 950 gpd.

Once this was established, Wallace Group then broke down the other remaining categories to see how their water usage compared to the RSF. Their water usage was again broken into the same 0.10 acre parcel groupings. The law of averages is more skewed for this analysis since the quantity of the parcels was not nearly as





high as they are for RSF. In some instances, there were only one or two parcels that fell into certain groupings. Exhibit 3 provides the analysis of the various categories versus parcel size for 2007 and 2008. Exhibit 4 provides the same information as Exhibit 3, except years 2007 and 2008 are averaged to simplify the exhibit.

The following is an analysis for each category:

- **RSF-2:** There were only 32 parcels analyzed for this category. If parcel size was not considered, parcels with two RSF units used between 135 and 3,600 gpd. Again, this range is too great to extract any useful information from it. The largest groupings were for 0.20, 1.00, 1.10 to 2.00, and greater than 2.00 acre parcels. These groupings had five or more parcels that provided a better average water consumption. For parcels 0.2 and 1.10 to 2.00 acres, the water consumption for RSF and RSF-2 were identical. For parcels greater than 2.00 acres, the water consumption for RSF-2 was higher than RSF parcels. For 1.00 acre parcels, the water consumption for RSF-2 was significantly higher than the RSF parcels.
- **RSF>2:** There are only 14 parcels that are RSF with more than 2 parcels on the lot. Their water consumption ranged between 443 and 2,101 gpd. On the smaller lots (under 0.50 acre), the water use was higher than the RSF parcels. For parcels between 0.50 and 1.00 acres, the water use was the same or less than the RSF parcels. For parcels between 1.10 and 2.00 acres, the water consumption was higher. For parcels greater than 2.00 acres, the water consumption was approximately the same as RSF.
- **RMF:** The RMF lots are parcels that really don't have any land attributed to the parcel. Therefore, these parcels were compared to parcels with 0.10 acres. There were 206 RMF parcels analyzed. The RMF parcels used approximately 200 gpd. This is 170 gpd less than 0.10 acre RSF parcels.
- **Commercial:** There were 47 commercial parcels analyzed. Again, the water consumption was vastly different, 18 gpd versus 8,600 gpd. There was one anomaly with commercial that was dependent on use of the parcel. There are several fairly large commercial parcels that had storage uses and therefore, used little water as compared to other parcels of the same size. These uses should be considered as a separate condition than typical commercial uses since parcels with storage units will most likely not convert their use. For the most part, parcels 0.90 acre and below use approximately the same quantity of water as their corresponding RSF parcel size. Parcels 1.00 acre and parcels greater than 2.0 acres used significantly more water than their corresponding RSF parcels. Parcels between 1.10 and 2.00 acres used about the same as RSF parcels. However, if the parcels with storage units are taken out of the average, then the water consumption for commercial parcels becomes significantly higher than RSF parcels.

### **Basis of Assessment**

The data that is extracted from this analysis can be manipulated in many ways than were analyzed for this report at this time. Since the number of parcels in each category is not the same, the potential for discrepancies is higher. Again, not all parcels were included in the analysis and therefore, the entire District is not represented. With this knowledge, Table 1 provides a summary of recommendations for proceeding with the basis of assessment.



Table 1. Basis of Assessment

Group	Zoning	Description	Parcel Sizes Included	Recommendations
1	RSF	All residential parcels with one unit	0.10, 0.20, 0.30	Basis of Assessment, 1.0 Equivalent Benefit Unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 & Greater	2.00 benefit units
2	RSF-2	Second Unit	<1.0	0.00 benefit units
			1.0 & Greater	0.30 benefit unit for second unit
3	RSF>2	Greater than two units	All Parcel Sizes	0.30 benefit unit for each additional unit beyond two units
4	RMF	Multi-family units w/ no land (i.e. condos, apartments, mobile homes)	<0.1	0.70 benefit units per unit
5	Com	Commercial Services, Office Professional, Commercial Retail	0.10, 0.20, 0.30	1.0 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 1.99	3.00 benefit units
			2.00 & Greater	6.00 benefit units
<b>Special Cases</b>				
6	Mini Storage	Storage units with physical storage structures	All Parcel Sizes	0.50 benefit units
7	School	School	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	3.00 benefit units
			2.01 & Greater	3.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
8	Church	Church	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	2.00 benefit units
			2.01 & Greater	2.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
9	Recreational	Parks, Fields, etc	All Parcel Sizes	1.00 benefit units per acre
10	Government	Government (i.e. Fire Station, Police, etc)	0.10, 0.20, 0.30	1.00 benefit unit
			0.40, 0.50, 0.60	1.60 benefit units
			0.70 to 2.00	3.00 benefit units
			2.01 & Greater	3.00 benefit units plus 1.0 benefit unit for every acre above 2.0 acres
11	PF w/ No Irrig.	Public Facilities with no irrigation (i.e. wells, tanks, lift stations)	All Parcel Sizes	0.00 benefit units
12	PF w/ Irrig.	Public Facilities with irrigation	All Parcel Sizes	1.00 benefit units per acre
13	OS w/ No Irrig. Potential	Open Space w/ no potential for irrigation (i.e. medians, parking lots, etc)	All Parcel Sizes	0.00 benefit units
14	OS w/ Irrig.	Open Space w/ existing or potential for irrigation	All Parcel Sizes	1.00 benefit units per acre
15	WWTP	Wastewater Treatment Plant		1.00 benefit unit

<b>COMPARISON OF ORDINANCE 2007-106 AND PROPOSED ALLOCATION</b>			
Ordinance 2007-106			
TOTAL AVAILABLE ALLOCATION = 34.3 AFY			
Land Use Category	Observed Water Use	Limitation 3.05.030	Reduction 3.05.060
Multi-Family	.47 AFY	.33 AFY	.50 AFY
Duplex	.34 AFY	.24 AFY	.36 AFY
SF <4500 SF Lot	.41 AFY	.29 AFY	.43 AFY
SF 4500 to 10k Lot	.55 AFY	.39 AFY	.58 AFY
SF >10k SF Lot	.98 AFY	.69 AFY	1.03 AFY
PROPOSED DRAFT			
TOTAL AVAILABLE ALLOCATION = 32.5 AFY			
Land Use Category	Observed Water Use	Limitation 3.05.030	Reduction 3.05.060
Multi-Fam/Duplex	.33 AFY	.28 AFY	.33 AFY
SF <12768 SF Lot	.48 AFY	.40 AFY	.48 AFY
SF 12769 to 25536	.80 AFY	.68 AFY	.80 AFY
SF >25536 SF Lot	.96 AFY	.82 AFY	.96 AFY