

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BB*  
DATE: OCT 9, 2009

**AGENDA ITEM**  
**E-3**  
**OCT. 14, 2009**

**VOLUNTARY WATER SHORTAGE REGULATIONS**

**ITEM**

Adopt ordinance establishing voluntary water shortage regulations [ADOPT AND PUBLISH]

**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Your Board has evaluated different regulations over the past two years; you rescinded the old regulations and you have interacted with the over purveyors.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.30, 2009 you reviewed an Introduction version and set this hearing. Attached is the final 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, move to read by title only, and then move to adopt with directions to staff to publish.

**ATTACHMENTS**

- Voluntary Water Shortage Ordinance

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**NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE NO. 2009-113  
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 underlying 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 measure; 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"); and

**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 (NNMA) has declared that a potentially severe water shortage condition exists within the Nipomo Mesa Management Area; and

**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 water supply underlying the NMMA at a Resource Management System Level of Severity III; and

**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 14, 2009, considered a Staff Report, and public testimony regarding the proposed revisions to Chapter 3.24 as adopted by this Ordinance.

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**NOW, THEREFORE BE IT ORDAINED** by the Board of Directors of the 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 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

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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 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:

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

ATTEST:

APPROVED AS TO FORM:

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DONNA K. JOHNSON  
Secretary to the Board

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JON S. SEITZ  
District Legal Counsel

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**Exhibit "A"**

**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 Severe 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; and
  - (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.
- 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:

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EXHIBIT "A" CONTINUED

- (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.