

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012



CONSIDER REQUEST FROM CITY OF ARROYO GRANDE FOR A LETTER FROM THE DISTRICT SUPPORTING CITY'S GROUNDWATER MODELING GRANT REQUEST

ITEM

Consider request for a letter of support [RECOMMEND CONSIDER REQUEST AND DIRECT STAFF]

BACKGROUND

The City of Arroyo Grande is submitting an application to CA Department of Water Resources for a grant to pay for the development of a Salt and Nutrient Management Plan that would cover both the Northern Cities and Nipomo Mesa management areas of the Santa Maria Groundwater Basin.

The application to DWR is due by July 13, 2012.

The City is asking that the District provide a letter in support of the application. A draft letter of support, provided by the City, is attached.

While District facilities are not a source for salts or nutrients, wastewater treatment facilities and water supply wells are locations where salts and nutrients are readily measured and may be controlled.

RECOMMENDATION

Consider the City's request and direct staff.

ATTACHMENT

- A. Draft letter of support proposed by the City of Arroyo Grande

7/2/2012

California Department of Water Resources

SUBJECT: Letter of Support for Local Groundwater Assistance Grant Application and Intent to Participate in the Development of a Salt and Nutrient Management Plan for the Northern Cities Management Area and Nipomo Mesa Management Area of the Santa Maria Groundwater Basin

To Whom it May Concern,

The City of Arroyo Grande is applying for a Local Groundwater Assistance (LGA) grant from the State of California Department of Water Resources to cover the entire cost for the development of a Salt and Nutrient Management Plan (SNMP) for the Northern Cities and Nipomo Mesa Management Areas of the Santa Maria Groundwater Basin. A SNMP is required to be developed for each groundwater basin within the State by May 14, 2014, per the requirements of State Water Resources Control Board Recycled Water Policy. A separate SNMP is being developed by stakeholders within the Santa Maria Valley Management Area.

This letter confirms the Agency Name's support for the LGA grant application, and intent to work cooperatively with the other participating agencies to complete this important regional project if an LGA grant is awarded.

Sincerely,

Approving Agency Name

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012

**AGENDA ITEM
E-2
JULY 11, 2012**

CONSIDER EXTENDING DEFERRAL OF SOLID WASTE RATE INCREASE

ITEM

Review solid waste fund balance and consider extending deferral of solid waste rate increase.
[RECOMMEND CONSIDER INFORMATION AND DIRECT STAFF]

BACKGROUND

South County Sanitary Services (SCSS) provides solid waste collection services to homes throughout southern San Luis Obispo County. SCSS provides solid waste and recycling services to District customers under a Franchise Agreement with the District.

In August 2011, SCSS requested a 5% 'interim-year' rate increase throughout their south county service area. At the August 10, 2011 Regular meeting, your Board elected to defer the requested increase and offset the lost income by expending \$5,700 of District solid waste reserves monthly and directed staff to schedule quarterly review of the deferral and solid waste fund balance.

As of June 30, 2012, the District's solid waste fund (Fund #300) balance is \$266,148.

SCSS is scheduled to submit a 'base year' rate study in August of this year. The Study may result in a recommended rate increase. A rate increase, should one be called for, would be scheduled for January 2013.

Your Board would likely know the outcome of the rate study in time for your next scheduled review of this deferral in October.

Increasing solid waste rates to District customers requires the District to conduct a Proposition 218 compliant protest vote.

FISCAL IMPACT

Each month the increase is deferred reduces the solid waste reserves by \$5,700.

RECOMMENDATION

Staff recommends the Board consider the information and direct staff.

ATTACHMENT

None

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *msl*
GENERAL MANAGER
DATE: JULY 6, 2012

AGENDA ITEM
E-3
JULY 11, 2012

**REVIEW SUPPLEMENTAL WATER ALTERNATIVES EVALUATION
COMMITTEE MEMBER QUALIFICATIONS AND APPLICATION**

ITEM

Review proposed qualifications for Supplemental Water Alternatives Evaluation Committee
[RECOMMEND CONSIDER RECOMMENDATION OF WATER RESOURCES POLICY
COMMITTEE AND DIRECT STAFF]

BACKGROUND

At its May 23, 2012, Regular Meeting the Nipomo Community Services District Board of Directors voted to form the Water Resources Policy Committee (Policy Committee). President Harrison appointed Director Eby as Chairperson and Director Winn and member.

The Policy Committee is evaluating District options for obtaining supplemental water following the unsuccessful ballot measure to fund construction of an intertie pipeline that would deliver water from the City of Santa Maria to the Nipomo Mesa Water Conservation Area (NMWCA).

On June 27, 2012, your Board approved Bylaws (attached) for a citizens' committee, the Supplemental Water Alternatives Evaluation Committee (Evaluation Committee), which will conduct an evaluation of alternatives for delivering supplemental water to the NMWCA.

In accordance with the adopted Evaluation Committee Bylaws:

- There will be seven voting members appointed to the Evaluation Committee.
- A Nomination Committee will nominate the voting members of the Evaluation Committee for review and appointment by your Board.
- The Chair of the Evaluation Committee will be nominated by staff, for review and appointment by your Board.
- District Engineer will be the Vice Chair for the Evaluation Committee.
- The Chair and Vice Chair are non-voting members of the Evaluation Committee.

Your Board's Policy Committee has developed proposed qualifications for the citizens' Evaluation Committee and a proposed application form (attached) for your Board's review and approval.

RECOMMENDATION

Consider Policy Committee recommendation provide direction to staff.

ATTACHMENT

- A. Supplemental Water Alternatives Evaluation Committee Bylaws
- B. Proposed Evaluation Committee member qualifications
- C. Proposed application for Evaluation Committee membership

JULY 11, 2012

ITEM E-3

ATTACHMENT A

Bylaws
Supplemental Water Alternatives Evaluation
Committee (SWAEC)

(APPROVED BY NCSO Board of Directors ON JUNE 27, 2012) *MSL*

1. Name

The name of this organization shall be the "**Supplemental Water Alternatives Evaluation Committee**" (SWAEC), hereafter referred to as the Committee.

2. Purpose and Authority

a. On June 27, 2012, the NCSO Board of Directors authorized formation of the Committee to analyze alternatives to providing Supplemental Water to the Nipomo Mesa region.

b. The purpose of the Committee is to provide the NCSO Board of Directors a thorough, accurate, and objective analysis of means to provide supplemental water to the Nipomo Mesa region.

c. The Committee exists under the authority of the NCSO Board of Directors. The Committee and its members are not empowered to commit the NCSO to any action, participation, or financial involvement. The Committee is not authorized to take any legal action on behalf of the NCSO, or to legally bind the NCSO in any way.

3. Areas of Responsibility

a. The Committee shall be responsible for performing analysis and evaluation for the Board of Directors, using the following process and sequence:

i. The Committee shall develop a list of viable supplemental water alternatives that includes as a minimum:

- AECOM-designed 3,000 AFY Santa Maria pipeline
- AECOM-revised TBD AFY Santa Maria pipeline
- Interconnection with Central Coast Water Authority (CCWA) pipeline
- Seawater desalination
- Other alternative water supply/alternative treatment (including recycled water)

ii. The Committee shall assign the analysis and evaluation of each alternative to specific and identified Committee members.

iii. The Committee will develop a matrix of Pro's and Con's for each alternative, measured against the CONSTRAINTS and their ability to meet the SUPPLEMENTAL WATER GOALS:

CONSTRAINTS:

As constraints, the Committee will consider:

- 2005 Stipulation and 2008 Court Order
- Annual delivered water volume and flow variation (availability)
- Cost
- Schedule
- Reliability of supply
- Effluent disposal requirements (if any)
- Environmental regulations and required approvals
- Permitting requirements of the California Coastal Commission, CA Department of Fish and Game, US Department of Fish and Game, Army Corps of Engineers, Environmental Protection Agency, Central Coast Regional Water Quality Control Board, County Planning, Building, and Public Utilities requirements in San Luis Obispo and Santa Barbara Counties.

SUPPLEMENTAL WATER GOALS:

- Deliver an uninterrupted supply of 3000 AFY of imported potable water to the Nipomo Mesa region, with the capability to increase the delivery to 6,200 AFY at minimum cost increase
- Provide initial water deliveries of +/- 1000 AFY by June 2015
- Lowest construction, system operation and maintenance, and delivered water cost
- Provide compliance with the 2008 Court Order

iv. The Committee will develop a numerical ranking for each alternative with reference to the CONSTRAINTS and their ability to meet the SUPPLEMENTAL WATER GOALS.

b. The Committee and its members shall conduct its meetings and discussions with respect to the diversity of opinions, to its members, and to all individuals from the public and other organizations.

c. The committee will seek technical input from the community and recognized authorities. The following documents will be used as the primary reference authorities in the analyses:

- 2010 Santa Maria Urban Water Management Plan
- 2010 NCS D Urban Water Management Plan
- 2010 CCWA Urban Water Management Plan
- 2007 Boyle Alternatives Analysis
- 2011 NMMA TG Annual Report

- 2009 NCS D Supplemental Water Project EIR
- 2005 Stipulation
- 2008 Court Order

Other published technical analyses may be used if the SWAEC finds them to be rigorously accurate.

4. Membership

a. Membership on the SWAEC is by appointment of the NCS D Board of Directors based on the recommendation of the Nomination Committee. The Nomination Committee will consist of:

- One member appointed by the SLO County Fourth District Supervisor
- One member appointed by the management of Rural Water Company
- One member appointed by the management of Golden State Water Company
- Two members appointed by the management of the Woodlands Mutual Water Company
- Four members appointed by the NCS D Board of Directors

b. Applications for the voting members of the SWAEC will be submitted via the NCS D Water Resources Policy Committee.

c. The Nomination Committee will review applications submitted and forward nominations for the seven voting seats to the NCS D Board of Directors for approval.

d. The SWAEC will have seven voting members, one Chairperson, and one Vice Chairperson as follows:

- Committee Chair/Facilitator (non-voting, except to break a tie)
- Vice Chair (NCS D District Engineer, non-voting)
- Two Engineering/Water Management members
- Two Financial members
- Two Environmental members
- One Citizen-at-Large member

e. No NCS D Board member will serve on the Committee.

f. The term of membership shall be for the duration of the Committee, beginning on the effective date that members are appointed by the NCS D Board of Directors, and shall continue through the sunset date (TBD) of the Committee.

g. No member may assign or transfer their membership on the Committee.

h. Committee members shall serve without compensation except that provided in their current employment.

5. Officers

- a. The Committee Chair shall be nominated by the NCS D General Manager and ratified by the NCS D Board of Directors. The Committee Vice Chair shall be the NCS D District Engineer. The Secretary to the Committee is to be determined.
- b. It shall be the duty of the Chair to:
 - Preside over the meetings
 - Prepare the agenda for the Committee meetings
 - Call special meetings as necessary
 - Coordinate communication and issue all reports
- c. It shall be the duty of the Vice Chair to:
 - Preside over meetings in the absence of the Chair
 - Assist the Chair in any of the Chair's duties as the Chair shall require
 - Provide technical advice as to the compatibility of the alternatives with the NCS D water supply system
- d. It shall be the duty of the Secretary to take notes and provide meeting minutes. Meeting minutes will be posted on the NCS D website (ncsd.ca.gov) after they are approved by the Committee.
- e. It shall be the duty of all the voting members to actively participate in the alternatives analysis and contribute opinions and findings in the interim and final reports and presentations.
- f. Any member may resign their position at any time by submitting a written letter of resignation to the Chair.
- g. Any member who misses three consecutive meetings will be subject to removal from the Committee at the discretion of the Chair.

6. Standard Meetings

- a. Meetings shall be held on a schedule established by the Committee. The frequency of the meetings will be determined by the Committee. Meetings shall be noticed and held in a manner consistent with applicable law, including the Brown Act, California Government Code Sections 54950 et seq.
- b. A majority of the voting members shall constitute a quorum.
- c. Special meetings may be called by the Chair with notification posted to the NCS D website and NCS D's automatic e-mail notification system at least 24 hours before the scheduled time of the special meeting.

d. All regular and special meetings will be open to the public, and a portion of each meeting will be reserved for public comment on issues within the purview of the Committee.

e. Any finding by the Committee will require a majority vote of the voting Committee members.

f. Draft minutes of each meeting shall be posted by the NCSD on its website and replaced only if, on subsequent approval, the Committee makes changes.

7. Reports

a. The Committee will provide written reports and oral presentations to the NCSD Board of Directors.

b. As a minimum, the Committee will report:

- The minutes of each Committee meeting within two weeks of each meeting.
- The description of alternatives to be analyzed under 3.a.i. TO-BE-DETERMINED weeks after Committee formation.
- Identification of the Committee members assigned to each evaluation four weeks after Committee formation
- A rough draft of the Pro's and Con's of each alternative
- A final draft of the Pro's and Con's of each alternative
- A relative numerical ranking of each alternative as the final work product.

JULY 11, 2012

ITEM E-3

ATTACHMENT B

Committee Member Qualifications

Overall Qualifications

Committee members will be selected based on their ability to evaluate supplemental water alternatives that meet the Supplemental Water Goals within the CONSTRAINTS outlined in the Bylaws. Committee members will be expected to participate actively in evaluating supplemental water alternative sources and methods. Their evaluations shall be unbiased and objective, building on previous alternatives studies and using recognized expert data. Evaluation of new alternatives are welcome providing that they are based on realistic and proven technologies that have been successfully demonstrated elsewhere.

Every committee member will be expected to play a significant role in evaluating one or more alternatives.

The ideal candidates will have graduate degrees, training, and successful experience in their discipline, as well as significant familiarity with current governmental policies, regulations, and approval processes.

Engineering/Water Resources Management

An ideal Engineering/Water Resources Management member will be a graduate engineer with a professional background in:

- Civil and/or Mechanical engineering
- Hydrogeology
- Water delivery systems
- Project engineering management

Finance

An ideal Finance candidate will have a degree in economics and finance, and will have knowledge of, and successful experience in:

- Financial Analysis
- Accounting
- Municipal Project Funding
- Proposition 218
- Community Services District law
- Central Coast Water Authority permitting, financing, and operations

Environmental

An ideal Environmental candidate will be a life sciences graduate with education, training, and experience in:

- Environmental regulations and ordinances, including CEQA
- Knowledge and a good understanding of the authority, policies, typical timelines, regulations and procedures of:

- The California Coastal Commission
- US Environmental Protection Agency
- CA Regional Water Quality Control Board
- CA Department of Fish and Game
- US Fish and Wildlife
- US Army Corps of Engineers
- National Oceanic and Atmospheric Administration (NOAA)
- San Luis Obispo and Santa Barbara Counties general plans, planning and building and public works departments

Citizen-At-Large

The ideal Citizen-At-Large candidate will have many of the qualifications above and will be familiar with the concerns of the residents of the Nipomo Mesa.

JULY 11, 2012

ITEM E-3

ATTACHMENT C

Supplemental Water Alternatives Evaluation Committee Member Application

(electronic (MS Word) version available)

Name	
Contact e-mail Phone	
Desired Position (May Check More Than One) <input type="checkbox"/> Engineering/Water Resources Management <input type="checkbox"/> Finance <input type="checkbox"/> Environmental <input type="checkbox"/> Citizen-at-Large	
Qualifications	(Fill in response in this column. Cell will expand as needed to accommodate information.)
Education <ul style="list-style-type: none"> •College(s) •Degree(s), Year(s) •Major/minor/specialty 	
Additional training/certifications	
Applicable Experience <ul style="list-style-type: none"> •Employment •Specific to potential alternatives •Alternatives analysis & evaluation •Advisory committee participation 	
Familiarity with government policies, regulations, and approval processes	
Additional Information (Attach additional materials as needed)	

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012

**AGENDA ITEM
E-4
JULY 11, 2012**

**APPOINT FOUR PERSONS TO THE NINE MEMBER NOMINATING
COMMITTEE FOR THE SUPPLEMENTAL WATER ALTERNATIVES
EVALUATION COMMITTEE**

ITEM

Appoint four persons to Nominating Committee [RECOMMEND MAKE APPOINTMENTS TO NOMINATION COMMITTEE]

BACKGROUND

At its May 23, 2012, Regular Meeting the Nipomo Community Services District Board of Directors voted to form the Water Resources Policy Committee (Policy Committee). President Harrison appointed Director Eby as Chairperson and Director Winn and member.

The Policy Committee is evaluating District options for obtaining supplemental water following the unsuccessful ballot measure to fund construction of an intertie pipeline that would deliver water from the City of Santa Maria to the Nipomo Mesa Water Conservation Area (NMWCA).

On June 27, 2012, your Board approved Bylaws for a citizens' committee, the Supplemental Water Alternatives Evaluation Committee (Evaluation Committee), which will conduct an evaluation of alternatives for delivering supplemental water to the NMWCA.

In accordance with the Evaluation Committee Bylaws, a nine-member Nomination Committee is being formed to review applications for Evaluation Committee membership and to nominate individuals for membership. The Nomination Committee's, nominations, will be reviewed and ratified by your Board.

Attached is a list of names proposed by Directors for consideration of appointment to the Nomination Committee. Your Board can make up to four appointments to a Nomination Committee.

RECOMMENDATION

Consider list of potential appointees, other suggested appointees, and make up to four appointments to the Nomination Committee

ATTACHMENT

- A. List of individuals suggested by Directors as possible appointments to Nomination Committee

JULY 11, 2012, ITEM E - 4

ATTACHMENT A.

Potential Nomination Committee Appointees

The following individuals have been suggested by elected Directors of the Nipomo Community Service District for consideration as appointees to the Nomination Committee for Supplemental Water Alternatives Evaluation Committee membership.

Dan Woodson

Dan Gaddis

Dieter Thiel

Ian Wallace

Ken Shamordola

Stan Liechty

Jacqueline Fredrick

Michael LeBrun

Bob McGill

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012

**AGENDA ITEM
E-5
JULY 11, 2012**

REVIEW DISTRICT EMERGENCY WATER SHORTAGE REGULATIONS

ITEM

Review District water shortage regulations[RECOMMEND CONSIDER INFORMATION AND DIRECT STAFF]

BACKGROUND

On May 10, 2012, there was a successful protest of the ballot measure to form Nipomo Community Services Assessment District 2012-1. The assessment district would have raised the funds needed to build a water line connecting Nipomo CSD and the City of Santa Maria water systems to facilitate delivery of supplemental water to the Nipomo Mesa Water Conservation Area/Nipomo Mesa (Groundwater) Management Area.

In light of the ballot measure's defeat, the timeline for delivery of supplemental water to the Nipomo Mesa is unknown. Concern over the health and ever-diminishing reliability of the Nipomo Mesa Management Area of the Santa Maria Groundwater Basin is well documented.

Your Board directed staff to provide an update on District Mandatory Water Conservation Measures.

Beginning in late 2007, your Board began a series of Committee and Board meeting items reviewing District Code Section 3.24 Water Conservation And Emergency Water Shortage Regulations.

Your Board adopted Resolution No. 2008-1098 amending Section 3.24 and then in October 2009, your Board adopted Ordinance 2009-113 further amending Section 3.24.

Attached to this staff report is:

- Resolution 2008-1098
- District Code Section 3.24, as amended by Resolution 2008-1098;
- Ordinance 2009-113

FISCAL IMPACT

Staff time to prepare report.

STRATEGIC PLAN

Strategic Plan Goal 1.1 – Protect, Enhance, and Assess available Water Supplies

RECOMMENDATION

Staff seeks direction from your Board regarding Emergency Water Shortage Regulations.

ATTACHMENTS

- A. Resolution 2008-1098
- B. District Code Section 3.24, as amended by Resolution 2008-1098;
- C. Ordinance 2009-113

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JULY 11, 2012

ITEM E-5

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-1098**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT SUSPENDING VARIOUS SECTIONS OF
CHAPTER 3.24 OF THE DISTRICT CODE RELATED TO WATER CONSERVATION AND
EMERGENCY WATER SHORT AGE REGULATIONS**

WHEREAS, in 1992 the Nipomo Community Services District ("District") adopted Ordinance 92-65 that established the District's Water Conservation and Emergency Water Shortage Regulations (herein "Water Shortage Regulations") that are consolidated into the District Code as Chapter 3.24; and

WHEREAS, under the Water Shortage Regulations the Trigger Points for Stage II and Stage III (Mandatory Water Conservation) are based on total well pump age capacity of then existing District wells; and

WHEREAS, the District has added wells since 1992, making certain provisions of the Water Shortage Regulations outdated; and

WHEREAS, the District is a participant in the Nipomo Mesa Management Area ("NMMA") Technical Group ("NMMA Technical Group") pursuant to a Stipulation dated June 30, 2005 ("Stipulation"), and Judgment entered January 25, 2008 ("Judgment"), in a lawsuit titled *Santa Maria Valley Water Conservation District v. City of Santa Maria et al.*; and

WHEREAS, Section VI C and D of the Stipulation, that is incorporated into the Judgment, requires that NMMA Technical Group to establish and maintain a monitoring program that includes the setting of well elevation and water quality criteria that trigger Potentially Severe Water Shortage Conditions and Severe Water Shortage Conditions underlying the NMMA; and

WHEREAS, assuming the Nipomo Mesa Management Area Technical Group timely establishes trigger points, then the District desires to consider the trigger points in revising its Water Shortage Regulations.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT AS FOLLOWS:

1. The following Sections of Chapter 3.24 of the District Code are hereby suspended:
 - a. Section 3.24.030(B) and (C) related to Stage II and Stage III Mandatory Conservation;
 - b. Section 3.24.04 related to Stage implementation;
 - c. Section 3.24.060 related to violation and enforcement; and
 - d. Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the Emergency Conservation Plan.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2008-1098


A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING VARIOUS SECTIONS OF
CHAPTER 3.24 OF THE DISTRICT CODE RELATED TO WATER CONSERVATION
AND EMERGENCY WATER SHORTAGE REGULATIONS

2. The Board of Directors retains the discretion to revoke or amend this Resolution. The suspension of the Code Sections referenced in Section 1, above, shall remain in effect until further order of the Board of Directors.
3. The above Recitals are incorporated herein by this reference.

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

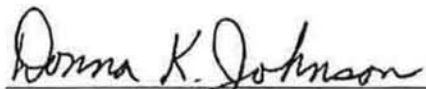
AYES: Directors Vierheilig, Eby, Harrison, Trotter and Winn
NOES: None
ABSENT: None
CONFLICT: None

the foregoing resolution is hereby adopted this 23rd day of July 2008.



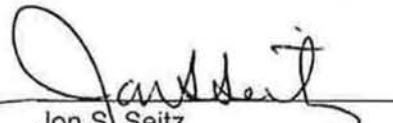
Michael Winn, President
Nipomo Community Services District

ATTEST:



Donna K. Johnson
Secretary to the Board

APPROVED AS TO FORM



Jon S. Seitz
District Legal Counsel

JULY 11, 2012

ITEM E-5

ATTACHMENT B

NCS D CODE SECTION 3.24 WATER CONSERVATION AND EMERGENCY WATER SHORTAGE REGULATIONS

3.24.010 - Definitions.

"Applicant" means person who requests water from the district.

"Customer" means person receiving water from the district distribution system.

"District" means Nipomo Community Services District.

"HFC" means hundred cubic feet.

(Ord. 92-65 1, 1992)

3.24.020 - Prohibition of certain uses.

A. No customer shall waste water. As used herein the term "waste water" means:

1. Allow potable water to escape from breaks within the customers plumbing system for more than four hours after the customer is notified or discovers the break.
2. Use of potable water for sewer system maintenance or fire protection training without prior approval by the district.
3. Allow potable water to escape from breaks within the customers plumbing system for more than four hours after the customer is notified or discovers the break;
4. Use of potable water for sewer system maintenance or fire protection training without prior approval by the district.

(Ord. 92-65 2, 1992)

(Ord. No. 2005-105, § 7, 10-26-2005)

3.24.030 - Water conservation stages.

A. Stage I: Voluntary Conservation. Customers of the Nipomo Community Services District are requested to voluntarily limit the amount of water used from May 15th to October 15th of each year to that amount absolutely necessary for health and business. A fifteen percent reduction in water use is requested.

(Ord. 92-65 3, 1992)

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

3.24.040 - Stage implementation.

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

3.24.050 - Water-saving devices.

A. All customers are encouraged to install and use the following water conservation devices:

1. Low flush toilets 1.6 gallons per flush or less;
2. Low flow shower heads 2.0 gallons per minute or less;
3. Drip irrigation.

B. No person, corporation or association shall be given relief on appeal unless the customer has installed all water-saving devices which are feasible.

(Ord. 92-65 § 5, 1992)

3.24.060 - Violation and enforcement.

Editor's note—

Res. No. 2008-1098, § 1a—d, adopted July 23, 2008, suspended §§ 3.24.030(B)(C) related to stage II and Stage III mandatory conservation, 3.24.04 related to stage implementation, 3.24.060 related to violation and enforcement, and Exhibit "A" to Chapter 3.24 that establishes the policy for implementing the emergency conservation plan which derived from Ord. No. 92-65, §§ 3, 4, 6, 1992.

JULY 11, 2012

ITEM E-5

ATTACHMENT C

**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 NNMA 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 30th and October 14, 2009, considered a Staff Report, and public testimony regarding the proposed revisions to Chapter 3.24 as adopted by this Ordinance.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009-113
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE

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

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009-113
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE**

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 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 (15th) 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.

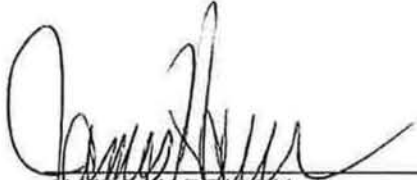
Introduced at regular meeting of the Board of Directors held on September 30, 2009, and passed and adopted by the District Board of Directors on the 14th day of October, 2009, by the following roll call vote to wit:

AYES: Directors Winn, Eby, Nelson, Vierheilg and Harrison
NOES: None
ABSENT: None
ABSTAINING: None

ATTEST:

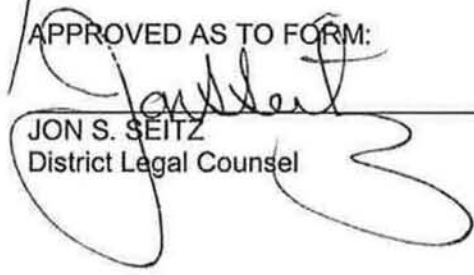


DONNA K. JOHNSON
Secretary to the Board



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

APPROVED AS TO FORM:



JON S. SEITZ
District Legal Counsel

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009-113
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE

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.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009-113
AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING CHAPTER 3.24 OF THE DISTRICT CODE**

EXHIBIT "A" CONTINUED

- 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.

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 14th day of October, 2009, by the following roll call vote to wit:

AYES: Directors Winn, Eby, Nelson, Vierheilig and Harrison
NOES: None
ABSENT: None
ABSTAINING: None



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

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012

AGENDA ITEM
E-6
JULY 11, 2012

**REVIEW DISTRICT POLICY ON WATER SALES OUTSIDE OF
DISTRICT BOUNDARY**

ITEM

Review current District policy on water sales outside District. [RECOMMEND – CONSIDER INFORMATION AND DIRECT STAFF]

BACKGROUND

On May 10, 2012, there was a successful protest of the ballot measure to form Nipomo Community Services Assessment District 2012-1. The assessment district would have raised the funds needed to build a water line connecting Nipomo CSD and the City of Santa Maria water systems to facilitate delivery of supplemental water to the Nipomo Mesa Water Conservation Area/Nipomo Mesa (Groundwater) Management Area.

In light of the ballot measure's defeat, the timeline for delivery of supplemental water to the Nipomo Mesa is unknown. Concern over the health and ever-diminishing reliability of the Nipomo Mesa Management Area of the Santa Maria Groundwater Basin is well documented.

Over the years, studies by the CA Department of Water Resources, the County of San Luis Obispo, the groundwater court-appointed Nipomo Mesa Management Area Technical Group and others have consistently found cause for concern for basin health and sustainability under current pumping demands. Therefore, the District is currently unable to make the findings required by District Code §3.28.020, "that sufficient excess water" exists to serve new projects.

Your Board requested a review of District policy on outside water sales and a summary of outside sales agreements. A summary of existing and pending outside customers and sales agreements is provided as an attachment to this report.

District Code section 3.16, Water Service Outside the District provides:

3.16.010 - When allowed.

It is the general policy of the district that district water service is limited to parcels within the district boundaries. The district board of directors may authorize water service to parcels outside the district boundaries upon a finding that:

- A. There exists an extreme hardship and there is excess capacity within the district system to serve such parcel; or*
- B. There is a benefit to the district or the community, such as the applicant providing the district with a water resource.*

(Ord. 98-87 22 (part), 1998; Ord. 16 2, 1973)

The District may allow sales of water outside District boundaries via direct connection or through fire hydrant connection and meter to fill a water truck. Code Section 3.20.035 Temporary Water

Service Rates provides that outside users pay the current nonresidential water rate (equivalent to Tier II and Tier III of Residential Rate).

In response to drought conditions prevailing in the area back in 1990, your Board adopted Resolution No. 419 (Attached), providing for emergency outside water sales.

FISCAL IMPACT

Staff time to prepare report.

STRATEGIC PLAN

Strategic Plan Goal 1.1 – Protect, Enhance, and Assess available Water Supplies

RECOMMENDATION

Consider information and provide direction to staff.

ATTACHMENTS

- A. Outside User Agreements and Customers
- B. Resolution No. 419

t:\board matters\board meetings\board letter\2012\120711\outside water sales policy.docx

JULY 11, 2012

ITEM E-6

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
OUTSIDE USER AGREEMENTS AND CUSTOMERS
AS OF JUNE 29, 2012**

Date and Documentation	Description	Water Services Per Agreement	Active Water Services
6/1/68	447 Amado	1	xx
6/5/72	Dana Adobe	1	1
Recorded Document (3/21/80)	Eureka Well	4	3
Ordinance 80-36 (5/21/80) and Resolution 98-651 (6/3/98)	Bevington Well	6	4
6/22/81	902 Division		xx
Resolution 180 (12/16/81)	Omiya Well Site	1	1
Ordinance 84-45 (3/21/84) and Resolution 212 (2/1/84)	Church Well Site (St. Joseph)	1	1
11/30/88	421 Amado		xx
Ordinance 89-58 (9/13/89)	Standpipe Easement	8	2
10/24/89	415 Amado		xx
6/19/91	Golden State Water-Emergency Inter-Tie	1	1
Ordinance 93-71 (7/21/93)	Via Concha	8	1
In process	Tract 2642 -Holloway	18	0
In process	Tract 2650 - Margarita Valley Ranch LLC	16	0
	Total	43	

t:\land development\outside users\history of outside users msl.docx

JULY 11, 2012

ITEM E-6

ATTACHMENT B

RESOLUTION NO. 419

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AUTHORIZING THE SALE OF DISTRICT WATER
FOR CONSUMPTION OUTSIDE THE DISTRICT
FOR SPECIFIED EMERGENCY PURPOSES ONLY

WHEREAS, District ordinances prohibit the sale generally of District water for consumption outside the District; and

WHEREAS, the District has been advised and recognizes that the current multi-year drought is causing some wells utilized for domestic and small farm purposes to go dry on rural single-family parcels in the Nipomo area, but outside the District boundaries; and

WHEREAS, one such family has already requested the District to sell potable water which the family can haul to their residence outside the District; and

WHEREAS, this Board finds and declares that the District policy against sale of water for consumption outside the District is appropriate and necessary for the protection of the District's water supply and service capability for taxpayers within the District; and

WHEREAS, this Board also finds and declares that short term emergency water assistance for persons outside the District would not be incompatible with established District policy, but that the terms and restrictions regarding any such assistance must be specifically established to be sure that no person receiving such assistance would tend to become dependent upon the District's water supply.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Nipomo Community Services District as follows:

- A. The District hereby authorizes the sale of District water for emergency use outside the District subject to each and all of the following restrictions and limitations:
1. The need for water must be the direct and un-anticipated result of the current long-term drought. Those seeking such water must appear before the Board and explain to the satisfaction of the Board what measures the applicant has taken to remedy the water deficiency problem before seeking District water.
 2. District water will be provided only for single-family domestic purposes. The water shall not be used for irrigation or commercial husbandry or crop growing purposes.

3. The maximum amount of water to be sold shall average no more than 80 gallons per day for each resident on the premises receiving the water.
4. The applicant shall obtain the water from District water sources designated by the General Manager.
5. Water provided pursuant hereto for the benefit of any one residence shall be limited in duration to no more than one period of thirty or fewer consecutive days in any twelve month period of time.
6. No water supply authorized hereunder for a particular residence or family shall be sold, given, or otherwise transferred or delivered to any other premises.
7. The District will deliver normal potable District water to the tanks or containers provided by the applicant. The District will not be responsible for the appropriateness of the water for domestic use or human consumption once it leaves the District's supply system. Applicant will sign an agreement to defend and hold harmless from any and all claims arising from or concerning water quality, purity, health or safety deficiencies occurring after the water is delivered to applicant.

- B. The geographical area eligible to purchase District water pursuant to this Resolution shall be limited as described and depicted upon Exhibit "A" map and diagram attached hereto, and incorporated herein; provided that no regular customer of California Cities Water Company or any other operating public utility or entity shall be provided emergency water service pursuant hereto.
- C. The General Manager shall establish procedures as necessary and appropriate to assure that the program authorized herein is not abused.
- D. The General Manager shall personally provide a certified copy of this Resolution to the County Health Officer or his designee.
- E. This Resolution shall be reviewed annually by the Board, with the objective of repealing it as soon as normal groundwater replenishment begins.

LIMIT OF EMERGENCY SERVICE

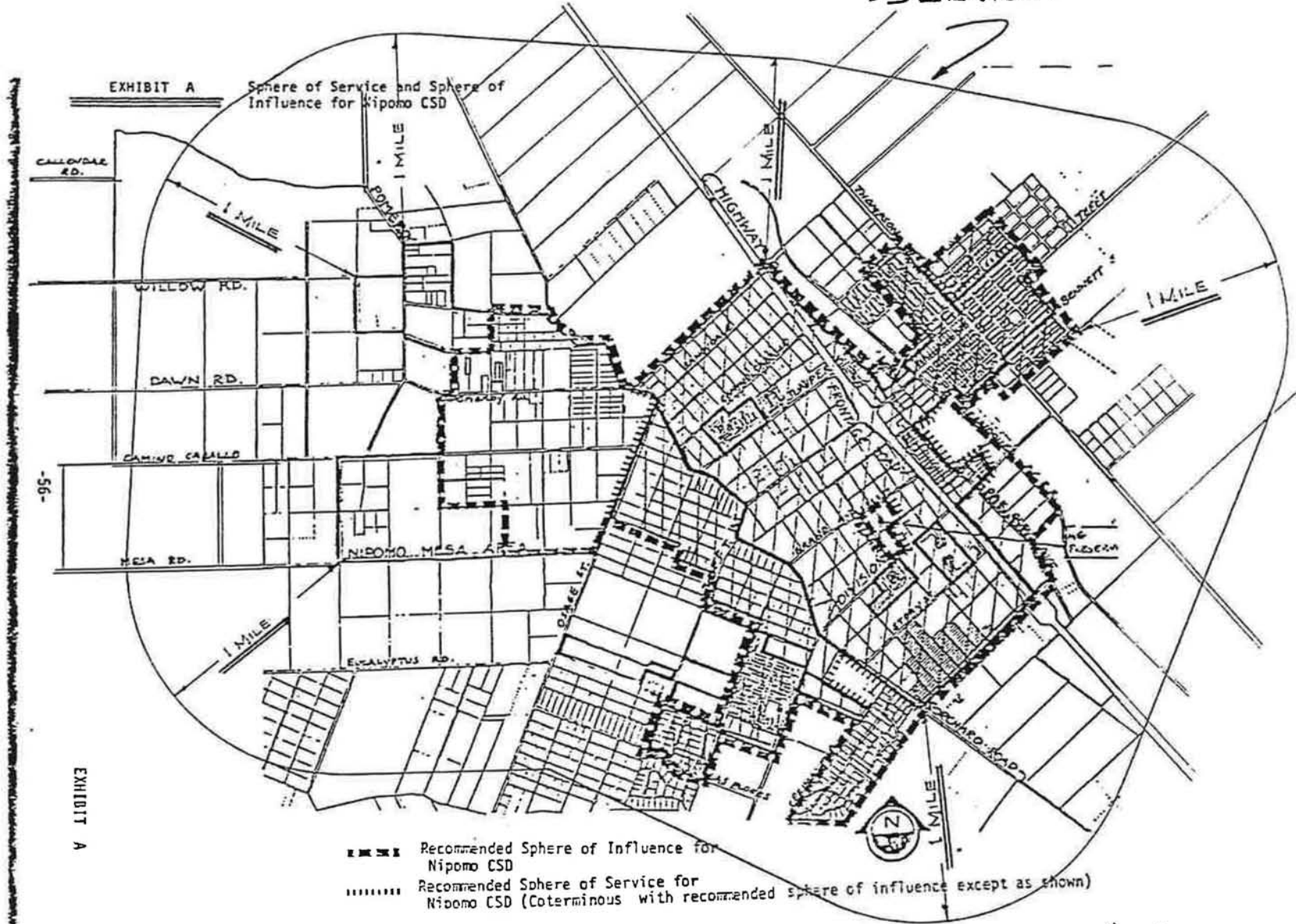


EXHIBIT A

Sphere of Service and Sphere of Influence for Nipomo CSD

-56-

EXHIBIT A

- Recommended Sphere of Influence for Nipomo CSD
- Recommended Sphere of Service for Nipomo CSD (Coterminous with recommended sphere of influence except as shown)

EXHIBIT "A"
RESOLUTION No.

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 6, 2012

AGENDA ITEM
E-7
JULY 11, 2012

**STATUS REPORT: PROPOSED JIM O. MILLER PARK AND
COUNTY PARK AND RIDE**

ITEM

Receive report on status of proposed park and County facility [RECOMMEND RECEIVE REPORT AND DIRECT STAFF]

BACKGROUND

In March 2009, the District entered into a Memorandum of Understanding (2009 MOU) with the County of San Luis Obispo (Attached) to facilitate the development of Jim O. Miller Memorial Park. The 2009 MOU also addressed outstanding well and lift station easement deficiencies existing between the District and the County.

The 2009 MOU includes sixteen agreements to action between the parties. The District completed a number of its required actions, including clearing the aforementioned easement deficiencies (Agreements Nos. 11-14). There is no clear expiration date or condition expressed in the 2009 MOU.

On December 16, 2009, the District conducted a property tax measure to fund 60% of the annual maintenance costs for the proposed park. The measure failed. The District committed property tax income to fund the remainder of operation costs and \$500,000 of property tax reserves to cover park construction costs.

Since 2006, the District has expended approximately \$118,000.00 meeting commitments made in the 2009 MOU and supporting the development of Jim O. Miller Park. This expenditure does not capture staff time expended on the effort.

In January 2010, the District's Phase I environmental investigation of the proposed park property revealed surface and subsurface contamination related to past practices on site. The District shared the information with County Property Services (Property Owner) and County Environmental Health (Regulatory Lead). Investigation of the extent of contamination at the property is ongoing and being led by the County.

On May 18, 2011, the County of San Luis Obispo transmitted a letter to the District regarding the site and remediation process. Your Board reviewed and considered the County's letter and a District response at three subsequent Board Meeting and on August 11, 2011, your Board responded to the County (see Attached).

The County continues to work with Olde Towne Nipomo Association to further the development of the proposed Park. Current plans are to incorporate a San Luis Obispo County Council of Governments funded Park and Ride location with the proposed Park.

District staff met recently with staff from County General Services and will update your Board on project status.

FISCAL IMPACT

Minor budgeted staff time used to prepare these materials.

RECOMMENDATION

Receive report and direct staff.

ATTACHMENT

- A. 2009 MOU
- B. August 11, 2011 LTR TO COUNTY

JULY 11, 2012

ITEM E-7

ATTACHMENT A

MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF SAN LUIS OBISPO AND
THE NIPOMO COMMUNITY SERVICES DISTRICT
REGARDING THE TRANSFER OF OWNERSHIP IN
COUNTY-OWNED REAL PROPERTY

This Memorandum of Understanding (“MOU”) is entered by and between the County of San Luis Obispo (hereinafter “County”) and the Nipomo Community Services District (hereinafter “District”) with reference to the following Recitals:

RECITALS

- A. The District is a Community Services District formed and operated pursuant to California Government Code, Sections 61000 et seq. Pursuant to said code, the District is authorized to acquire, construct, improve, maintain, and operate recreational facilities, including, but not limited to, parks and open space; and
- B. The District is considering the activation of Park Powers pursuant to the Cortese-Knox-Hertzberg Act and the rules and regulations of the Local Agency Formation Commission (hereinafter “LAFCO”); and
- C. The County is the owner of certain real property consisting of approximately one (1) acre located at the northeast corner of West Tefft and Carrillo Street (APN 090-141-006) along with the adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way (a portion of APN 090-151-008), hereinafter referred to as “Property”, as depicted in Exhibit “A”; and
- D. The District has requested the County to transfer ownership of the Property to the District, without compensation, for the purpose of constructing and operating a park; and
- E. The District has a 75’ by 75’ easement for water well purposes on County land across the street from said Property on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332; and
- F. The District has not developed this site for water well purposes and no longer requires the easement; and
- G. The District requires an easement for a sewer lift station and sewer lines installed in the early 1980’s on County-owned land, APN 090-142-007; and
- H. District requests a grant of easement from County for the sewer lift station and sewer lines and offers, in lieu of monetary compensation, to quitclaim the 75’ x 75’ water well easement currently held by District, described in Paragraph E above; and

- I. Pursuant to Government Code, Section 56824.14, in order to maintain a public park, the District's exercise of Park Powers must be approved by LAFCO; and
- J. Pursuant to Government Code, Section 25365, the Board of Supervisors may, upon determination that said Property is not required for County use and with a four-fifths vote of the Board, transfer fee title of said Property to District; and
- K. It is the purpose of this MOU to identify the responsibilities of the parties in developing the Property for use as a park and the transfer of the property to the District as well as the trading of easements.
- L. County wishes to cooperate with District's request to transfer the property to the District in order to provide a park to the community of Nipomo.

NOW, THEREFORE, the parties agree as follows:

1. County hereby determines that subject Property is not required for County use.
2. In lieu of monetary compensation and in consideration of District's offer to construct and maintain a public park on the Property, County intends to transfer ownership of the Property to District free of charge following completion of the steps outlined below. Nothing contained in this MOU shall be interpreted to predetermine the transfer of the property or to restrict County's full review and implementation of environmental review related to the transfer of this Property pursuant to CEQA. Said transfer shall require a future public hearing before the Board of Supervisors pursuant to Government Code Section 25365 after the environmental determination and General Plan Conformity Report are completed.
3. District will develop a plan identifying park features and improvements for approval by County Planning and Building Department.
4. District will provide County an analysis of the costs and the funding sources for construction of park improvements and for ongoing operation and maintenance. If such funding shall require the formation of an assessment district, transfer of ownership of the Property shall not occur prior to approval of the assessment district by the affected property owners.
5. Transfer of the property shall not occur prior to LAFCO activation of the District's Park Powers.
6. If required, District shall apply for a public lot split with County Planning and Building Department and provide all documentation necessary to obtain approval of the County Subdivision Review Board prior to recordation of the Quitclaim Deed. District shall provide, at District's expense, a legal description of the property to be transferred, which shall be an original exhibit to the Quitclaim

Deed. District agrees to submit a Voluntary Merger or Certificate of Compliance Application and processing fees, if required, to County Planning and Building Department.

7. County shall process a General Plan Conformity Report and Environmental Determination for the transfer of the Property. Transfer of the property shall not occur prior to filing of the General Plan Conformity Report and Environmental Determination with the County Planning Commission or, if appealed, approval by the County Board of Supervisors.
8. The Property shall be improved in substantial conformity to development plans as submitted to County and shall be open to the public within three years following date of recordation of the Quitclaim Deed.
9. The Property must be used for public park purposes. The property may not be used to provide a parking in-lieu program for nearby commercial development.
10. The Quitclaim Deed shall contain a reversionary clause giving County the right to require the Property to be transferred back from District to the County if the requirements of paragraphs 7 and 8 are not fulfilled.
11. District shall, at District's sole cost and expense, prepare an Easement Deed with original stamped legal description attached describing easement to be granted by County to District for sewer lift station area and sewer lines.
12. District shall, at District's sole cost and expense, provide an Environmental Determination for said sewer lift station and sewer line easement for review and approval by County Environmental Coordinator. Said Environmental Determination must be reviewed by the County Board of Supervisors prior to granting of the easement.
13. District shall, at District's sole cost and expense, prepare an Easement Quitclaim Deed to release the 75' x 75' water well easement on APN 090-142-007, recorded on May 29, 1984 as Document No. 27332.
14. Easement Quitclaim Deed for water well shall be signed by District in a timely manner and delivered to County along with a signed Certificate of Acceptance for the Easement Deed for sewer lift station and sewer lines. This action shall proceed independently of actions related to transfer of Property for park purposes. County staff shall present the Easement Quitclaim Deed to the County Board of Supervisors concurrently with the Easement Deed for sewer lift station and sewer lines in District's name. Subject to approval by the County Board of Supervisors, both documents shall be recorded concurrently. In the event that County Board of Supervisors does not approve the Easement Deed, Easement Quitclaim deed shall be returned by County to District

15. District does not object to County's intention to develop their vacant land across the street from the Property (APN 090-142-007 and adjacent 60-foot-wide strip of land to the west of this parcel, formerly a railroad right-of-way, portion of APN 090-151-008) for future County facilities, so long as said development is consistent with the County's existing General Plan, General Plan policies, and zoning regulations.
16. Good Faith and Fair Dealing: Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to and shall never be construed to permit such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable. The County and the District shall each act in good faith in performing their respective obligations as set forth in this Agreement.

/////////////////////////////////NOTHING FURTHER PAST THIS POINT EXCEPT SIGNATURES/////////////////////////////////

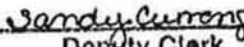
COUNTY OF SAN LUIS OBISPO:

By: 
 Chairman of the Board of Supervisors

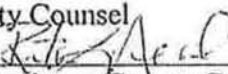
Approved by the Board of Supervisors this
24th day of MARCH, 2009.

ATTEST:
JULIE L. RODEWALD

 Clerk of the Board of Supervisors

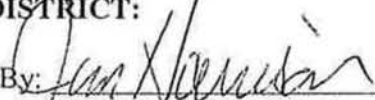
By: 
 Deputy Clerk

**APPROVED AS TO FORM AND
 LEGAL EFFECT:**


WARREN R. JENSEN
 County Counsel
 By: 
 Assistant County Counsel

Date: 1/13/09

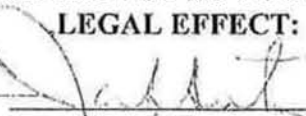
**NIPOMO COMMUNITY SERVICES
 DISTRICT:**

By: 
 Jim Harrison, President

Dated: _____

ATTEST:

 District Secretary

**APPROVED AS TO FORM AND
 LEGAL EFFECT:**


 Jon S. Seitz, District Legal Counsel
 Nipomo Community Services District

Dated: 1-22-09

JULY 11, 2012

ITEM E-7

ATTACHMENT B

NIPOMO COMMUNITY

BOARD MEMBERS

JAMES HARRISON, PRESIDENT
LARRY VIERHEILIG, VICE PRESIDENT
MICHAEL WINN, DIRECTOR
ED EBY, DIRECTOR
DAN A. GADDIS, DIRECTOR



Serving the Community Since 1965

SERVICES DISTRICT

STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER
LISA BOGNUDA, ASSISTANT GENERAL MANAGER
PETER SEVCIK, P.E., DISTRICT ENGINEER
TINA GRIETENS, UTILITY SUPERINTENDENT
JON SEITZ, GENERAL COUNSEL

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website address: ncsd.ca.gov

August 11, 2011

Ms. Janette Pell
Director
San Luis Obispo County General Services
1087 Santa Rosa Street
San Luis Obispo, CA 93408

Dear Ms. Pell:

SUBJECT: GENERAL SERVICES' MAY 18, 2011 LETTER RE: JIM O. MILLER PARK SITE

Thank you for your May 18, 2011, letter regarding the progress and status of the proposed Jim O. Miller Park (Attached). Mr. Miller was dedicated to his community. He was both a founding Director of Nipomo Community Services District and the Board's first President, back in 1965. A park dedicated in Mr. Miller's honor will be a great addition to the Nipomo Community and will help address the need for public parks in the Olde Towne area.

In January 2010 the District received the results of a Phase I Environmental report on the proposed park site (APN 090-141-006 and 090-151-008) which it commissioned as part of its due diligence prior to assuming liability for the property from the County. The Report indicated elevated levels of heavy metals in near surface soils and elevated levels of petroleum hydrocarbons in sub surface soils and groundwater. The District immediately made the Report available to both County General Services and County Environmental Health.

On March 21, 2011, County Environmental Health issued a Direction Letter (Attached) to the property owner (County General Services) requiring additional site work to further characterize both surface and subsurface site impacts.

The County has engaged ConocoPhillips as the responsible party for petroleum hydrocarbon characterization and any subsequent required clean up. As property owner, the County remains solely responsible for further characterizing and addressing surface contamination at the site.

The District is unable and unwilling to assume responsibility for investigating and cleaning up the property, we will continue to be 'at the table' to provide support in planning for, providing services to, and potentially assuming operational responsibility of the future Park. The District will continue to work with all interested parties in support of making the Jim O. Miller Park vision a reality.

We look forward to working with Fourth District Supervisor Paul Teixeira, the various County agencies, Olde Towne Nipomo Association, and the community of Nipomo as a whole on this worthy effort.

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT



Michael S. LeBrun
General Manager

Enclosure(s):

May 18, 2011 General Services Letter
March 21, 2011 Environmental Health Letter

c:

Paul Teixeira, County Supervisor, 4th District
Kathy Kubiak, President, Olde Towne Nipomo Association
Caryn Maddalena, County Real Property Manager
Linda Van Fleet, County Associate Real Property Agent
Chuck Stevenson, County Senior Planner
Aaron LaBarre, County Environmental Health Agency



County of San Luis Obispo General Services Agency
GENERAL SERVICES

Janette D. Pell, Director

Katie Perez, Deputy Director

May 18, 2011

Michael LeBrun
District Manager
Nipomo Community Services District
148 S. Wilson Avenue
Nipomo, CA 93444

SUBJECT: JIM O. MILLER PARK SITE

Dear Mr. LeBrun:

As you are aware, the County Board of Supervisors approved a Memorandum of Understanding ("MOU") with the Nipomo Community Services District ("NCSD") on March 24, 2009 defining the steps preparatory to a transfer from the County to the NCSD of 1.4 acres of land on Tefft Street in Nipomo. The purpose of the transfer is to create a community park, and the transfer is subject to approval of the park's design, LAFCO approval of NCSD park powers, and confirmation of NCSD's funding to construct and operate the park.

Initially, the NCSD took steps toward completing the conditions of the transfer. On August 20, 2009, LAFCO gave conditional approval of the NCSD's application for park powers, and in January 2010 the NCSD obtained an environmental analysis of the property which indicated hydrocarbon and lead/heavy metal contamination. The NCSD also conducted an assessment district vote to fund the park operations.

The assessment district, however, was not approved by the voters in December 2009. Since that time, the NCSD has determined that it has other major infrastructure improvements that are required in the near future, which has revised its priorities. On March 9, 2011, the board of the NCSD updated its strategic plan through the year 2014, and deleted the Jim O. Miller Park as a goal.

In the meantime, County Environmental Health has been working with ConocoPhillips on a workplan for the hydrocarbon contamination. The County also contracted for the initial testing of the lead/heavy metal contamination at the site. Environmental Health has recently determined that more sampling is necessary, and Earth Systems has given the County a bid of \$9,550 to complete the sampling and provide a workplan.

I understand that on February 2, 2011, you attended a meeting of the Olde Towne Nipomo Association ("OTNA") with Supervisor Paul Teixeira and Linda Van Fleet. The OTNA apparently expressed frustration at the lack of progress on the park. You conveyed interest in allowing the OTNA to develop community awareness of the site and to work on approval of

the park design. The OTNA followed up with a letter to Supervisor Teixeira, dated February 17, 2011, in which it stated a desire to work with the NCSO to "bring this park to fruition."

County managers, County Counsel, and the County Administrative Office have had several discussions recently regarding the future of the MOU. It is clear by the NCSO's strategic plan that the park is not an identified priority through 2014. That position is underscored by the fact that the NCSO allowed its conditional park powers approval from LAFCO to expire on August 20, 2010.

Clearly, the financing and approvals for the park are not the only hurdle. The environmental contamination on the site is also a significant issue. County Environmental Health has determined that the lead and heavy metals existing in the soil at the site do not need to be remediated at this time because there is no activity currently on the site and the contamination is not a threat to the groundwater. They have recommended that we not allow use of the site by the public until the contamination is remediated. The County will not be proceeding with Earth System's proposal for the additional soil sampling and development of the workplan. The NCSO may proceed with the process if it wishes to do so, and the County would issue a permit to access the site for that purpose.

We encourage the OTNA to work with the NCSO to help move the park forward. We would ask the NCSO to work directly with the OTNA in such an endeavor. The County and the NCSO are the parties to the MOU for development of the park, and the NCSO may oversee the OTNA in performing certain functions to promote the park, consistent with the NCSO's direction. Approvals, permits, and discussions would remain between the County and the NCSO.

While ConocoPhillips performs its remediation at the site, the County is in a position to wait and see how the NCSO satisfies the conditions of the MOU. We hope that there is sufficient interest in the community to support funding of the lead/heavy metal remediation as well as the construction and operation of the park.

Sincerely,



Janette D. Pell
General Services Agency Director

c: Paul Teixeira, County Supervisor, 4th District
Kathy Kubiak, President, Olde Towne Nipomo Association
Caryn Maddalena, County Real Property Manager
Linda Van Fleet, County Associate Real Property Agent
Chuck Stevenson, County Senior Planner

SAN LUIS OBISPO COUNTY HEALTH AGENCY



March 21, 2011

Public Health Department

2191 Johnson Avenue
San Luis Obispo, California 93401
805-781-5500 • FAX 805-781-5543

Jeff Hamm
Health Agency Director

Penny Borenstein, M.D., M.P.H.
Health Officer

County of San Luis Obispo General Services Agency
Attn: Linda Van Fleet
1087 Santa Rosa Street
San Luis Obispo, CA 93408

RE: Environmental Site Assessment for County owned property located at Tefft and Carrillo Streets, Nipomo, APN #090-141-006 and #090-151-008.

Our Agency has reviewed the following document:

- Results of Soil Sampling and Analysis (for) Proposed Jim Miller Park NWC Tefft and Carrillo Streets, Nipomo, California from Earth Systems Pacific.

It is our understanding that the referenced parcels will ultimately be redeveloped into a community park. The following direction is based on this proposed land use. If the proposed land use changes in the future, this Agency's direction may change and include additional assessment and mitigation.

Summary 2009 to 2010:

- In 2009 and 2010 a limited soil investigation was performed by Earth Systems Pacific around the former railroad line (located on APN 090-151-008) and the former railroad warehouse (located on APN 090-141-006). This investigation consisted of 18 soil samples (6 surface soil samples and 7 soil borings). The sample depth for the soil borings ranged from 5 to 15 feet below surface grade (bsg).
- The concentration of lead within one (SS3, 2009) of the six surface soil samples exceeds the California Human Health Screening Levels (CHHSL). The CHHSL for lead is 80 parts per million (ppm).
- An active railroad line and railroad and warehouse were removed from the subject property before 1957.
- Total Petroleum Hydrocarbons-Crude Oil Range (TPH-o) was detected in one (B3, 2009) of seven sample locations in 2009 that are above action levels. This is the location of a historic pipeline spill Conoco-Phillips is investigating. Conoco-Phillips has confirmed the pipeline is not actively leaking.

- This Agency approved two pipeline spill investigation workplans provided by Conoco-Phillips to determine the extent of contamination.

Summary 2010-2011

- Conoco-Phillips is in the process of executing the work plan to investigate the lateral vertical extent of soil contamination and the possibility of groundwater contamination associated with the pipeline on the subject property.
- Our Agency approved the work plan by Earth Systems Pacific to perform a focused soil investigation on June 4, 2010.
- Soil samples were obtained on July 15, 2010 to determine extent of lead contamination and to determine if contaminants existed in areas around the petroleum pipeline and former railroad buildings at the subject site.
- The investigation consisted of 7 soil-boring locations with 10 samples obtained.
- The samples were analyzed for contaminants, identified in the 2010 Earth Systems Pacific report, past and current land uses.
- 4 soil samples were obtained to determine if contaminants (typical to past operations and heavy metals) existed next to existing pipeline, the former RR tracks and beneath the former RR building.
- 6 soil samples were obtained to investigate the lateral vertical extent of lead contamination in and around the location of SS-3.

Based on the referenced document, this Agency has concluded the following:

- The analytical results demonstrated that Volatile Organic Compounds (VOCs), and semi-volatile organic compounds (SVOCs) were not detected in the soil samples above action levels.
- CAM metals were analyzed in the soil boring samples. The sample results indicate elevated cadmium in two samples and lead in all samples.
 - Based on the analysis of soil samples provided, the cumulative non-cancer risk calculation is 13 times above the Cal-EPA established Hazard Index (HI) due to potential exposure to lead and cadmium at the site. This risk is mostly attributed to lead. EPA considers a cumulative non-cancer Hazard Index factor of one to be within the acceptable range. Individual exposure to each sample location does not account for cumulative potential exposure. Three of the six samples (SS3, PB1-6", PB2-2') exceed the CHHSL for lead and one of four samples (B12-2') exceed the CHSSL for cadmium, however 15 (B9-B12, PB1-PB3, SS1-SS6) of the samples contribute to the cumulative total risk.

- The lead within soil on site may exceed the threshold for hazardous waste. Four samples (SS3, B-11, PB1-6", PB2-2' and PB3-2') on site exceed the threshold to determine the presence of soluble lead. Further analysis will be required.
- Additional samples are needed to determine metal concentrations throughout the parcel.
- Polycyclic Aromatic Hydrocarbons (PAHs,) were detected in the soil samples at concentrations that exceed cancer risk thresholds.
 - Based on the analysis of soil samples provided, the cumulative cancer risk due to PAHs at the site exceeds one in a million. This risk is mostly attributed to Benzo(a)pyrene. EPA considers a one in a million cancer risk within the acceptable range.
 - Additional samples are needed to determine PAH concentrations throughout the parcel.
- The route of exposure to these materials (metals, PAHs) would be ingestion of soil or inhalation of soil particulate.

Provide a work plan to assess identified contaminants based on the intended land use:

1. Determine source of PAHs, lead and cadmium.
2. Assess lateral vertical extent of PAH, lead and cadmium contamination throughout the parcel.
3. Analyze random samples for existence of agricultural pesticides.
4. Perform Soluble Threshold Limit Concentration analysis for lead to determine if soil located at SS3, B-11, PB1-6", PB2-2' and PB3-2' SS3 is a hazardous waste.
5. Samples shall be analyzed using the lowest detection limits identified within California Human Health Screening Levels (CHHSLs), RWQCB Environmental Screening Levels (ESLs) and the USEPA Regional Screening Levels (RSLs).
6. Sample locations shall be surveyed with GPS coordinates.

After the extent of contamination is determined a Remedial Action Workplan will be required to abate the cancer risk to less than one in a million and non-cancer risk Hazard Index of one.

If you have questions concerning this letter, please call me at 805-781-5595.

Sincerely,

A handwritten signature in black ink that reads "Aaron LaBarre". The signature is written in a cursive, flowing style.

Aaron LaBarre, REHS
Supervising Environmental Health Specialist
Hazardous Materials Section

C: 1. Michael LeBrun, Manager Nipomo Community Services District