

TO: BOARD OF DIRECTORS
FROM: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER
DATE: JULY 18, 2013



**UPDATE ON THE DEVELOPMENT OF
JIM O. MILLER PARK**

ITEM

Receive an update on the development of the proposed Jim O. Miller Park [RECOMMEND DISCUSS INFORMATION AND DIRECT STAFF]

BACKGROUND

In March 2009, your Board entered a Memorandum of Understanding with San Luis Obispo County (attached) to identify the responsibilities of the parties in developing Jim Miller Park. The Memorandum outlined County transfer of the property for the park to the District in exchange for District construction and maintenance of a public park at the site. The Memorandum outlined the process by which the District would apply to the Local Area Formation Commission for activation of park powers to facilitate the District's commitment to operate the park. The agreement also addressed required easement corrections and perfections associated with lift station and well sites on the County parcel south of West Tefft (APN 090-142-007) have been completed. The MOU does not have a specified termination date.

All requirements associated with the easement corrections on APN 090-142-007 have been completed.

The District's funding plan for the project included the formation of a property tax assessment district to fund a portion of estimated annual park maintenance costs. In the fall of 2009, the District conducted a property tax assessment ballot asking nearby residents to increase their property tax by either \$35 or \$12 per year depending on their property's proximity to the proposed park. The assessment district formation measure failed.

In January 2010, Phase I environmental surveys of the property commissioned by the District indicated elevated levels of heavy metals in near surface soils and petroleum hydrocarbon contaminants in buried soils and groundwater beneath the site. County Property Services was provided the Phase I results and have continued the investigation of property conditions at the direction of the County Environmental Health Department.

Over the past three years, the Olde Towne Nipomo Association (OTNA) has been working with County Planning and County Property Service to advance the Park plan. OTNA is seeking a Minor Use Permit from the County to continue the Park development process.

An Intent To Serve letter (Service Letter) for District water and sewer service is required prior to the County granting a Minor Use Permit. Your Board considered a request from OTNA for a Service Letter in June 2013 and continued the item until questions regarding OTNA's role in the park project could be clarified with the County.

The 2009 MOU is silent to OTNA's role. There exists no formal agreement between the OTNA and the District regarding its role in park development.

On July 17, 2013, OTNA met and agreed with a County proposal to move the proposed park to the County owned parcel on the south side of West Tefft (across the street from the site envisioned in the MOU). Additionally, the County agreed in principle to leasing the new site to OTNA on a limited term to allow OTNA to lead coordination of development plans for funding and building the park. The District's role of ultimately activating park powers and operating the park remains the long term plan.

The changes that have been proposed necessitate review and likely revision of the 2009 MOU. This may provide an opportunity to articulate OTNA's role in Project and include the organization as signatory to the MOU, if appropriate.

STRATEGIC PLAN

Strategic Plan Goal 7D.1 – Plan for Parks and Open Space

RECOMMENDATION

Staff recommends your Board consider current vision for development of Jim O. Miller Memorial Park and direct staff.

ATTACHMENTS

- A. March 2009 MOU

JULY 24, 2013

ITEM E-1

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: *Russell S. Gibson*
 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: *Sandy Cummins*
 Deputy Clerk
**APPROVED AS TO FORM AND
 LEGAL EFFECT:**

WARREN R. JENSEN
 County Counsel
 By: *Warren R. Jensen*
 Assistant County Counsel

Date: 1/13/09

**NIPOMO COMMUNITY SERVICES
 DISTRICT:**

By: *Jim Harrison*
 Jim Harrison, President

Dated: _____

ATTEST:
Julie Rodewald
 District Secretary

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

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

Dated: 1-22-09

TO: MICHAEL S. LEBRUN *MSL*
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E. *P.V.S.*
DIRECTOR OF ENGINEERING
AND OPERATIONS

DATE: JULY 18, 2013

**AGENDA ITEM
E-2
JULY 24, 2013**

**SERVICE REQUEST – 530 HILL STREET
20 MULTI-FAMILY UNIT RESIDENTIAL DEVELOPMENT**

ITEM

Consider request for water, sewer and solid waste service (Intent-to-Serve Letter) for a 20 multi-family unit residential development at 530 Hill Street, pursuant to District's current water allocation ordinance [RECOMMEND CONSIDER INTENT TO SERVE LETTER AND APPROVE, DENY OR CONTINUE].

BACKGROUND

The District received an application for water, sewer and solid waste service for 530 Hill Street, APN 092-577-002, on July 9, 2013. The Applicant, Mesa Dunes Investments, Inc., represented by William Kengel, is requesting water, sewer and solid waste service for a 20 multi-family unit residential development (based on the District's definition). The project will consist of 20 multi-family units on one (1) parcel. The existing 2 acre parcel is zoned Residential Multi-Family and the District does not currently provide water, sewer or garbage service for the parcel. A Water Demand Certification for the project is included with the application. The District previously issued an Intent-to-Serve letter for the project on September 9, 2009 and the letter is set to expire on September 9, 2013.

All parcels, existing and planned, will be required to obtain water, sewer and solid waste service in compliance with current District standards. Any existing well(s) on the property will not be utilized to provide domestic water service to any part of the project.

The project is subject to the District's current annual water-year allocation limits (32.5 acre-feet) per District Ordinance Section 3.05.040. Pursuant to current Ordinance, the requested residential water allocation for the project is 6.6 acre-feet per year (20 x 0.33) per Section 3.05.060. Attached is the current Water Allocation Accounting Summary for Water Year 2012-2013. To date, 12.8 acre-feet of water has been allocated for Water Year 2012-2013, which commenced on October 1, 2012.

Both the phasing and the calculation of the projected residential water demand are determined by the District's current allocation ordinance. According to Section 3.05.060 of the allocation ordinance, the projected total demand shall be established as 0.33 AFY per multi-family unit. According to Section 3.05.040.A.1, a total of 6.5 AFY is reserved for multi-family dwelling units in any one allocation year. According to Section 3.05.110.A, the District will not allocate more than twenty percent (20%) of the use type allocation to any one project during any one allocation year. Thus, the allocation policy requires that no more than 1.3 AFY (0.2 times 6.5) be allocated in the multi-family category to any one project in any allocation year.

Given the total residential water allocation required for the project is 6.6 AFY and no more than 1.3 AFY can be allocated in the multi-family category to any one project in any allocation year,

the required water allocation for the project is to be phased over a 5 year period with 1.3 AFY (4 units) in each Water Year from Water Year 2012-2013 to Water Year 2016-2017. However, water for the project was previously allocated in accordance with the current allocation formula. The applicant has requested that the Board transfer the water allocation to the new Intent-to-Serve letter.

FISCAL IMPACT

Water and sewer capacity fees will be based on the domestic meter size and irrigation meter size requested for the final County approved project as well as CAL FIRE's fire service requirements. Assuming one (1) 2 inch water meter for indoor water use, one (1) 1 inch irrigation water meter, one (1) 6 inch fire sprinkler service, and one (1) sewer connection based on the domestic meter size, the estimated fee deposit for the project is \$220,659 less a credit of \$24,729 (related to Parcel Map 06-0225) paid by the owner for a net amount of \$195,930 based on the current District fee schedule.

RECOMMENDATION

Staff requests the Board provide staff with direction to approve, deny or continue the application. Staff recommends the following conditions if the Board desires to approve the Applicant's request for an Intent-to-Serve letter:

- Project shall obtain solid waste, sewer and water service for all units.
- Water for the project in the amount of 6.6 AF will be allocated in Water Year 2012-2013.
- The parcel shall be served by a single appropriately sized meter and backflow assembly for indoor use.
- A separate one (1) inch irrigation meter shall be provided for the parcel. Irrigation meter capacity charges are applicable.
- A single separate appropriately sized fire service and backflow assembly as required by CAL FIRE of SLO County shall be provided for the parcel. CAL FIRE of SLO County must approve the development plans prior to District approval. Fire service capacity charges will be applicable.
- Record a restriction, subject to District approval, on the property prohibiting the use of well(s) to provide water service to any parcel within the Project.
- Properly abandon any existing groundwater wells and provide documentation to District.
- Record a restriction, subject to District approval, on all parcels prohibiting use of self-regenerating water softeners.
- Comply with District water conservation program.
- Pay all appropriate District fees associated with this development.
- Applicant shall provide the District with a copy of County application approval and County project conditions of approval.
- Enter into a Plan Check and Inspection Agreement and provide a deposit.
- Submit improvement plans in accordance with the District Standards and Specifications for review and approval. Applicant shall provide plans consistent with current District Standards and based on the proposed lot configuration.
- Any easements required for water and sewer improvements that will be dedicated to the District shall be offered to the District prior to final improvement plan approval.
- On-site water and sewer mains shall be private in accordance with District standards.
- Any easements required for private water and sewer laterals shall be recorded prior to final improvement plan approval and shall be subject to District approval.

- All water and sewer improvements to be dedicated to the District shall be bonded for or otherwise secured in the District's name.
- Project will be served by existing water and sewer lines in Hill Street until such time as water and sewer lines in Blume Street area are accepted by the District.
- A Will-Serve letter for the Project will be issued after improvement plans are approved and signed by the District.
- Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will Serve Letter in an amount equal to the then calculated Fees for Connection.
- Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- Construct the improvements required and submit the following:
 - Reproducible "As Builts" - A mylar copy and digital format disk (AutoCAD) which includes engineer, developer, tract number and water and sewer improvements
 - Offer of Dedication
 - Engineer's Certification
 - Summary of all water and sewer improvement costs
- The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo, the District's acceptance of improvements to be dedicated to the District, if applicable, and the final payment of all charges and fees owed to the District.
- This letter is void if land use is other than multi-family residential use as defined by the District.
- Intent-to-Serve letters shall automatically terminate on the first to occur:
 - Failure of the Applicant to provide District with written verification that County application for the Project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
 - Three (3) years, from date of issuance. However, Applicant shall be entitled to a one-year extension upon the following conditions:
 - Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve Letter.
 - Applicant provides proof of reasonable due diligence in processing the Project.
 - Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- This Intent-to-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the District.
- This Intent-to-Serve letter may be revoked, or amended, as a result of conditions imposed upon the District by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors.
- The District reserves the right to revoke this "Intent-to-Serve letter at any time.
- The Applicant shall provide a signed copy of the Intent-to-Serve letter within thirty (30) days of issuance.

ATTACHMENTS

- A. Application
- B. Proposed Site Plan
- C. Water Year 2012-2013 Allocation Summary

JULY 24, 2013

ITEM E-2

ATTACHMENT A



NIPOMO COMMUNITY SERVICES DISTRICT

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

Office use only:
Date and Time
Complete
Application and
fees received:
JUL 09 2013
NIPOMO COMMUNITY

JUL 09 2013

NIPOMO COMMUNITY SERVICES DISTRICT

INTENT-TO-SERVE APPLICATION

- This is an application for: W/S Sewer and Water Service _____ Water Service Only
- SLO County Planning Department/Tract or Development No.: Co 06-0225
- Attach a copy of SLO County application.

Note: District Intent-to-Serve letters expire eight (8) months from date of issue, unless the project's County application is deemed complete.

- Project location: 530 Hill St, Nipoma, Ca. 93444
- Assessor's Parcel Number (APN) of lot(s) to be served: 092-577-002 pt. II
- Owner Name: Mesa Dunes Investments, Inc.
- Mailing Address: P.O. Box 267 Avila Beach, Ca. 93424
- Email: wqktbh@yahoo.com
- Phone: 805-929-6288 FAX: 805-929-1047
- Agent's Information (Architect or Engineer): Cell: 805-550-4064
Name: William G. (Bill) Kenzel
Address: _____
Email: _____
Phone: _____ FAX: _____

11. Type of Project: (check box) (see Page 3 for definitions)

<input type="checkbox"/> Single-family dwelling units	<input checked="" type="checkbox"/> Multi-family dwelling units
<input type="checkbox"/> Commercial	<input type="checkbox"/> Mixed Use (Commercial and Residential)

- Total Number of Dwelling Units 20 Number of Low Income Units (potentially 6 on adjoining parcel I of Co 06-0225, 719 Tefft)
- Does this project require a sub-division? Yes No
If yes, number of new lots created _____
- Site Plan:

For projects requiring Board approval, submit six (6) standard size (24" x 36") copies and one reduced copy (8½" x 11"). Board approval is needed for the following:

- more than four dwelling units
- property requiring sub-divisions
- higher than currently permitted housing density
- commercial developments

All other projects, submit three (3) standard size (24" x 36") and one reduced copy (8½" x 11").

Show parcel layout, water and sewer laterals, and general off-site improvements, as applicable.

15. Water Demand Certification:

A completed Water Demand Certification, signed by project engineer/architect, must be included for all residential and the residential portion of mixed-use projects.

16. Commercial Projects Service Demand Estimates:

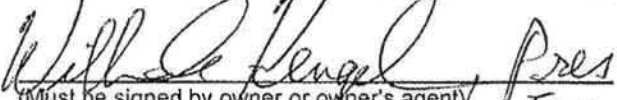
Provide an estimate of yearly water (AFY) and sewer (gallons) demand for the project prepared by a licensed Engineer/Architect. **Please note:** All commercial projects are required to use low water use irrigation systems and water conservation best management practices.

17. Agreement:

The Applicant agrees that in accordance with generally accepted construction practices, Applicant shall assume sole and complete responsibility for the condition of the job site during the course of the project, including the safety of persons and property; that this requirement shall apply continuously and not be limited to normal working hours; and the Applicant shall defend, indemnify, and hold the District and District's agents, employees and consultants harmless from any and all claims, demands, damages, costs, expenses (including attorney's fees) judgments or liabilities arising out of the performance or attempted performance of the work on this project; except those claims, demands, damages, costs, expenses (including attorney's fees) judgments or liabilities resulting from the negligence or willful misconduct of the District.

Nothing in the foregoing indemnity provision shall be construed to require Applicant to indemnify District against any responsibility or liability or contravention of Civil Code §2782

Application Processing Fee.....See Attached Fee Schedule

Date 7/8/2013 Signed  Pres
(Must be signed by owner or owner's agent)
Mesa Dunes Investments, Inc.
Print Name William G. Kengel

WATER DEMAND CERTIFICATION

Supplement to Intent-to-Serve/Will Serve Application

Definitions

(Please note – these definitions do NOT reconcile with standard SLO County Planning department definitions)

Multi-family dwelling unit – means a building or portion thereof designed and used as a residence for three or more families living independently of each other under a common roof, including apartment houses, apartment hotels and flats, but not including automobile courts, or boardinghouses.

Two-family dwelling units (duplex) – means a building with a common roof containing not more than two kitchens, designed and/or used to house not more than two families living independently of each other.

Single-family dwelling unit – means a building designed for or used to house not more than one family.

Secondary dwelling units – means an attached or detached secondary residential dwelling unit on the same parcel as an existing single-family (primary) dwelling. A secondary unit provides for complete independent living facilities for one or more persons.

Commercial Projects

Commercial projects are exempt from Water Demand Certification; however, low water-use irrigation systems and water conservation best management practices are required. The dwelling component of Mixed-Use projects (e.g. commercial and residential), are required to provide Water Demand Certification for the dwelling unit portion of the project.

Non-Commercial Projects

Water Demand Certification is required for all non-commercial projects and for the dwelling units of Mixed-Use. Certification must be signed by a licensed Engineer/Architect.

- - - Go to next page for demand calculation and certification - - -

Demand Calculation (for new dwelling units only)

Total project water demand (dwelling units including irrigation), by District standard, is as follows:

Number of Multi-family Units	<u>20</u>	X	0.28	=	<u>5.6</u>
Number of Duplexes/Secondary Units	_____	X	0.28	=	_____
Number of Single Family Units with:					
Parcel less than 12,768 sq. ft.	_____	X	0.40	=	_____
Parcel between 12,769 and 25,536 sq. ft.	_____	X	0.68	=	_____
Parcel greater than 25,536 sq. ft.	_____	X	0.82	=	_____
Total demand all dwelling units including irrigation				=	<u>5.6</u>

Certification

I the undersigned do here by certify:

Project design incorporates low water use landscape and landscape irrigation systems.

The design maximum total water demand, including landscaping does not exceed the following:

- 0.28 AFY per Multi-Family Dwelling Unit;
- 0.28 AFY per Dwelling Unit for duplexes and Secondary Dwellings;
- 0.40 AFY per Single Family Dwelling Unit located on a parcel size of twelve thousand seven hundred sixty-eight (12,768) square feet or less;
- 0.68 AFY per Single Family Dwelling Unit located on a parcel size between twelve thousand seven hundred sixty-nine (12,769) and twenty-five thousand five hundred thirty-six (25,536) square feet.
- 0.82 AFY per Single Family Dwelling Unit located on a parcel size that exceeds twenty-five thousand five hundred thirty-six (25,536) square feet.
- Secondary Units – Total water demand for primary and secondary unit shall not exceed 110% of the limitations established for the primary unit.

Note: "AFY" = acre-foot per year
 Parcel size is net area

Signed Terence K. Orton Date 7/8/13
Must be signed by project engineer/architect

Title Civil Engineer License Number 21,807

Project Hillside Terrace (e.g. Tract Number, Parcel Map #, APN)
APN 092-130-012 (Mesa Dunes Investment)



APPLICATION FEES AND CHARGES
 Effective July 1, 2013

PROJECT SIZE/TYPE	TOTAL AMOUNT DUE**	NON-REFUNDABLE AMOUNT DUE AT TIME OF SUBMITTING APPLICATION PURSUANT TO A & B(1) BELOW	BALANCE DUE PURSUANT TO B(2) BELOW
Residential <3 units	\$1,056.03	\$1,056.03	\$0.00
Residential 4-20 units	\$1,450.56	\$362.64	\$1,087.92
Residential > 20 units	\$1,707.84	\$426.96	\$1,280.88
Commercial <1 acre	\$1,450.56	\$362.64	\$1,087.92
Commercial 1-3 acres	\$1,707.84	\$426.96	\$1,280.88
Commercial > 3 acres	\$2,359.65	\$589.91	\$1,769.74
Mixed Use with less than 3 Dwelling Units	\$1,707.84	\$426.96	\$1,280.88
Mixed Use with four or more Dwelling Units	\$2,359.65	\$589.91	\$1,769.74
*Outside Consulting and Legal fees will be billed to the Applicant at direct rate.			

Timing of Fee

A. For residential projects with less than three (3) units the Application Fee is due and payable with the application for service.

B. For residential units that exceed three (3) units and all commercial projects and mixed use projects, the Application fee is due and payable as follows:

1. Twenty-five percent (25%) as a non-refundable deposit with the application for service.
2. The remainder of the Application Fee, plus charges for District consultants in processing the application, is due and payable prior to the District issuing a "Will-Serve Letter" or entering into a Plan Check and Inspection Agreement, whichever occurs first.

**Commencing on July 1, 2008 and each year thereafter the Application Fees shall be adjusted by a Consumer Price Index formula.

JULY 24, 2013

ITEM E-2

ATTACHMENT B

JULY 24, 2013

ITEM E-2

ATTACHMENT C

TO: MICHAEL S. LEBRUN *M.S.L.*
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E. *P.V.S.*
DIRECTOR OF ENGINEERING
AND OPERATIONS

DATE: JULY 18, 2013



WATER SERVICE ALLOCATION POLICY AND WATER SERVICE MORATORIUM STATUS

ITEM

Review of Water Allocation Policy and Water Service Moratorium status [RECOMMEND REVIEW POLICY AND PROVIDE DIRECTION TO STAFF].

BACKGROUND

The District adopted Ordinance 2009-114 on September 30, 2009. The Ordinance established a limit and procedure for water service allocation for residential development. The allocation system originated in 2004 with the intention of "metering out" water allocations to balance the effect of adding additional burden to the groundwater table while providing enough allocation to support planned orderly development of the District's program to acquire supplemental water. The allocation policy also provided water allocation limits per dwelling unit as well as annual allocation limits per project to encourage water conservation sensitive designs. Large residential projects typically required that the water allocation be phased over a number of years. Water service applications for all residential development projects must comply with the allocation policy.

In 2005, the District stipulated to a settlement of the Santa Maria Groundwater case and agreed to lead a project (Nipomo Supplemental Water Project) to import 2,500 acre feet per year (AFY) of supplemental water to the Mesa to offset growth in urban demand in the preceding decades. The District increased the required delivery volume by 500 AFY to account for future District development as envisioned by the County General Plan. In January 2008, the Court issued its Final Judgment and ordered compliance with the 2005 Stipulation.

Following the failed funding vote in May 2012 for a 3000 AFY Supplemental Water Project, your Board was unable to make the findings required by District Code §3.28.020, "that sufficient excess water" exists to serve new projects and on May 23, 2012, adopted Resolution 2012-1259 suspending the processing of new applications for District water service. Subsequently, on June 27, 2012, your Board adopted Ordinance 2012-117 halting the processing of new applications for District water service.

On February 13, 2013, your Board approved a funding plan and authorized circulating bid documents for Supplemental Water Project, Phase 1. On March 13, 2013, your Board adopted Ordinance 2013-119 that suspended Ordinance 2012-117 allowing a return to application processing. Suspension (versus full repeal) of the Ordinance provided your Board full flexibility to reinstitute 2012-117 if circumstances had changed in regard to supplemental water delivery.

On June 20, 2013, your Board awarded contracts for construction of the District's Supplemental Water Project, Phase 1. The project is scheduled to be operational by the end of 2014. Staff

seeks your Board's direction on whether the allocation policy is still relevant and whether Ordinance 2012-117 should be repealed as a first step towards removing some of the uncertainty that developers face regarding availability of water supply for their projects.

Development, in accordance with the County General Plan, is considered in the 3000 AFY build out capacity of the Supplemental Water Project. Capacity charges collected from new water connections are an identified source of funding for Phases 2 and 3 of the Project. Capacity charges also support continued development of the District's longer-term water supply portfolio.

FISCAL IMPACT

Staff time to prepare report.

STRATEGIC PLAN

Strategic Plan Goal 1.1 – Protect, Enhance, and Assess available Water Supplies
Strategic Plan Goal 1.2 – Secure New Water Supplies

RECOMMENDATION

Consider information and provide direction to staff.

ATTACHMENTS

- A. Ordinance 2009-114
- B. Ordinance 2012-117
- C. Ordinance 2013-119

JULY 24, 2013

ITEM E-3

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114**

**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 Mesa Water Conservation Area (NMWCA) by the County of San Luis Obispo), of the Santa Maria Groundwater Basin. A small proportion of District'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"); 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 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 III of Severity (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Water Conservation 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 Nipomo Mesa Water Conservation Area (NMWCA) at a Resource Management System Level III of Severity; and

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- 114**

**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; and

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 Level III of Severity 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- 114

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- 114

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 (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 on the 30th day of September, 2009, and adopted by the Board of Directors of the Nipomo Community Services District on October 14, 2009, by the following roll call vote, to wit:

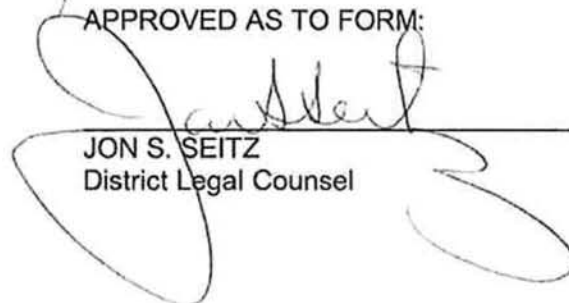
AYES: Directors Vierheilig, Nelson, and Winn
NOES: Directors Eby and Harrison
ABSENT: None
ABSTAINING: None



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

ATTEST:

DONNA K. JOHNSON
Secretary to the Board

APPROVED AS TO FORM:


JON S. SEITZ
District Legal Counsel

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114**

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

Exhibit "A"

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

Section 1. Amendments to Chapter 3.05 of the District Code

A. The Nipomo Community Services District Board of Directors hereby adopts and approves the Amendment of Section 3.05.020 of Chapter 3.05 of the District Code to include the definition of Observed Demand as follows:

3.05.020 Definitions.

D. "Observed Demand" means the water demand as calculated/averaged (applying irrigation demand), using the analysis in the draft Engineers Report for the water line inter-tie project for the following categories:

- A. 0.33 AFY per multi-family dwelling unit or duplex units;
- B. 0.48 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.80 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.96 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-seven square feet or greater;

B. The Nipomo Community Services District Board of Directors hereby adopts and approves the Amendments and Restatement 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 follows:

3.05.030 Limitations on water use.

Total demand certifications, including landscaping, are established, to achieve a 15% reduction in observed demand for the following uses:

- A. 0.28 AFY per multi-family dwelling unit and duplex unit;
- B. 0.40 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.68 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.82 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-six square feet or greater;

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114

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

Exhibit "A"

3.05.040 Water allocation per allocation year.

A. 34.3 acre-feet is the initial reservation for residential projects. The initial reservation is reduced by 5% or to 32.5 AFY to account for commercial growth in water demand resulting from residential development. The 32.5 AFY (total per allocation year) is allocated to projects as follows:

1. Category 1: A total of 20.8 AFY, including landscaping, is reserved for:
 - a. For Single-family dwelling units; and
 - b. Two-family dwelling units (duplexes).
2. Category 2: A total of 6.5 AFY, including landscaping, is reserved for multi-family dwelling units.
3. Category 3: A total of 3.2 AFY is reserved for secondary dwelling units and local agency maintained landscaping projects.

B. During the end of the second quarter and in the middle of the fourth quarter of each allocation year the unused allotments for categories referenced in Section A, above, may be re-allocated by the Board of Directors to other categories referenced in Section A, above.

C. Notwithstanding subparagraph B, above, the District shall reserve 2.00 AFY for proposed housing developments which help meet the County of San Luis Obispo's share of regional housing needs for lower-income housing as identified in the Housing Element adopted by the San Luis Obispo County Board of Supervisors. Said reservation shall be applied only to Category 1 and Category 2 projects referenced in Subparagraph A, above. Further, said reservation may only be re-allocated during the fourth quarter of each allocation year.

3.05.050 Water demand certifications required.

A. Will-Serve letters: All applications for Will-Serve letters for residential projects referenced in Section 3.05.040 require a registered engineer's or architect's certification that:

1. Low-water use landscape and irrigation systems will be installed to irrigate landscaping; and
2. The maximum total water demand, including landscaping does not:
 - a. Exceed the limitations established in Section 3.05.030, above;
 - b. For family dwelling units with secondary dwelling units--Exceed a total water demand referenced in 3.05.100.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114**

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

Exhibit "A"

B. Intent-to-Serve letters: All applications for Intent-to-Serve letters shall require a registered engineer's or architect's certification that:

1. Low-water use landscape irrigation systems will be installed to irrigate landscaping; and
2. The design maximum total water demand, including landscaping, does not exceed the limitations on water use established in Section 3.05.030, above.
3. For nonresidential/commercial/industrial projects, Intent-to-Serve applications shall include the following: an irrigation plan, a plant material layout plan, and a plant material list (if not included in the plant material layout plan); and a hardscape plan shall be submitted if there are any water features (such as fountains and swimming pools) included in the project design.

C. Will-Serve letters will not be issued to nonresidential/commercial/industrial projects until the General Manager verifies that the landscape irrigation and plant material layout plans and/or hardscape plan comply with the total project water demand established by Section 3.05.035.

3.05.060 Project Water Demand Allocation.

Projects shall be assigned water, and the allocations established in Section 3.05.040 reduced, or accounted for, by the Observed Demand as follows:

- A. 0.33 AFY per multi-family dwelling unit or duplex unit;
- B. 0.48 AFY per single-family dwelling unit located on a parcel of twelve thousand seven hundred sixty-eight square feet or less;
- C. 0.80 AFY per single-family dwelling unit located on a parcel size between twelve thousand seven hundred sixty-nine and twenty-five thousand five hundred thirty-six square feet;
- D. 0.96 AFY per single-family dwelling unit located on a parcel size of twenty-five thousand five hundred thirty-six square feet or greater;

3.05.070 Application for Intent-to-Serve letters, Will-Serve letters and Termination. The following procedures, are in addition to other District rules and regulations relating to Intent-to-Serve letters and Will-Serve letters, and shall apply to all applications for Intent-to-Serve letters and Will-Serve letters approved by the District:

- A. Applications: Application for Intent-to-Serve letters shall be made on the District's form. In order to be considered for an Intent-to-Serve letter the application shall contain a verification that applicant has submitted the proposed project for initial review to the County Planning and Building Department.
- B. Termination: Intent-to-Serve letters shall automatically terminate as follows:

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114**

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

Exhibit "A"

1. Failure of the applicant to provide District with written verification, within two hundred forty calendar days from the date the Intent-to-Serve letter is issued, that the County has deemed the project application to be complete.
2. The failure of the applicant to receive both the acceptance of the project improvements and a final Will-Serve letter within three years from the date the Intent-to-Serve letter is issued.
3. An applicant shall be entitled to a one-year extension of the three year limitation upon the following conditions:
 - (a). Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve letter.
 - (b). Proof of reasonable due diligence in processing the project.
 - (c). Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- C. Extensions: All Intent-to-Serve letters that have not expired on or before the second reading of the ordinance adopting this section shall be extended for an additional twelve months.

3.05.100 Limitation on secondary units.

In addition to the other requirements contained in this Chapter, applications for water service to secondary units will only be accepted that include a registered engineer's or architect's certification that the total water demand for the secondary unit and the primary dwelling unit will not exceed 110% of the limitations established for the primary unit identified in Section 3.05.030.

3.05.110 Limitations on allocations.

- A. Only one request for an Intent-to-Serve letter will be considered for anyone project or parcel. The District will not allocate more than twenty percent of the allocations referenced in Section 3.05.040 (A)(1)(2) or (3) to a project during any one allocation year.
- B. A maximum of fifty percent of the annual water allocation for each successive allocation year may be reserved for projects requiring phasing of water commitments.
- C. Water not allocated during a water year shall not be transferred to the succeeding water year.
- D. Commencing with allocation year 2009/2010, the District may, during the 4th quarter, adjust the 20% limitation referenced subparagraph A upon a finding that there is an unused allocation in a designated category. The priorities for distributing the adjusted allotment are as follows:
 1. Projects on the waiting list,
 2. Projects with existing phased Intent-to-Serve letters,
 3. New Projects.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2009- 114

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

Exhibit "A"

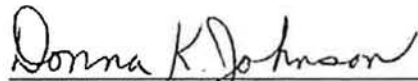
Introduced on the 30th day of September, 2009, and adopted by the Board of Directors of the Nipomo Community Services District on October 14, 2009, by the following roll call vote, to wit:

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



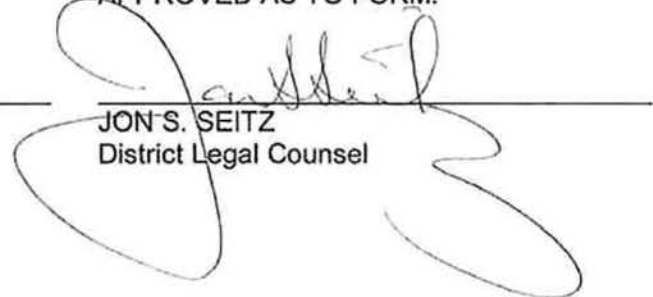
JAMES HARRISON,
President of the Board of Directors
Nipomo Community Services District

ATTEST:



DONNA K. JOHNSON
Secretary to the Board

APPROVED AS TO FORM:



JON S. SEITZ
District Legal Counsel

JULY 24, 2013

ITEM E-3

ATTACHMENT B

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

WHEREAS, the Nipomo Community Services District ("District") provides water service within the District's water service area pursuant to § 61100 (a) of the Community Services District Law which provides:

"(a) Supply water for any beneficial uses, in the same manner as a municipal water district, formed pursuant to the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code. In the case of any conflict between that division and this division, the provisions of this division shall prevail"; and

WHEREAS, § 61060 (b) of the Community Services District Law provides in relevant part:

"A district shall have and may exercise all rights and powers, expressed and implied, necessary to carry out the purposes and intent of this division, including, but not limited to, the following powers:

(b) To adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Part 3 (commencing with Section 61100)"; and

WHEREAS, it is essential for the protection of the health, welfare, and safety of the residents of the 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 limited to groundwater extracted from the Nipomo Mesa Management Area (NMMA) (also referred to as the Nipomo Mesa Water Conservation Area (NMWCA) by the County of San Luis Obispo), of the Santa Maria Groundwater Basin; and

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

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 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 recommended a Level of Severity III (existing demand equals or exceeds dependable supply) be certified for the Nipomo Mesa Water Conservation 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 NMWCA at a Severity Level III; and

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, District Code §3.28.020 provides:

"all intent-to-serve letters shall be based on findings that sufficient excess water and sewer capacity exists to serve the project"; and

WHEREAS, § 71640 of the Municipal Water Service District Law provides:

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS, SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

“A district may restrict the use of district water during any emergency caused by drought, or other threatened or existing water shortage, and may prohibit the wastage of district water or the use of district water during such periods for any purpose other than household uses or such other restricted uses as the district determines to be necessary. A district may also prohibit use of district water during such periods for specific uses which it finds to be nonessential”; and

WHEREAS, the District Board of Directors, at a public meeting on June 13, 2012, considered the Staff Report and public testimony regarding the adoption of this Ordinance; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Ordinance and public comment, and the failure of the recent ballot proceedings to fund and implement a Supplemental Water Project to the NMMA\NMWCA, the District Board of Directors finds that:

- (a) It is currently unable to make the findings required by District Code Section 3.28.020, “that sufficient excess water --- exists to serve new projects”; and
- (b) That there is a threatened or existing water shortage; and

WHEREAS, based on the Staff Report, staff presentation, the reports and studies referenced in this Ordinance, public comment and the failure of the recent ballot proceedings to fund and implement the Supplemental Water Project to the NMMA\NMWCA, the District Board of Directors further finds:

- A. That the purpose and intent of this Ordinance is consistent with the purposes found in the Judgment and Stipulation in the Ground Water Litigation imposing a physical solution to assure long-term sustainability of the groundwater basin and the San Luis Obispo County’s certification of a Severity Level III for the waters underlying the NMWCA; and
- B. Prohibiting the issuance of new Intent-To-Serve Letters will provide greater assurances that there will be adequate groundwater to meet the present needs of the District residences consistent with District Code §3.28.020 and the resource protection goals of the San Luis Obispo County South County Area Plan; and

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

- C. That adopting this Ordinance will further conserve the water supply for the greater public benefit, with particular regards to domestic use, sanitation and fire protection; and
- D. That this Ordinance adopts Rules and Regulations for the administration, operation, and use of District services; and

WHEREAS, by adopting this Ordinance, the District does not intend to limit other means of managing, protecting and conserving the groundwater basin by the District. Further, the District intends to work cooperatively with the NMMA Technical Group and other agencies, such as the County of San Luis Obispo, to implement regional solutions such as groundwater management and the importation of Supplemental Water to the NMMANMWCA; and

WHEREAS, based on the Staff Report, staff presentation, and public comment, the District Board of Directors further finds this Ordinance is adopted for the protection of the health, safety and welfare of District water customers who depend on the underlying groundwater basin as their source of water supply.

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

Section 1 — Intent-To-Serve Letters

District Resolution 2012-1259 Suspending The Processing Of Intent-To-Serve Letters is affirmed. All applications for new District water service are suspended and will be received and filed without priority. Chapter 3.05 of the District Code and District Ordinance 2009-114 are suspended.

Section 2 — Payment of Capacity Charges for Certain Commercial Projects

Section 3.04.052 of the District Code as established by District Ordinance 2009-112 Establishing Procedures For Payment Of District Fees For Connection Of Commercial Projects Developed On Two Or More Parcels are Repealed.

Section 3.04.051 of the District Code is modified to remove reference "Except as provided in Section 3.04.052"

Section 3 — Payment of Capacity Charges for Certain Residential and Mixed Use Projects

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

Section 3.04.053 of the District Code as established by District Ordinance 2010-115 Establishing Procedures For Payment Of District Fees For Connection For Residential Projects Creating Four Or More Parcels And Mixed Use Projects Under A Single Application For A Final Map That Required a Dedication Of Any Water And Sewer Improvements Pursuant To a Plan Check Inspection is repealed, pursuant to Section 3.04.053 H of Ordinance 2010-115.

Section 3.04.051 of the District Code is modified to remove reference "Except as provided in Section 3.04.052 and 3.04.053"

Section 4 of District Ordinance 2010-115 and Section 5.02.010 (4) of the District Code are reaffirmed.

Section 5 of District Ordinance 2010-115 and Section 4.03.010 of the District Code are reaffirmed.

Section 4 — Reconsideration

The District Board shall reconsider Sections 1, and 2 of this Ordinance, as part of its Regular or Special Meeting Agendas, during the month of October of this year and during the months of May and October of each succeeding year.

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 (including District Resolution 2010-1199 establishing fees for processing applications for deferral of District Connection Charges), 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 — 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.

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

Section 7 — Severance Clause

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 8 — 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 9 — CEQA

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Intent-To-Serve Letters and Ordinances related to payment of connection/capacity fees will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District incorporates by reference the CEQA findings in support of San Luis Obispo County Ordinance 3090, the County of San Luis Obispo's certification of a Severity Level III for the NMWCA and the District's CEQA findings supporting the adoption of Chapter 3.05. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10 — California Department of Fish and Game Certificate of Fee Exemption

Pursuant to § 711.4 (c)(2)A of the Fish and Game Code, the District Board of Directors finds that rules and regulations adopted by this Ordinance will

ORDINANCE NO. 2012- 117

AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT
REAFFIRMING RESOLUTION 2012-1259 SUSPENDING APPLICATIONS FOR INTENT-TO-SERVE LETTERS,
SUSPENDING CHAPTER 3.05 OF THE DISTRICT CODE AND DISTRICT ORDINANCE 2009-114 RELATED TO
WATER SERVICE LIMITATIONS, REPEALING DISTRICT CODE SECTION 3.04.052 AS ESTABLISHED BY DISTRICT
ORDINANCE 2009-112 RELATED TO ESTABLISHING PAYMENT OF CAPACITY CHARGES FOR CERTAIN
COMMERCIAL PROJECTS AND DECLARING DISTRICT CODE SECTION 3.04.053 AND SECTION 3 OF DISTRICT
ORDINANCE 2010-115 RELATED TO PAYMENT OF CAPACITY CHARGES FOR CERTAIN RESIDENTIAL AND
MIXED USE PROJECTS AS REPEALED PURSUANT TO THE TERMS OF SAID ORDINANCE

have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

Section 11 — 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 tenth (10th) day after passage this Ordinance 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 13TH day of June, 2012, and adopted by the Board of Directors of the Nipomo Community Services District on June 27, 2012, by the following roll call vote, to wit:

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



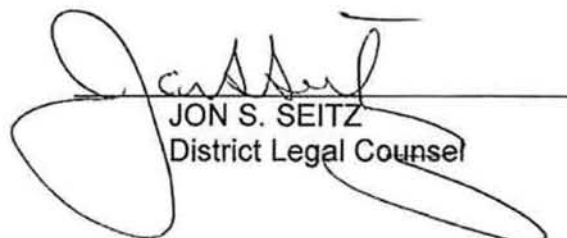
JAMES HARRISON,
President of the Board

ATTEST:

APPROVED AS TO FORM



MICHAEL S. LEBRUN
Secretary to the Board



JON S. SEITZ
District Legal Counsel

(ENDORSED)
FILED

JUN 28 2012

Notice of Determination

JULIE L. RODEWALD COUNTY CLERK

To:
County Clerk
County of San Luis Obispo
1055 Monterey Street, Rm. D-120
San Luis Obispo, CA

From:
Nipomo Community Services District
PO Box 326
Nipomo, CA 93444-0326

By ~~Katrina Taylor~~
DEPUTY CLERK

Subject: Filing Notice of Determination

Owner of Affected Property: Prosperity within the boundary of the Nipomo Community Services District

Title/Action Taken: Approval Ordinance 2012-117

Location of Affected Property Developed and undeveloped property within the boundary of the Nipomo Community Services District

Description: Ordinance 2012 -117 Suspends further processing of applications of Intent-to-Serve letters for water service within the District's boundary and repeals and reaffirms certain Code Sections related to Capacity Charges.

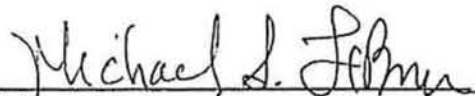
This is to advise that the Nipomo Community Services District as Lead Agency has approved the above described actions on June 13, 2012, and has made the following determinations with regards to the California Environmental Quality Act.

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Intent-To-Serve Letters will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District incorporates by reference the CEQA findings in support of San Luis Obispo County Ordinance 3090, the County of San Luis Obispo's certification of a Severity Level III for the NMWCA and the District's CEQA findings supporting the adoption of Chapter 3.05. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Additional Information

Additional information pertaining to this Notice of Determination may be obtained by contacting Michael S. LeBrun, District General Manager at 805-929-1133.

Date: June 27, 2012


Michael S. LeBrun, General Manager

CALIFORNIA DEPARTMENT OF FISH AND GAME
CERTIFICATE OF FEE EXEMPTION

ACTION TAKEN: APPROVE ORDINANCE 2012-117

APPLICANT:

Name: NIPOMO COMMUNITY SERVICES DISTRICT
Address: 148 S. WILSON STREET
City: NIPOMO, CA 93444
Phone: (805)929-1133

DESCRIPTION - ACTION: ADOPT ORDINANCE 2012-117 SUSPENDING FURTHER PROCESSING OF APPLICATIONS FOR INTENT-TO-SERVE LETTERS FOR WATER SERVICE WITHIN DISTRICT'S BOUNDARY AND REPEAL AND REAFFIRM CERTAIN CODE SECTIONS RELATED TO CAPACITY CHARGES.

LOCATION: WITHIN THE BOUNDARIES OF THE NIPOMO COMMUNITY SERVICES DISTRICT BINDING OF EXEMPTION

FINDINGS OF EXEMPTION:

There is no evidence before this agency that the proposed project has the potential for adverse effect on the wildlife resources for one or more of the following reason(s):

- () The project is located in an urbanized area that does not contain substantial fish or wildlife resources or their habitat.
- () The project is located in a highly disturbed area that does not contain substantial fish or wildlife resources or their habitat.
- () The project is of limited size and scope and is not located in close proximity to significant wildlife habitat.
- () The applicable filing fees have/will be collected at the time of issuance of other County approvals for this project.
- (x) Other: The action taken has no effect on fish and wildlife. (Fish and Game Code § 711.4 (c) (2) (A).

CERTIFICATION:

I hereby certify that the above findings are based upon the administrative record, and hearing record that the action taken on the Ordinance will not individually or cumulatively have and adverse effect on the wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

 6/27/12
Michael S. LeBrun Date
General Manager,
Nipomo Community Services District



State of California—The Resources Agency
 DEPARTMENT OF FISH AND GAME
2012 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT#	427426
STATE CLEARING HOUSE # (if applicable)	

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY	Nipomo Community Services Dist.		DATE	6/28/2012	
COUNTRY/STATE AGENCY OF FILING	San Luis Obispo		DOCUMENT NUMBER		
PROJECT TITLE	Approval Ordinance 2012-117				
PROJECT APPLICANT NAME	Nipomo Community Services Dist.		PHONE NUMBER	805 (543) 7272	
PROJECT APPLICANT ADDRESS	P.O. Box 326	CITY	Nipomo	STATE	CA
				ZIP CODE	93444

PROJECT APPLICANT (Check appropriate box):

- Local Public Agency
 School District
 Other Special District
 State Agency
 Private Entity

CHECK APPLICABLE FEES:

- | | | |
|-----------------------------------------------------------------------------------------------------|------------|----------|
| <input type="checkbox"/> Environmental Impact Report (EIR) | \$2,919.00 | \$ _____ |
| <input type="checkbox"/> Mitigated/Negative Declaration (ND)(MND) | \$2,101.50 | \$ _____ |
| <input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only) | \$850.00 | \$ _____ |
| <input type="checkbox"/> Projects Subject to Certified Regulatory Programs (CRP) | \$992.50 | \$ _____ |
| <input checked="" type="checkbox"/> County Administrative Fee | \$50.00 | \$ 50.00 |
| <input type="checkbox"/> Project that is exempt from fees | | |
| <input type="checkbox"/> Notice of Exemption | | |
| <input type="checkbox"/> DFG No Effect Determination (Form Attached) | | |
| <input type="checkbox"/> Other _____ | | \$ _____ |

PAYMENT METHOD:

- Cash
 Credit
 Check
 Other _____

TOTAL RECEIVED \$ 50.00

SIGNATURE	x Katrina Daylor	TITLE	Deputy Clerk Recorder
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WHITE - PROJECT APPLICANT

YELLOW - DFG/ASB

PINK - LEAD AGENCY

GOLDEN ROD - COUNTY CLERK

DFG753.5a (Rev. 11/11)

JULY 24, 2013

ITEM E-3

ATTACHMENT C

ORDINANCE NO. 2013-119

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117**

WHEREAS, the District Board of Directors previously took action to suspend processing of requests for new District water service by its adoption of Ordinance No. 2012-117; and

WHEREAS, the Board took action at its February 13, 2013 regular Board meeting to authorize bids in regards to a modified inter-tie project with the City of Santa Maria, whereby 650 acre feet of water per year will be delivered for District water service customers; and

WHEREAS, the Board of Directors took action at its February 13, 2013 meeting to approve a finance plan for the construction of said modified inter-tie project; and

WHEREAS, the Board of Directors believes that there is now a substantial likelihood that supplemental water will be brought to the District as a result of the modified Santa Maria inter- tie project

WHEREAS, the Board wishes to maintain all options in regards to reacting to changed circumstances in regards to supplemental water for the Nipomo Community Services District.

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

Section 1 – Suspension

The Board hereby suspends enforcement of Ordinance No. 2012-117.

Section 2 — 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 matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, Motions, Resolutions, Rules, and Regulations are hereby repealed. All other non-suspended provisions of the Nipomo Water Code remain in force and effect

Section 3 — Incorporation of Recitals

The recitals to this Ordinance are true and correct, are incorporated herein by this reference.

Section 4 — Severance Clause

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

ORDINANCE NO. 2013-119

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117**

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 8 — 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 9 — CEQA

The Board of Directors of the District finds that the policies and procedures adopted by this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378 (b) (2) because such policies and procedures constitute general policy and procedure making. The Board of Directors further finds that the adoption of the rules and regulations established by this Ordinance is not a project as defined in CEQA Guideline Section 15378, because it can be seen that the Suspension of Ordinance 2012-117 will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

Section 10 — California Department of Fish and Game Certificate of Fee Exemption

Pursuant to § 711.4 (c)(2)A of the Fish and Game Code, the District Board of Directors finds that rules and regulations adopted by this Ordinance will have no effect on fish and wildlife. The General Manager is authorized to file a California Department of Fish and Game Certificate of Fee Exemption.

Section 11 — Effective Date

This Ordinance shall take effect and be in full force immediately after its passage. Before the expiration of the tenth (10th) day after passage this Ordinance 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.

ORDINANCE NO. 2013-119

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
SUSPENDING ENFORCEMENT OF ORDINANCE NO. 2012-117

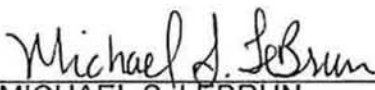
Introduced at its regular meeting of the Board of Directors held on February 27, 2013, and passed and adopted by the Board of Directors of the Nipomo Community Services District on the 13th day of March, 2013, by the following roll call vote, to wit:

AYES: Directors Armstrong, Blair, Gaddis, and Vierheilig
NOES: None
ABSENT: Director Harrison
CONFLICTS: None



JAMES HARRISON,
President, Board of Directors

ATTEST:



MICHAEL S. LEBRUN
Secretary to the Board

APPROVED AS TO FORM:



MICHAEL W. SEITZ
Deputy District Legal Counsel