

ORDINANCE NO. 87-51

AN URGENCY ORDINANCE OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
PROHIBITING ANNEXATIONS TO THE DISTRICT
PENDING RESOLUTION OF UNCERTAINTIES
RELATED TO FUTURE DISTRICT WATER SUPPLIES

WHEREAS, the District pumps all of its water supply from deep wells located in the Ground Water aquifer system that extends along the Pacific Coast generally from the City of Pismo Beach to Santa Maria and Guadalupe, all as depicted upon the Exhibit "A" map attached hereto; and

WHEREAS, the District's existing wells now serve, or are committed to serve, approximately 1600 residential and commercial customers within the District, and have an estimated pumping capacity sufficient to provide service availability to approximately 215 additional customers; and

WHEREAS, the District has operated for the past several years in reliance on previous State and County water studies which have indicated that the groundwater basin, and especially the Nipomo Mesa Hydrologic Subarea, will not be in a state of overdraft before the year 2000, (see studies 1, 2, 3, and 4 on Exhibit "B" attached hereto) and that the District could rely upon existing wells, and additional new wells in the hydrologic subarea, to provide adequate water supplies for services within the existing District boundaries, as well as service for new territories annexed to the District; and

WHEREAS, recent 1986 and 1987 County studies suddenly report that at least the Nipomo Mesa portion of the local coastal aquifers is in a current state of overdraft, (see studies 5, 6, and 7 on Exhibit "B" attached hereto) which will probably get worse each succeeding year; and

WHEREAS, groundwater law in California is unclear concerning the rights of a public District water agency to any groundwater supplies after the basin providing the groundwater becomes in an overdraft condition, as noted in the Final Report of the Governor's Commission on Water Rights Law (1978):

"Overall, groundwater law is at a point of great uncertainty. Mutual prescription probably cannot be imposed in most cases. Application of the correlative and appropriation principles is probably impractical since their application would be exceedingly complex. At this time, a groundwater user in a basin which has not previously been adjudicated can have only a very uncertain idea of what his "right" actually is. To determine what his "right" is, a groundwater user would have to initiate an adjudication of the entire basin." (at page 143); and

WHEREAS, the Goleta Water District has been in litigation since 1972, and has spent hundreds of thousands of dollars in litigation to try to determine its share of the local groundwater basin, with disappointing results to date; and

WHEREAS, this District's new community sewer system has led to requests for annexation of territory to the District, and more such requests can be expected in the near future; and

WHEREAS, new territory annexed for sewer service would also require water service from the District's now uncertain water supply; and

WHEREAS, this Board finds and declares that its primary obligation is to provide water service first to the residents and property owners now within the District who have been in the District for up to 20 years; and

WHEREAS, the District's right to additional ground water supplies, or even its right to the full capacity of its current wells, is so uncertain that the District may have trouble providing water service to the full buildout now authorized by County Zoning within the present District boundaries; and

WHEREAS, this Board finds and declares that it is reasonable and prudent to prohibit further annexations to the District until existing and future water entitlements are better assured for District purposes;

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

1. Notwithstanding any other District ordinances, policies or regulations to the contrary, the District will not accept or process any applications for annexations to the District, and will not approve any such annexations, unless and until the District is assured of adequate water supplies to first provide full water service to properties now within the District.

2. The President of the Board shall establish and appoint a two member standing subcommittee of the Board which shall meet monthly or more often to review the District's water supply situation, and which shall report regularly to the Board concerning such situation.
3. This Ordinance shall expire and be of no further force or effect on and after July 1, 1989, unless further extended by subsequent Board action after a duly noticed public hearing. Of course, the Board reserves the power to amend or repeal this Ordinance at any time.
4. This Ordinance is an urgency ordinance for the protection of the public health, safety and welfare, which shall take effect immediately upon its introduction and adoption by a four-fifths vote of the District's Board of Directors.

The reasons for urgency are:

- (1) The uncertainty of the District's rights to extract ground water from both present water supplies and potential water supplies to assure sufficient water to serve the needs of residents now within the District, and

- (2) At least two pending requests for annexation of property with a probable service demand of 133 residential units (62% of the District's current water service availability).

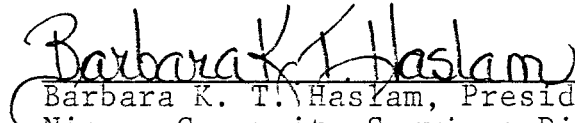
Within 15 days after its adoption, this ordinance shall be published once in a newspaper of general circulation within the District, provided, however, that failure for any reason to so publish shall not affect the validity of the ordinance.

Introduced and adopted on the following roll call vote at a Special Meeting of the Board of Directors on June 10, 1987.

AYES: Directors Peck, Manriquez, Zigler, Small, Haslam

NOES: None

ABSENT: None



Barbara K. T. Haslam, President of the Board
Nipomo Community Services District

ATTEST:


Joyce Chudoba
Board Secretary

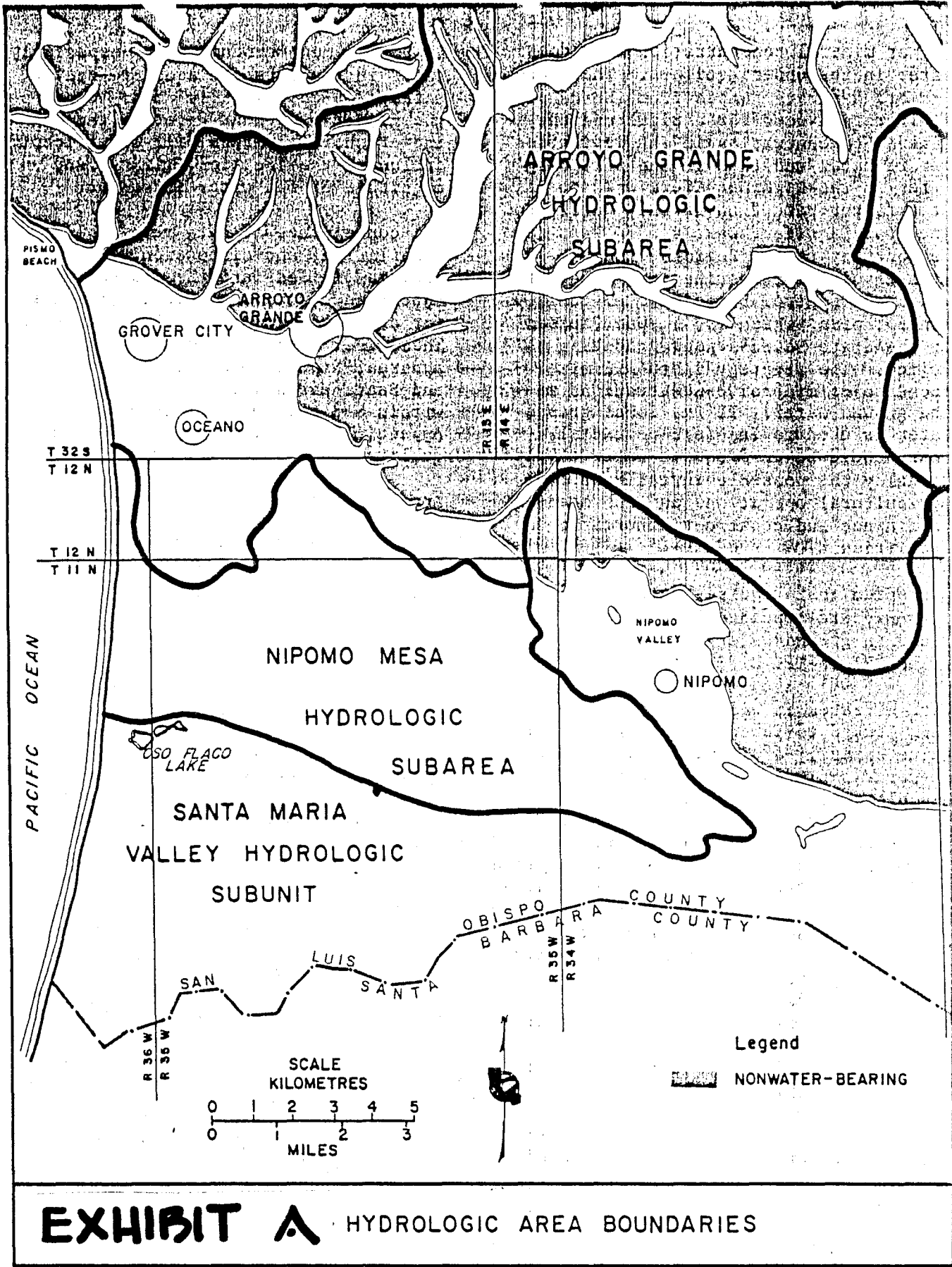


EXHIBIT A HYDROLOGIC AREA BOUNDARIES

DEPARTMENT OF WATER RESOURCES, SOUTHERN DISTRICT, 1979

REVIEW OF WATER RESOURCES REPORTS

NIPOMO MESA AREA

5-19-87

AGENCY INVOLVED	PURPOSE OF REPORT	SUMMARY	DATE AND REFERENCE
① California DWR (Jack Coe)	Ground Water Study Pismo Beach to Santa Maria River	"...Ground water... Adequate...in the Nipomo Mesa... to at least 2000	June 1979 (p.7)
② SLO County (Lawrance)	EIR for Black Lake Project	"...Nipomo Mesa ...does not appear to be in overdraft...	June 1982 (E-2)
③ SLO County (Envicom)	EIR for Bjerre General Plan Amendment	"Water Availability (Proposed Project and Cumulative Development)... no significant impact...not significant to year 2000	August 1984 (pII-5)
④ SLO County (Envicom)	EIR for MPOA General Plan Amendment	"...no overdraft is as yet anticipated based on projected growth of urban and agricultural demands to the year 2000"	Feb. 1985 (p.V-18)
⑤ California DWR (Robert Chun)	SLO County Master Water Plan Update	"...no specific attempt...to identify the basins that are in overdraft...the Arroyo Grande-- Nipomo Mesa portion of the Santa Maria Basin are believed to be in overdraft"	March 1986 (p.9)
⑥ SLO County (Lawrance)	Progress Report on Nipomo Mesa Planning Study	"Based upon... assumptions...the estimated long-term average yield of the Nipomo Mesa Sub-Basin ... (has) a deficiency of about 1800 AFY"	March 1987 (p.II-8)
⑦ SLO County (Lopes)	Study Session Staff Report on South County Area Plan Update	"...Basin is in a modest overdraft condition of approximately 3,680 AFY".	April 1987 (p.2)

EXHIBIT B