

**NIPOMO COMMUNITY SERVICES DISTRICT**  
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August 10, 1998

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**SUBJECT: NIPOMO COMMUNITY SERVICES DISTRICT WATER USAGE**

The District has received correspondence from you requesting information regarding whether there is an overdraft condition in the Nipomo Sub-Area of the Santa Maria Groundwater Basin. You have asked when such a determination was made, what studies and dates were used and what area was included. In addition, you wish to know whether the District has adversely used the water rights of overlying landowners.

In response to your questions, the District has received a legal opinion from the firm of Hatch and Parent. The answers are summarized as follows:

**Nipomo Sub-Area Overdraft**

The District's Board of Directors made the determination in 1987 that there had been an overdraft of the Nipomo Sub-Area of the Santa Maria Groundwater Basin. This determination was based on a number of publicly circulated groundwater studies of the Nipomo Sub-Area.

One report published in March 1996 associated with the San Luis Obispo County Master Water Plan Update indicated the Arroyo Grande-Nipomo Mesa portion of the Santa Maria Basin "are believed to be in an overdraft". The firm of Lawrence, Fisk and McFarland prepared a second report published in March of 1987 for the San Luis Obispo County with a progress report on the Nipomo Mesa Planning Study. It indicated that "...the estimated long term average yield of the Nipomo Mesa Sub-Basin ... (has) a deficiency of about 1800 acre feet per year," A third report published in April 1987 for the County of San Luis Obispo known as the Lopez Report, a staff report on South County Area Update, which indicated that "the basin is in a modest overdraft of approx. 3880 acre/feet per year." Based on these reports, the District announced the existence of an overdraft, referring to the consultant studies and Outlining the borders of the Nipomo Sub-Area in its Ordinance No. 87-51 .

In April of 1994, the Santa Barbara County Water Agency has published a report indicating the Santa Maria Groundwater Basin is in a Current state of overdraft of approx, 20,00 acre/feet per year.

The Department of Water Resources recently published a Draft/Preliminary report of the "Water Resources of the Arroyo Grande-Nipomo Mesa Area" dated May 1998. Although it

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does not specifically address the overdraft conditions, it does note that the "...loss in storage occurred in the Nipomo Mesa and the Santa Mara Valley that has reflected in a significant declining trend that were found in the ground water levels in wells in this area," The conditions described are consistent with the continued overdraft conditions described by the previous reports.

**District Prescriptive Rights**

Since 1987 the District has continuously stated that the Nipomo-Sub Area is in a state of overdraft either separately as a sub-basin or part of the larger Santa Maria groundwater basin based on the documentation from many studies. The District's extraction of groundwater during this period satisfies the adverse requirements of obtaining a prescriptive right, The District, by appropriating the groundwater for resale to its customers, has made an actual, reasonable and beneficial use exclusively and continuously for more than twenty years. The publication of publicly circulated groundwater studies and the District adoption of Ordinance 87-51 in 1987 and the District stating in many of its Board meetings that the Nipomo Sub-Area is in a state of overdraft is notice of the District's open and notorious use of groundwater in the Nipomo Sub-Area. Therefore, the District has acquired a prescriptive right to groundwater in the Nipomo Sub-Area. It is believed that the Cal Cities Water Company, Nipomo Division, may also have acquired prescriptive rights to the groundwater in the Nipomo Sub-Area.

The precise quantity of the District's prescriptive rights would be based on its annual use of extractions during a five-year period of overdraft. During the past five years, the District's average extraction has been approx. 1800 acre/feet/year with the high being over 2000 acre/feet/year and the low being about 1600 acre/feet per year.

Based on the District's legal counsel's opinion, the District has adversely used the water rights and has thus acquired prescriptive rights against the landowners within the Nipomo Sub-Area, however, without knowing their yearly pumping usage, it is impossible to determine the percent of their water the District has adversely used. The determination of water usage in the Nipomo Sub-Area could be developed by consensus through a water agency or be made by a court of competent jurisdiction through adjudication of water rights.

It is hoped that this letter adequately addresses your concerns.

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT

Doug Jones  
General Manager

cc: NCSB Board of Directors

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