San Luis Obispo County

Department of Planning and Building

NOTICE OF EXEMPTION

Pursuant to the California Environmental Quality Act
(CA Public Resources Code §21000 et seq.)

TO:	Office of the County Clerk County Government Center San Luis Obispo, CA

Title of the Action:

Implementation of the Low Reservoir Response Plan for the Lopez Project (Zone 3 of the San Luis Obispo County Flood Control and Water Conservation District)

Location of the Action – Specific:

In the south San Luis Obispo County communities of Arroyo Grande, Pismo Beach, Grover Beach, Oceano, Avila Valley, Avila Beach, and the Arroyo Grande Valley

Location of the Action – County:

San Luis Obispo

Description of Nature, Purpose, and Beneficiaries of the Action:

The proposed action is the San Luis Obispo County Flood Control and Water Conservation District's (District) agreement to implement the municipal and downstream release amounts and protocols specified in the Low Reservoir Response Plan for the Lopez Project. In 2007, the Flood Control and Water Conservation District adopted an Interim Downstream Release Schedule (IDRS) to provide a plan for managing downstream releases from Lopez Dam prior to the approval of the project's Habitat Conservation Plan (HCP). Included in the IDRS is a Low Reservoir Response Plan (LRRP) consisting of a methodology to assess near term reservoir levels and a set of actions that could be taken to mitigate the impacts of low reservoir levels. In response to the current drought, the Zone 3 Technical Advisory Committee has developed municipal delivery and downstream release amounts to ensure delivery of water to urban water contractors, downstream agricultural users, and in-stream environmental values, for the longest feasible period in the event current drought conditions continue.

Name of Public Agency Approving the Action:

San Luis Obispo County Flood Control and Water Conservation District
County Government Center Room 206
San Luis Obispo CA 93408
(805) 781-5252

Name of Person or Agency Carrying Out the Action:

San Luis Obispo County Department of Public Works

Exempt Status:

The activity is statutorily exempt from CEQA pursuant to:

1. CEQA Section 21169 and State CEQA Guidelines section 15261(a) (ongoing projects; and

2. CEQA Section 21080(b) (5) and State CEQA Guidelines Section 15269(c) (specific actions necessary to prevent or mitigate an emergency).

Reasons why the action is exempt:

Adoption and implementation of the LRRP by the District for the Lopez Water Project (Zone 3) is not subject to the requirements of the California Environmental Quality Act (CEQA) for each of the following reasons:

<u>Statutory Exemptions</u>

1. Ongoing Project

The California Environmental Quality Act (CEQA) applies only to discretionary government activities that have the potential for a significant effect on the physical environment. However, CEQA exempts certain activities that were approved prior to November 23, 1970 as "ongoing projects". According to the State CEQA Guidelines (Title 14 California Code of Regulations) section 15261(a):

> If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:
>
> > (1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or

> halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.
> (2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

Lopez Dam was built in 1968 and filled to capacity in 1969. Since its construction, the dam has operated with municipal contracts and downstream release schedules as a normal, intrinsic part of the ongoing operation of the reservoir (see *Nacimiento Regional Water Management Advisory Commission v. Monterey County Water Resources Agency* (2d Dist. 1993) 15 Cal. App. 4th 200, 207-208 [19 Cal. Rptr. 2d 1] (*Nacimiento*). These schedules have been adjusted over time to address various changes in requirements, primarily in response to changing downstream and environmental needs. However, modifying municipal and downstream release volumes has been a key part of the operation of the reservoir since its construction.

The downstream release amounts proposed in the LRRP downstream releases, at or above inflow amounts, will occur for the months of June, July, August, and September both to ensure adequate water for in-stream environmental uses but also for agricultural uses. Should the reservoir fall to below 5,000 acre feet in storage, summer downstream releases will be adjusted to match in-flows, thereby ensuring that the LRRP will have no effect on downstream environmental needs. In a continuing drought such releases would continue until such time as releases from the dam are no longer possible, at approximately 4,000 acre feet in storage. As a result, implementation of the LRRP will have no new significant effects on the environment.

2. Emergency Project

Section 15269(c) of the State CEQA Guidelines concludes that the following emergency projects are exempt from the requirements of CEQA.

> (c) Specific actions necessary to prevent or mitigate an emergency. This does not include long term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

Adoption and implementation of the LRRP will help ensure that a water supply emergency of critical proportions does not occur within the next 3-4 years in Zone 3 under current drought conditions. Because the LRRP is effective only when reservoir levels drop below 20,000 acre feet in storage and the system is under an emergency proclamation by the Board of Supervisors, the LRRP is not a long-term change in water delivery or downstream release rates.

Never-the-less, this notice of exemption will not exempt future actions that may arise from the on-going operation and maintenance of the Lopez Water Project. Future activities that fall within the CEQA definition of "project" and are not otherwise exempt in their own right will require compliance with CEQA.

Lead Agency Contact Person	**Area Code**	**Telephone**
Mark Hutchinson, Deputy Director Department of Public Works	(805)	781-5252

Ellen Carroll

Ellen Carroll, Environmental Coordinator
County of San Luis Obispo

Nov. 18, 2014

Date