

RESOLUTION NO. 2016-xxx

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LAKE DON PEDRO COMMUNITY SERVICES DISTRICT
EXTENDING THE EMERGENCY DECLARATION PURSUANT TO
PUBLIC CONTRACT CODE §§ 22035 AND 22050**

The Board of Directors of the Lake Don Pedro Community Services District does hereby find:

WHEREAS, the Lake Don Pedro Community Services District (“District”) is a California community services district formed and existing under the provisions of the California Community Services District Law, codified at Government Code §§ 61000-61144, and all acts and laws amendatory thereof or supplementary thereto, and possessing all the powers thereof; and

WHEREAS, prior hereto, the District has adopted Resolution Nos. 2014-02 on February 18, 2014 and Resolution 2014-09, on December 3, 2014 respectively (the “Resolutions”); and

WHEREAS, the Resolutions established water conservation measures in response to the Governor’s drought and state of emergency proclamations of January 17, 2014 and April 25, 2014; and

WHEREAS, the District has determined that the remaining water supply in Lake McClure is inadequate to meet domestic, sanitation and fire protection purposes for the foreseeable future (declarations in Resolutions 2014-02, 2014-09 and 2015-15); and

WHEREAS, the Merced Irrigation District (MID) has notified the District that the current Temporary Urgency Petition approved by the State Water Resources Control Board (SWRCB) and Federal Energy Regulatory Commission (FERC) allowing the District to divert water from Lake McClure below minimum pool of 115,000 acre feet will expire December 31, 2015; and

WHEREAS, state and federal restrictions have prohibited the District from pumping water from its primary Lake McClure water supply beginning on December 31, 2015 and extending until the reservoir storage rises above 115,000 acre feet; and

WHEREAS, the District’ current water supply is only derived from the emergency wells, which are in various stages of construction, with additional construction work required to be completed as quickly as possible to allow for continuous temporary use of the new wells as the sole water supply of the District when Lake McClure once again drops below the District pumps; and

WHEREAS, it is unreasonable and unnecessary to begin the related competitive bidding

processes for the small portions of the work remaining as of this date, and completion of construction on the wells including SCADA controls, permanent piping, fencing and site grading is expected to be completed within 60 to 90 days of adoption this resolution; and

WHEREAS, development of plans, specifications, notices, public bidding and other administrative requirements of the Public Contract Code needed for public bidding of the remaining well construction work will extend the construction by an additional 90 to 120 days or longer past the above stated construction time; and

WHEREAS, after three years of sitting idle, the status of the operational condition of the existing pumping system at Lake McClure is unknown, and the well water supply is necessary in the event of main pump failure. Completion of construction of the projects is immediately needed on an emergency basis to avoid a water supply outage and health and safety crisis in the community; and

WHEREAS, Public Contract Code § 22035 provides that in cases of emergency the District Board, as the governing body of the District, may (and upon compliance with Public Contract Code § 22050) proceed without giving notice of bids to let contracts; and

WHEREAS, Public Contract Code § 22035 also provides that the governing body may delegate to the appropriate agency manager the power to declare an emergency and/or proceed with repairs or replacements without approval by the Board; and

WHEREAS, Public Contract Code § 22050 provides contracting procedures without giving notice for bids to let contracts for these emergencies; and

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, BE IT RESOLVED by the Board of Directors of the Lake Don Pedro Community Services District, that the District hereby adopts the following to be effective immediately and throughout the duration of the water supply emergency:

1. All findings in Resolutions 2014-02, 2014-09 and 2015-15 are incorporated herein.
2. All of the foregoing recitals are true and correct, and are incorporated herein.
3. The emergency conditions and needs declared in Resolution 2015-13 remain in effect and are extended by adoption of this Resolution.
4. The Board finds on the basis of the foregoing, including all matter incorporated by reference in the foregoing, that a continuing grave water supply emergency is facing the District such that the time required for the notice and advertisement for public bids would preclude timely action by the District to secure an alternate or supplemental water supply before the District's Lake McClure supply is not available due to drought, low water levels and regulatory requirements on governing water use from Lake McClure.
5. The Board finds that due to the water supply emergency, that pursuant to Public Contract Code § 22035, public bidding to let contracts to secure an alternate or supplemental water

- supply will not be given.
6. The Board further finds that due to the water supply emergency, that pursuant to Public Contract Code § 22050, public bidding to let contracts to secure an alternate or supplemental water supply will not be given, in that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.
 7. The Board, pursuant to Public Contract Code § 22050(b), hereby delegates to the District General Manager the authority to order any action pursuant to Public Contract Code §22050(a)(1).
 8. The Board shall review the above emergency action pursuant to the requirements of Public Contract Code § 22050(c).
 9. This Resolution is effective immediately upon its adoption.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Lake Don Pedro Community Services District on May 16, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Danny Johnson, President, Board of Directors

ATTEST:

Syndie Marchesiello, Secretary

CERTIFICATE OF SECRETARY

STATE OF CALIFORNIA)
)
 COUNTY OF MARIPOSA)

I, Syndie Marchesiello, the duly appointed and Secretary of the Board of Directors of the Lake Don Pedro Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Lake Don Pedro Community Services District, duly called and held at the District office at 9751 Merced

Falls Road, La Grange, CA 95239, on May 16, 2016.

DATED:

Syndie Marchesiello, Secretary