

ORDINANCE NO. 92

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT DECLARING A WATER SHORTAGE EMERGENCY AND PROVIDING FOR RESTRICTIONS ON USE OF WATER AND PENALTIES FOR FAILURE TO COMPLY WITH CONSERVATION MEASURES

WHEREAS, the Montecito Water District (“District”) is a County Water District organized and existing under the laws of the State of California, situated and serving an area entirely within the County of Santa Barbara;

WHEREAS, The District’s dependence on surface water supplies and the adverse effects of unpredictable and unreliable rain have been the primary reasons for historical water shortages. Rainfall for the last three consecutive years has been well below the historical average at 53% in 2011, 31% in 2012 and 7% to date for 2014. The below average rainfall has resulted in no recharge to the District’s local water supplies including Jameson Lake, Lake Cachuma and the groundwater basin resulting in a significant reduction of the normal available water supply;

WHEREAS, Local water supplies continue to decline with Jameson Lake and Doulton Tunnel water supplies severely restricted providing an estimated 810 acre feet (“AF”) during the current water year which began October 1, 2013. During normal years these two sources provide approximately 2100 AF of water;

WHEREAS, Due to the dry weather conditions affecting the entire State of California, the District’s imported State Water Project supply has been set by the Department of Water Resources at a historically low allocation of 0% of the District’s total annual allocation of 3,300 AF;

WHEREAS, The loss of private wells due to decreased groundwater levels through the lack of groundwater recharge and continuing dry weather conditions has led to an alarming increase in customer demand. For the 2012-13 water year, water sales through December 2012 were 1,217 AF. In contrast, water sales for the current 2013-2014 water year through December 2013 increased by approximately 320 AF. Given current trends, projected water sales through the end of the 2013-14 water year are estimated to be 6,638 AF;

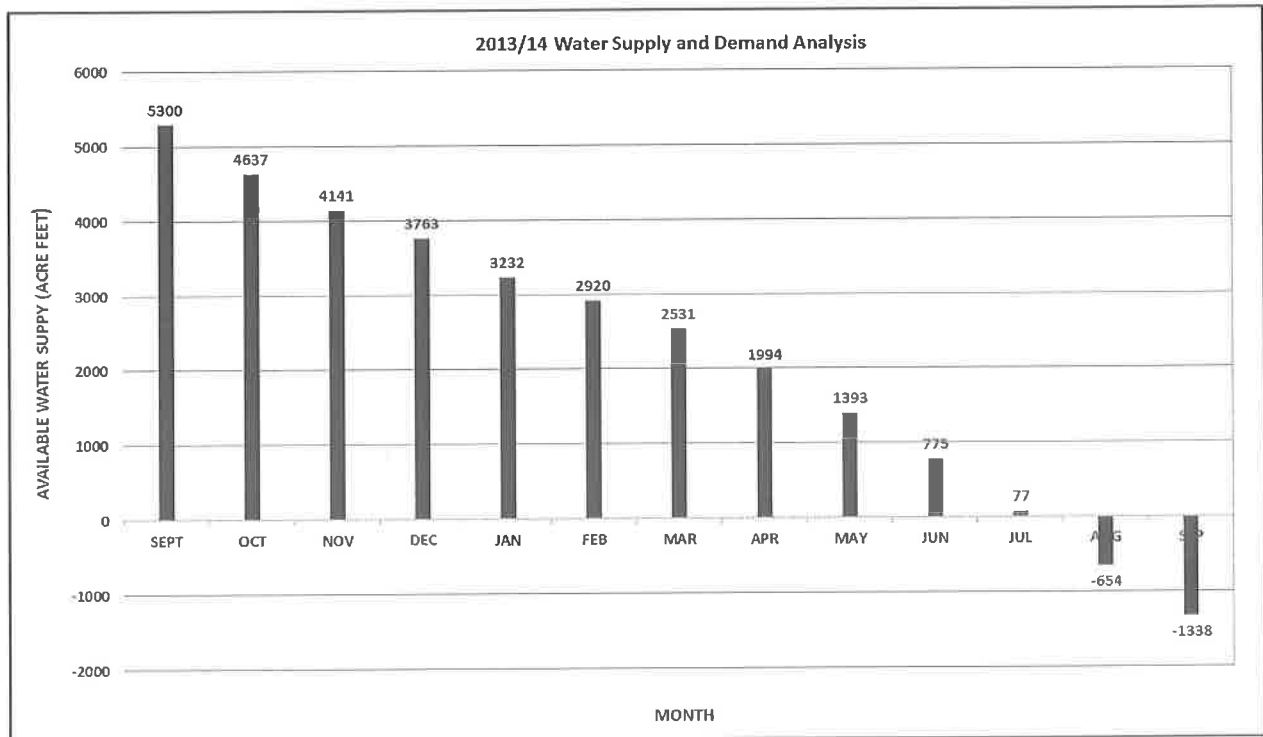
WHEREAS, For the 2013-14 water year, assuming no mandatory cutbacks in the Cachuma Project water deliveries, the District will have a total estimated water supply of 5,300 AF, including losses and excluding sources with unknown delivery amounts;

WHEREAS, The following table and graph show the 2013-14 water year with the available water supply of 5,300 AF. This table and graph illustrate the monthly change to the available water supply without conservation or water use restrictions applied. The water demand values include actual demand for the period October 2013 through January 2014. Demand values from

February 2014 through September 30, 2014 are the recorded customer water demand for the period February 2013 through September 30, 2013 even though demand has continued to increase. This estimate assumes continuing dry weather conditions.

20013 -14 WATER SUPPLY AND DEMAND ANALYSIS

MONTH	DEMAND	REMAINING SUPPLY
OCT	663	4,637
NOV	496	4,141
DEC	379	3,763
JAN	531	3,232
FEB	312	2,920
MAR	389	2,531
APR	537	1,994
MAY	601	1,393
JUN	618	775
JUL	698	77
AUG	731	-654
SEP	684	-1,338



WHEREAS, If dry weather conditions continue and water consumption levels remain similar to those in the 2012-13 water year, the District will exhaust its available 2013-14 water supply in July unless there is an immediate 30% reduction in water use or the District is able to find supplemental water. The use of the water supply for fire protection purposes will only exacerbate this situation.

WHEREAS, Pursuant to its authority under section 350 of the Water Code, the District may declare a water shortage emergency condition when it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, Pursuant to section 353 of the Water Code, after declaring a water shortage emergency, the District may adopt restrictions on the consumption of water in order to conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection; and

WHEREAS, Section 31026 of the Water Code similarly permits the District to restrict use of water during any emergency caused by drought, and to prohibit the wastage of water during such periods;

WHEREAS, Notice of a time and place of a public hearing held on February 11, 2014 was duly given and published, and customers were given an opportunity to be heard and protest against a declaration that a water shortage emergency condition prevails within the District, and protests and testimony were duly received and considered by the District's Board of Directors ("Board" or "Board of Directors").

WHEREAS, On February 11, 2014, the Board of Directors adopted this Ordinance 92, under which the Board declared a water shortage emergency condition pursuant to Water Code section 350 and adopted restrictions on water use, including the cessation of processing all applications for new water service, other than those permitted by the District through its ongoing Certificate of Water Service Availability process.

WHEREAS, Notwithstanding continuing uncertainty in the District's water supply under which the Board's declaration of a water shortage emergency remains in effect, the Board now desires to process certain new water service applications for which the District issued a permit prior to the April 15, 2008 effective date of Ordinance 89.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT AS FOLLOWS:

On the basis of prevailing dry weather conditions, water supply shortages, customer demand that cannot be met by available sources without depleting the District's water supply to the extent that

there would be insufficient water for human consumption, sanitation, and fire protection, the Board hereby continues its declaration of a water shortage emergency condition pursuant to Water Code section 350. Under this water shortage emergency, restrictions on water use are hereby adopted and include the following:

1. The District will immediately cease processing all applications for new water service and the increase in the size of an existing water meter(s) serving properties within its service boundary. This suspension will not affect those new water meter services that have been permitted by the District through its ongoing Certificate of Water Service Availability process; nor will this suspension affect new water meter service for which the District issued a permit prior to the April 15, 2008 effective date of Ordinance 89, provided that the project requiring new water meter service includes the installation of state-of-the-art water conservation technology subject to approval by the General Manager, and that the estimated water usage for the project does not exceed the Maximum Available Quantity, as determined under Ordinance 89.
2. Exterior irrigation, including but not limited to irrigation of turf, plants, lawns, shrubbery and ground cover, shall be permitted according to the following schedule: if automated, irrigation shall be allowed only between the hours of 7 p.m. and 7 a.m. If manually operated, irrigation shall be allowed only between the hours of 4 p.m. and 10:30 a.m. Written requests for relief from these irrigation restrictions shall be directed to the District's General Manager ("General Manager") and will be subject to the appeal process in Section 13 of this ordinance.
3. Water for private swimming pools is considered a non-essential use. Homeowners of private swimming pools are permitted to maintain water levels for existing pools but shall not drain and refill an existing pool. All swimming pool owners with pool covers shall cover pools when not in use. On written application to the General Manager for an exception, a property owner may be authorized to drain a pool for repair and to refill it, provided that:
 - a. The General Manager finds a net benefit to the water conservation goal of this ordinance;
 - b. The pool can be refilled within the property's water allocation; and
 - c. The pool shall be fitted with a pool cover and the property owner shall use that cover consistently to limit evaporation.A property owner granted an exception under this paragraph shall comply with reasonable written conditions imposed by the General Manager and failure to do so shall constitute a violation of this ordinance.
4. District water is not available for new private or public swimming pools, ponds, or major water features during the water shortage emergency, therefore, the District will immediately cease processing all applications for these items. If a new swimming pool, pond, or water feature has been previously reviewed and approved by the District prior to the date of this Ordinance and the property owner elects to continue with its installation, it must be filled within the property's water allocation. The District will not permit or

provide approval for the construction of new private and public swimming pools, ponds, or major water features within its water service boundary while this Ordinance is in effect.

5. All restaurants and other eating establishments that provide table service shall post, in a conspicuous place, a notice of drought condition and shall refrain from serving water except upon specific request by a customer.
6. Operators of hotel-resorts, motels and other commercial establishments offering lodging shall post in each room a notice of drought condition containing water conservation information and a separate notice with language similar to the following:

This region is suffering a serious water shortage. Sheets and towels are customarily changed between guests. If you would like your sheets to be changed, please leave this card on your pillow. If you would like your towels to be changed, please leave them on the floor of the bathroom. Housekeeping will be pleased to accommodate you.

7. Vehicles shall be washed only at commercial car washing facilities or by the use of a bucket or hose equipped with a hand-operated shut off valve.
8. The washing of hard surfaces such as driveways, sidewalks, patios and parking lots is prohibited except where necessary to protect health and safety.
9. Breaks or leaks in any customer's plumbing must be immediately repaired upon discovery. If repairs cannot be immediately completed, water service to the property shall be turned off by the customer or customer's agent to prevent water loss until such time as the repair has been completed.
10. All customers are encouraged to practice water conservation with a goal of a minimum thirty percent reduction in district-wide water use.
11. The penalties for violation of this Ordinance will fund both conservation outreach toward those who fail to conserve water and the purchase, if available, of additional, very costly, water supplies to offset wasteful consumption and protect the health and safety of all customers. Because these costs are necessary to provide water service under current drought conditions, the Board finds that the rates for water service, including penalties established under this Ordinance:
 - a. Are not expected to exceed the funds required to provide water service.
 - b. Will not be used for any purpose other than to provide water service and conservation outreach.
 - c. Will not exceed the proportional cost of water service attributable to any parcel.
 - d. Are imposed only where water service is actually used by, or immediately available to, a parcel.

12. A written warning will be issued for a first violation. As a penalty for the second violation, and any subsequent violation, of restrictions set forth herein, the District will impose a fine in the amount of \$250 and doubling with each subsequent violation, up to a maximum of \$1,000 for any single violation. Upon a fourth violation, or upon an earlier violation the General Manager determines to create a significant threat to the goals of this Ordinance, the General Manager may order installation of a flow restrictor on the service line or lines in question. Such an order shall be written and subject to appeal pursuant to paragraph 13 of this Ordinance. Orders shall be provided to the Board when issued and any appeal shall be heard as quickly as possible to allow a flow restrictor to be removed promptly should the Board grant the appeal.

13. Appeals and Exceptions.

- A. Any customer may appeal any decision made or fine imposed under this Ordinance to the Board of Directors by filing a written appeal with the District within 30 days of written notice of the decision or fine. Such an appeal shall be accompanied by an appeal fee in an amount established from time to time by resolution of the Board of Directors. If a person appeals any fine under this Ordinance, all amounts due to District must be paid before the Appeals Committee will hear the appeal and the Appeals Committee may dismiss an appeal for nonpayment, making the action appealed final as to the District and not subject to further appeal. The Appeals Committee will hear the appellant and make a recommendation to the Board of Directors. The Board of Directors shall consider the recommendations of the Appeals Committee. The District shall give the appellant written notice of the meetings at which the appeal will be considered by the Appeals Committee and the Board.
- B. The Board of Directors may, in its discretion, continue a hearing, affirm, reverse, or modify the Appeals Committee's recommendation and make any adjustments and impose any conditions it deems just and proper, if it finds two or more of the following: (1) the restrictions of this Ordinance would cause an undue hardship, (2) the granting of the appeal will not significantly adversely affect the goals of this Ordinance, (3) due to peculiar facts and circumstances, none of the provisions of this Ordinance are applicable to the situation under consideration; or (4) error in the application of this Ordinance or other applicable rules or law.
- C. The Board's decision shall be written and provided to the appellant and any other person who requests notice of the decision in writing. Such decisions are final as to the District and not subject to further appeal unless the Board's decision expressly provides otherwise. Judicial review of final decisions shall be available pursuant to California Code of Civil Procedure section 1094.5.

14. If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions,

paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

15. This Ordinance shall become effective upon adoption and shall remain in effect until the Board declares that a water shortage emergency no longer exists.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Montecito Water District this 21st day of March 2017.

AYES: Directors Frye, Morgan, Plough, Shaikewitz, and Wicks


NAYS: None

ABSENT: None

APPROVED:



Richard Shaikewitz, President

ATTEST:


Nicholas Turner, Secretary

APPROVED AS TO FORM AND CONTENT


Robert Cohen, District Counsel 3/23/17


Michael Colantuono, Special Counsel 3/23/17