

ORDINANCE NO. 95

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTECITO WATER DISTRICT CONTINUING THE DECLARATION OF A WATER SHORTAGE EMERGENCY, PROVIDING FOR MODIFICATION TO RESTRICTIONS ON USE OF WATER AND SUPPORTING ONGOING CONSERVATION MEASURES

WHEREAS, the Montecito Water District is a County Water District formed under and pursuant to Section 30000, et seq. of the California Water Code, located in and serving the unincorporated areas of Montecito and Summerland within the County of Santa Barbara; and

WHEREAS, between 2012 and 2016 the State of California experienced the driest consecutive 5-year period on record resulting in depleted surface water and groundwater supplies across the state including Santa Barbara County; and

WHEREAS, the District's dependence on state, regional and local surface water supplies and the adverse effects of unpredictable and unreliable rainfall have been the primary reasons for its historical water shortages; and

WHEREAS, drought conditions persisted throughout Santa Barbara County between 2012 and 2016; The county-wide percent of normal rainfall recorded was 66% in 2012, 46% in 2013, 41% in 2014, 55% in 2015 and 70% in 2016, resulting in minimal, if any inflow to the local surface water reservoirs including Cachuma and Jameson Lakes. These local surface water supplies, which historically provide over 75% of the District's annual water supply, reached historic lows in 2016 with the percent of full storage capacity in Cachuma and Jameson Lakes reaching all-time lows of 7% and 9%, respectively. The five consecutive years of below-normal rainfall resulted in a significant lowering of the groundwater level in the Montecito Groundwater Basin aquifer, causing many groundwater wells, both public and private to go dry; and

WHEREAS, because the drought conditions affected the entire state, the Department of Water Resources provided a State Water Project supply allocation of 35% in 2013, 5% in 2014, 20% in 2015 and 60% in 2016 of the District's total annual allocation of 3,300AF. As a result of the reduced State Water Project supply allocations and the decline of local surface water supplies, the District relied heavily on purchasing supplemental water through the Central Coast Water Authority's Supplemental Water Purchase Program to offset the reduction in State Water Project imports, purchasing over 13,000AF between 2013 and 2016; and

WHEREAS, in February 2014 following more than two years of below average rainfall, declining local and state surface water supplies, alarming increases in customer water use which reached upwards of 6,100 acre feet per year (AFY) in 2013, and a limited available supply projected in 2014 at 5,300AFY, the District took necessary action adopting Ordinance 92 declaring a water shortage emergency and implementing restrictions on certain uses of water and fines for failure to comply with the conservation measure. The District also adopted Ordinance 93 establishing monthly customer water use allocations and penalty rates for consumption in excess of allocation in accordance with *Stage 4* drought conditions as outlined in the District's *Urban Water Management Plan*. Subsequently, on March 24, 2015 the District adopted

Ordinance 94 increasing the monthly customer water use allocations adopted under Ordinance 93; and

WHEREAS, through the implementation of Ordinances 92, 93 and 94 and voluntary water conservation by District customers, the District was successful under extraordinary drought conditions in reducing customer water use by nearly 50%, reaching a historic low customer demand in 2016 of approx. 3,100 acre feet per year; and

WHEREAS, following the five (5) driest consecutive years on record, a winter of historic proportions (pineapple express conditions) blanketed the State with significant rain and snow between December 2016 and April 2017, filling and spilling Lake Oroville, San Luis Reservoir and many more of the state's major reservoirs in approximately one month's time. The District lost approx. 5,000 AF of purchased and banked supplemental water stored in San Luis Reservoir at the time of spill. The surplus of surface water supplies across the state resulted in an increase in the State Water Project allocations for 2017 to 85% (2,805 acre feet), the highest State Water Project allocation since 2006; and

WHEREAS, on February 17, 2017, a powerful winter storm hit Santa Barbara County bringing nearly 8-inches of rainfall to the region including the San Ynez River upper sub-basin watershed over a 48-hour period producing significant inflow at both Cachuma and Jameson Lakes. Reservoir levels at both Cachuma and Jameson Lakes rose to and remain at approximately 50% and 60%, respectively, of their full storage capacities, approximately the same as in 2013 prior to District Ordinance 92, declaring a water shortage emergency; and

WHEREAS, the increase in available surface water supplies in Lake Cachuma resulted in the United States Bureau of Reclamation (USBR) issuing a 2017 mid-year Cachuma Project allocation of 40% or 1,060 acre feet, the first Cachuma project allocation issued since October 2014, with a similar allocation anticipated at the beginning of the 2017/18 water year on October 1, 2017; and

WHEREAS, in March 2017, recognizing the improved water supply conditions both locally and statewide, the District suspended Ordinance 94 penalties for water use in excess of monthly customer water use allocations with the intent of re-evaluating all other water use restrictions included in the District's drought emergency ordinances in the near future; and

WHEREAS, on April 7, 2017, the Governor of the State of California issued executive order B-40-17 terminating the January 17, 2014 Drought State of Emergency for nearly all counties in the State, including Santa Barbara County and retaining the provisions contained in Executive Order B-37-16 *Making Water Conservation a California Way of Life*; and

WHEREAS, based on the improved water supply conditions, the District projects having adequate water supplies to accommodate a maximum customer demand or sales level of approx. 4,300 AFY, a moderate increase in customer usage of 38% above the 2016 historically low customer demand level of 3,100 AFY, for the next three (3) consecutive years. This achieves compliance with The Water Conservation Act of 2009 (Senate Bill X7-7), as detailed in the District's adopted *2015 Urban Water Management Plan Update*. At 4,300 AFY of sales, the

District would achieve approx. 30% conservation by District customers when compared to the 2013 baseline usage of approx. 6,100AFY; and

WHEREAS, all District customers are encouraged to continue to practice water conservation with a goal of a minimum thirty percent (30%) reduction in District wide water use as compared to 2013 usage.

WHEREAS, despite the winter precipitation, the effects of the drought persist in Santa Barbara County, including only partial recovery of both Cachuma and Jameson Lakes and a groundwater basin that has yet to demonstrate measurable recharge as compared to 2016 conditions. Absent the February 17, 2017 storm event, Santa Barbara County would likely still be experiencing extraordinary drought conditions. Although State, regional and local surface water conditions have improved substantially, it is uncertain whether the drought has ended, particularly in Santa Barbara County, or whether the February storm event was an anomaly with drought conditions remaining. In addition, there is some uncertainty as to the impact that the recent Whittier Fire in the Santa Ynez watershed area, will have on the water quality in Lake Cachuma. Heavy storm events may cause significant ash to end up in Lake Cachuma negatively impacting water quality.

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

On the basis of the historic drought that affected the entire State of California from 2012 to 2016, a 2016/17 winter that failed to bring Santa Barbara County sufficient rain, as elsewhere in the state, to fully recover from the drought, groundwater supplies that remain depleted and will likely take several years to recover under normal rainfall conditions, local surface water reservoirs that remain approx. 50-60% of their full storage capacity, and the uncertainty as to whether the historic drought has ended, the Board hereby continues its declaration of water shortage emergency conditions pursuant to Water Code section 350 and the District's Urban Water Management Plan, reducing the declared drought stage from Stage IV to Stage II conditions. Under this water shortage emergency, restrictions on water use for all District customers are hereby modified as follows:

1. Repeal of Ordinances 92 and 94. Ordinances 92 and 94 are hereby repealed in their entirety including monthly customer water use allocations and penalties and replaced with this Ordinance 95.
2. Prohibition Against Waste of Water. It shall be unlawful for any District customer obtaining any water from and through the distribution facilities of the District to waste any of that water.
3. Customer Water Use Limitation. Water use within the District's service area continues to be limited to that allowed under Ordinance 89.
4. Water Use Restrictions.
 - a. Issuance of New Water Meters

- i. Except as provided in subdivision (a)(ii) below, the District will continue its temporary prohibition on processing all applications for new water service and requests to increase the size of an existing water meter(s), except for those increases needed to meet fire sprinkler flow requirements, 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.
- ii. Notwithstanding the general prohibition in subdivision (a)(i) above, new water meters may be issued under certain emergency circumstances set forth below, at the discretion of the General Manager.
 - 1) Under limited emergency circumstances, new water service may be issued to a property currently not receiving water service from the District and located within the District's service boundary for purposes of meeting public health and sanitary needs.
 - 2) Parcels currently receiving water service from the District and/or that have access to another potable water supply are not eligible for a new meter under this emergency provision.
 - 3) All water meters issued under an emergency circumstance, shall be 1-inch or smaller in size unless expressly authorized by the General Manager.
 - 4) Issuance of water meters under these emergency circumstances are subject to all applicable charges, including connection and capital recovery fees, and must be paid in full before water service can be provided.
 - 5) Water meters issued under this emergency provision become permanent District meters.
 - 6) New water meters issued as a result of this provision must comply with all District rules and regulations including all water use restrictions and Ordinance 89.
- b. A transfer of a water meter from one property to another may be permitted by approval of the General Manager, only if the donor property owner and the recipient property owner can demonstrate that there will be no increase in water

demand resulting from such transfer. If the recipient property is undeveloped, a review of proposed development and estimated water demand calculations will be required. Any approved transfer of a water meter shall be permanent.

- c. Temporary construction meters may be issued for work being performed within the District's service boundary only.
- d. 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 General Manager and will be subject to the appeal process in Section 5 of this ordinance. This provision is applicable to all customer classifications excluding agriculture.
- e. Water for private swimming pools, spas, and hot tubs is considered a non-essential use. Property owner with new and existing private swimming pools, spas and hot tubs are permitted to maintain water levels, and to drain and/or fill only once every five (5) years upon application and written authorization from the District. All swimming pool owners with pool covers shall cover pools when not in use. On written application and at the discretion of the General Manager, a property owner may be authorized to drain a pool for repair and to refill it.
- f. Water for ponds is considered a non-essential use. Property owners with existing lined ponds are permitted to maintain water levels. On written application and at the discretion of the General Manager, a property owner may be authorized to drain ponds for repair and to refill them. Water for new ponds must be supplied by an alternate water source.
- g. All restaurants and other eating establishments that provide table service shall refrain from serving water except upon specific request by a customer.
- h. 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.
- i. The washing of hard surfaces such as driveways, sidewalks, patios and parking lots is prohibited except where necessary to protect health and safety. Pressure washing for maintenance or repair is permitted.
- j. 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.
- k. Fines for violation of this Ordinance will fund both conservation outreach toward those who fail to avoid wasteful water use practices or conserve water and the

purchase, if necessary, of additional 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 continued drought conditions, the Board finds that the rates for water service, including fines established under this Ordinance:

- i. Are not expected to exceed the funds required to provide water service.
 - ii. Will not be used for any purpose other than to provide water service.
 - iii. Will not exceed the proportional cost of water service attributable to any parcel.
 - iv. Are imposed only where water service is actually used by, or immediately available to, a parcel.
1. A written warning will be issued for a first violation of this section. The District will impose a fine in the amount of \$250 for the second violation, 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, if the General Manager determines these violations are creating a significant threat to the goals of this Ordinance, the General Manager may issue a written order for the installation of a flow restrictor on the service line or lines in question. 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.

5. 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 and refundable should the appeal be granted. 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 one 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.
6. Suspension of Conflicting Ordinances and Rules and Regulations. To the extent that the terms and provisions of this Ordinance are inconsistent, or in conflict with the terms and provisions of any prior District Ordinances, Resolutions, Rules, or Regulations, the terms of this Ordinance shall prevail and inconsistent and conflicting provisions of prior Ordinances, Resolutions, Rules, or Regulations shall be suspended during the effective period of this Ordinance.
7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, that invalidity shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be invalid.
8. Effective Date. 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 23rd day of August 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

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Nicholas Turner, Secretary

APPROVED AS TO FORM AND CONTENT



Robert Cohen, District Counsel