

Ordinance No. 89

AN ORDINANCE OF THE GOVERNING BOARD
OF MONTECITO WATER DISTRICT
PLACING LIMITATIONS ON WATER DISTRIBUTION
TO LAND WITHIN THE DISTRICT

WHEREAS the Montecito Water 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, State of California; and

WHEREAS the District, pursuant to Section 31020 of the California Water Code, may do any act necessary to furnish sufficient water in the District for any present or future beneficial use; and

WHEREAS the District, pursuant to Section 31025 of the California Water Code, may establish rules and regulations for the sale, distribution and use of water; and

WHEREAS the District, pursuant to Sections 31026 of the California Water Code, may restrict the use of district water during any emergency caused by drought, or other threatened or existing water shortage, and prohibit the wastage of water during such periods; and

WHEREAS the District, pursuant to Section 31026 of the California Water Code, may prohibit the use of district water for any purpose other than household uses or uses determined necessary by the District and also may prohibit use for other non-essential uses identified by the District;

THEREFORE, the Board of Directors of the District now FINDS AND DECLARES the following:

- A. In 2007, the total demand for water exceeded the District's reliable supply of 5700 acre feet by approximately 600 acre feet.
- B. In addition to serving its existing customers, the District responds to each application for a Certificate of Water Availability from owners of land within the District who are seeking permits from the County of Santa Barbara or the City of Santa Barbara for new or expanded development.
- C. The subdivision of land into multiple developable parcels; the development of previously unimproved land, and redevelopment of improved land, with large residences and extensive landscaping; and the redevelopment of commercial and institutional uses into larger units are resulting in an increased demand on the District's limited water supply.

D. A water shortage condition currently exists because the reliable supply of water will not meet the projected demand of District consumers in the current year and in years following.

E. The District has sought additional sources of water to be drawn upon to overcome anticipated shortages but has not located sufficient additional sources to resolve this concern.

F. Because the District expects the water shortage condition to continue, the District will not be able to provide Certificates of Water Availability to all those who seek them unless it establishes an equitable methodology for restricting the availability of water for new service connections and expanded service to existing connections.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Montecito Water District as follows:

1. As of the Effective Date of this Ordinance, every subdivision of land within the District, and every change in the use of land within the District that requires a permit or approval of any kind from the County of Santa Barbara or the City of Santa Barbara, shall require a Certificate of Water Availability issued by the District. Property owners shall be responsible for applying for a Certificate of Water Availability before commencing construction on a project, regardless of whether the City or County requires presentation of a Certificate before issuing required permits. The District General Manager will issue a Certificate of Water Availability if he finds that service can be made available to the property, that the project requiring the Certificate will include the installation of state-of-the-art water-saving technologies, and that estimated water usage for the project is within a reasonable range of the Maximum Available Quantity as determined under this Ordinance. The District General Manager may require a property owner to provide, at owner's expense, a qualified expert's analysis of estimated water usage or other water-related aspects of the project before making his determination and may require, at owner's expense, a peer review of owner's expert's data by a qualified expert selected by the District.

a.. For purposes of this Ordinance, a change in the use of land may include, but is not limited to, addition of new habitable structures or replacement of existing ones; expansion of square footage of existing structures; construction of amenities or accessory structures such as swimming pools, tennis courts or cabanas; and/or extensive grading for new agricultural crops or landscaping material.

b. For purposes of this Ordinance, subdivision of land includes any division or redivision of a legal parcel or parcels into smaller legal parcels, whether through subdivision under the California Subdivision Map Act or by approval of certificates of compliance with that Act for previously-identified parcels, but does not include a lot line adjustment that does not result in an increase in the number of legal parcels.

2. Every property subject to this Ordinance measuring one acre or more shall receive a maximum of one acre-foot of water per year, subject to exceptions provided herein. If a property measures less than one acre, the District will make available a pro rata portion of one acre foot of water, based on the portion of one acre included in the property. For purposes of this computation, a property includes one or more legal parcels served or proposed to be served by a single service connection.

3. Notwithstanding the limitations of Paragraph 2, the District shall respond to each request for a Certificate of Water Availability by determining a "Base Allotment," calculated as the average amount of water actually delivered to the property per year and per month during the three-year fiscal period 2003/04 – 2005/06 (the "Base Allotment Period"). The Certificate of Water Availability will be issued for either the Base Allotment or one acre-foot of water or portion thereof as applicable under Paragraph 1, whichever is greater (the "Maximum Available Quantity").

4. In the event that a property owner believes the Base Allotment does not reflect accurately the historical water usage associated with a property, for example because the property has been unoccupied for some or all of the Base Allotment Period or because the property has been in transition from a prior use to a proposed new use, the property owner may request in writing that the District General Manager establish a proxy Base Allotment for the property. The General Manager shall consider written evidence provided by the property owner and such relevant factors as the established historical use of the property prior to the Base Allotment Period, or the water usage of properties of comparable sizes or with comparable uses during the Base Allotment Period. If the General Manager determines that a proxy Base Allotment greater than the calculated Base Allotment is warranted, and if the proxy Base Allotment exceeds the Maximum Available Quantity as determined under Paragraph 3, the General Manager shall notify the property owner in writing of his determination and issue an amended Certificate of Water Availability for the amount of the proxy Base Allotment. If the proxy Base Allotment is less than the Maximum Available Quantity stated on the Certificate, the General Manager shall notify the property owner in writing of his determination and no amended Certificate will be issued.

5. When a Certificate of Water Availability is required because land is proposed for subdivision as defined in Paragraph 1(b), the Maximum Available Quantity shall be either the Base Allotment for the entire property divided proportionally among the new parcels or, for each new parcel, one acre foot per year or pro rata portion thereof as applicable under Paragraph 2, whichever is greater in total.

6. The District General Manager is authorized to include in any Certificate of Water Availability such terms and conditions as the General Manager determines are necessary to ensure that water use is limited in accordance with the provisions of this Ordinance.

7. Any Certificate of Water Availability issued prior to the Effective Date of this Ordinance shall be valid as issued, provided that the property owner complies in a timely manner with all District requirements associated with the issuance of the Certificate,

including but not limited to the payment of required fees, and provided that the property owner agrees to include the installation of state-of-the-art water-saving technologies in the project for which the Certificate was issued. In the event of a property owner's non-compliance, the General Manager may issue an amended Certificate under the provisions of this Ordinance.

8. A property owner's acceptance of a Certificate of Water Availability pursuant to this Ordinance shall constitute a binding commitment to use no more water than is made available under the Certificate. In the event that a property in any month uses water in excess of the Maximum Available Quantity available under a Certificate of Water Availability issued pursuant to this Ordinance, the District, without further notice, may increase the rate for all water delivered in excess of the property's Maximum Available Quantity and/or limit service to the property to no more than the Maximum Available Quantity, but the District shall provide at all times a supply of water sufficient to meet the health and safety needs of the property's occupants.

9. Any property owner wishing to contest the application of this Ordinance to any land within the District, including without limitation a challenge to the General Manager's computation of a proxy Base Allotment, a determination of Maximum Available Quantity, or a decision concerning issuance of a Certificate of Water Availability, may appeal by written request to the District Board of Directors following the District's appellate procedure stated in District Ordinance No. 82, section 9.

10. In the event of a conflict or inconsistency between any provision of this Ordinance and any other Ordinance, Resolution, policy, regulation or procedural requirement of the District, this Ordinance shall be controlling.

11. Nothing in this Ordinance shall prevent the District from exercising any of its powers under the California Water Code, nor shall it be construed as constraining any of the District's powers under the California Water Code, including but not limited to its power to declare a water shortage emergency or a threat of water shortage and to adopt additional ordinances in response thereto.

12. This Ordinance is adopted pursuant to California Water Code section 31026 to address an existing water shortage condition. The District has considered the potential environmental impacts of this Ordinance and has determined that the adoption of this Ordinance is an emergency action necessary to prevent or mitigate an emergency, and therefore is an exempt action under the California Environmental Quality Act ("CEQA"), California Public Resources Code section 21080(b)(4), and 14 CCR § 15269(c). Following adoption of this Ordinance by the District Board of Directors, the General Manager is authorized to prepare and file a Notice of Exemption in compliance with CEQA.

13. Pursuant to California Water Code section 31027, this Ordinance shall be in full force and effect immediately upon adoption by the Board of Directors (the "Effective Date"), and shall be published once in full in a newspaper of general circulation, printed,

published and circulated in the District within 10 days after adoption in the manner therein described.

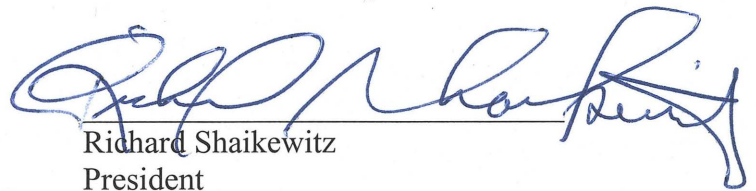
PASSED AND ADOPTED by the Board of Directors of the Montecito Water District on this 15th day of April, 2008 by the following vote, to wit:

Ayes: Directors Abel, Frye, Morgan, and Shaikewitz

Nays: None

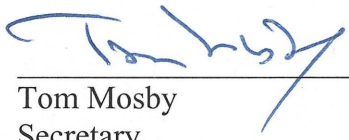
Abstain: Director Wilson

Absent: None



Richard Shaikewitz
President

ATTEST:



Tom Mosby
Secretary