

ORDINANCE NO. 91-1

ORDINANCE OF THE SAN DIEGO COUNTY  
WATER AUTHORITY ("AUTHORITY") DECLARING THE  
EXISTENCE OF A WATER SHORTAGE EMERGENCY  
CONDITION AND ESTABLISHING PROCEDURES TO  
PRESERVE AND ALLOCATE AVAILABLE  
WATER SUPPLIES

WHEREAS, unprecedented weather conditions have resulted in four consecutive years (1987, 1988, 1989, 1990) of below normal precipitation and run-off resulting in a severe drought; and

WHEREAS, it appears likely that the current year will, without abnormal wet conditions during the remainder of the year, result in the driest year on record; and

WHEREAS, the service area of the Authority includes 98% of the population and assessed valuation of San Diego County, which is dependent upon the Authority for more than 90% of all water used for beneficial purposes; and

WHEREAS, the Authority is completely dependent upon deliveries of imported water from the Metropolitan Water District of Southern California (MWD) for water to be delivered by it to its member agencies; and

WHEREAS, MWD is dependent on water deliveries imported from the State Water Project, operated by the Department of Water Resources, and the Colorado River, controlled by the Bureau of Reclamation, for the water supplies which it delivers to the Authority and its 26 other member agencies in Ventura, Los Angeles, San Bernardino, Riverside and Orange Counties; and

WHEREAS, MWD has been notified by the Department of Water Resources that State Water Project deliveries to it will be reduced 90 percent, and by the Bureau of Reclamation that deliveries will approximate one-million acre feet; and

WHEREAS, local water supplies available to other MWD member agencies have been reduced by the drought; and

WHEREAS, ordinary demands upon MWD are expected to exceed available supplies in such amounts as to require reductions in use of approximately 50%; and

WHEREAS, by Resolution 90-59 the Authority authorized and directed the General Manager to implement, according to the guidelines set forth in his letter dated November 29, 1990, the Incremental Interruption and Conservation Plan (IICP) of MWD which was adopted on December 11, 1990; and

WHEREAS, by motion at its regular meeting on February 14, 1991, the Authority adopted a "Drought Response Plan" to reconcile and coordinate drought management programs and implementation of the IICP; and

WHEREAS, MWD has, in view of the severity of the drought, determined as of March 4, 1991, that Stage VI of its Incremental Interruption and Conservation Plan shall become effective on April 1, 1991, which targets a reduction in deliveries to member agencies of approximately 50% of 1989-90 deliveries subject to minor adjustments for loss of local supplies, prior conservation efforts, and growth; and

WHEREAS, local supplies are gravely insufficient to augment the expected shortfall from MWD in imported water deliveries; and

WHEREAS, Governor Wilson on February 1, 1991, issued an executive order creating an Emergency Drought Action Team, with the Director of Department of Resources as its Chairman, to develop plans and procedures to minimize and deal with the drought conditions; and

WHEREAS, it is considered critical for the well being of the citizens within the Authority that all existing water supplies be husbanded and future available imported supplies be fairly and uniformly allocated among the Authority's member agencies so that water, essential for domestic use, sanitation and fire protection, will remain available throughout the duration of the drought; and

WHEREAS, mandatory restrictions on the use and delivery of water by the Authority have never previously been adopted, but experience by other public agencies within the state facing severe limitations (i.e. reductions over 30%) on available water supplies has demonstrated that prohibitions on certain uses, adjustments to pricing structures, and limitations on deliveries of water have been found necessary to preserve water supplies for essential services and allocate remaining supplies in a fair and uniform manner; and

WHEREAS, in order to accomplish this goal and also apply uniform rules throughout the Authority's service area for other beneficial uses of water, it is deemed necessary to establish rules and regulations which contain restrictions and priorities in the use of water, and

WHEREAS, the Authority is the only regional public agency with available imported water supplies which are so critically necessary and which must be allocated to all citizens according to rules and restrictions, as fair and as equitable as can be, with particular regard for domestic, sanitation and fire protection; and

WHEREAS, the Authority has solicited and received advice from its member agencies, community, business, and professional organizations, and received comments from such entities and members of the public at a special meeting held on March 7, 1991, at 2:00 p.m., and at a public hearing held on March 14, 1991, at 1:00 p.m.; and

WHEREAS, this action is the result of the unexpected occurrences, above described, which involve clear and imminent danger demanding immediate action to mitigate damage to life, health and property from the loss of an essential public service - the delivery of public water supplies, and, therefore, it is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Sections 21080 (b) (4), 21060.3; Title 14, California Code of Regulations, Section 15269(c));

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority ("Authority") hereby DETERMINES, DECLARES, ORDAINS, AND ORDERS, as follows:

SECTION I. DECLARATION OF WATER SHORTAGE EMERGENCY CONDITION.

It is hereby determined and declared that, based upon the foregoing recitals, the Authority is unable to provide sufficient water supplies to meet the ordinary demands and requirements of its member agencies without depleting available water supplies to the extent that insufficient water would be available for human consumption, sanitation, and fire protection.

Consequently, a water shortage emergency condition prevails within the service area and boundaries of the Authority which requires adoption of rules, regulations, and restrictions on the delivery and consumption of water within the Authority.

SECTION II. RESTRICTIONS UPON DELIVERY AND CONSUMPTION OF WATER.

The following restrictions shall apply to all users of water within the Authority and shall become effective at 8:00 a.m. on Monday, April 1, 1991. Each member agency shall adopt said restrictions to become effective at said time, or as soon thereafter as possible, within their respective service areas.

A. Definitions

- 1. "Active park and school ground areas" means areas designated by public agencies and private schools for specific sporting and recreational activities and areas traditionally used for active play or recreation where turf is an integral part of the activity.
- 2. "Conservation offset" means the implementation of proven conservation techniques which, when installed, will result in a reduction equal to demand of the proposed use. Calculation of demand and saving shall be performed or verified by the member agency or the General Manager based upon non-drought conditions.

3. "Fire Protection" means actions for prevention or suppression of fires as directed by the Fire Marshal or Fire Prevention officer with jurisdiction over the local area involved.
4. "Greywater" means household wastewater other than toilet water, i.e., water from the laundry, shower, tub, bathroom and kitchen sinks. Its use is presently prohibited by the San Diego County Department of Health Services. The exception mentioned for greywater in Section II, C (1, d) and (4) depends solely upon approval of such use by the San Diego County Department of Health Services according to issued rules and regulations.
5. "Micro irrigation systems/equipment" means low pressure, low volume methods of water application. These devices include drip emitters, T-tape, microsprayers, mini-sprinklers, twirlers, and spaghetti tubing. Pop-up sprinklers are not considered low-volume, low pressure irrigation systems/equipment.
6. "Potable Water" means water delivered by a member agency which meets drinking water standards or water delivered by the Authority.
7. "Reclaimed water" means water which, as a result of treatment of wastewater, is suitable for a direct beneficial use or controlled use that would not otherwise occur. See, Water Code, Section 13050(n).
8. "Recreational and Ornamental Lakes and Ponds" means bodies of water which are not swimming pools, water storage reservoirs for potable water or irrigation purposes, or pools which maintain rare plant or animal species.

B. General Requirements.

All water users are expected to minimize potable water use for the duration of the drought emergency. Monthly allocations to member agencies pursuant to Section IV, infra, will require substantial reductions in use which, on average, are expected to reach fifty percent.

Indoor uses will, in general, be reduced by such practices as fewer and shorter showers and baths, no running water while brushing teeth and shaving, full loads in dish and clothes washers, avoidance of unnecessary toilet flushing, frequent checking and repair of leaks, and other conservation practices.

C. Potable Water Use Prohibitions.

1. Irrigation of Turf.

Irrigation of turf is prohibited except under the following circumstances:

- a. for active public park and school ground areas no more than twice weekly;
- b. at day care centers where required by license no more than twice weekly;
- c. for purposes of maintaining public safety (such as fire protection); and
- d. when using reclaimed water, greywater, or private well water.
- e. At public parks, where trees and shrubs are interspersed amidst turf supported by the same irrigation system provided the area of irrigation is within the drip line of each tree or shrub and irrigation is no more than once every two weeks.

2. Irrigation of Ground Cover.

Irrigation of ground cover is prohibited except under the following circumstances:

- a. for fire protection;
- b. where trees and shrubs are interspersed amidst ground cover supported by the same irrigation system; and
- c. for preservation of existing ground cover which is designed to stabilize slopes.

Irrigation of ground cover as allowed under Section II (C) (2) (b) and (c) is restricted to once every 14 days.

3. Irrigation of Trees and Shrubs, Including Agricultural Production

Outside irrigation of trees, shrubs, and other plants which are not turf or ground cover, is allowed only by hand-held hose with positive shutoff nozzle, bucket, or micro irrigation systems/equipment. Sprinkler systems may only be used for agricultural production, watering active public park and school ground areas, maintenance of ground cover in accordance with section II (C) (2), and for purposes of maintaining public safety (such as fire protection).

4. Irrigation Watering Hours

No outdoor irrigation shall occur between 9 a.m. and 4 p.m., except when using a micro irrigation system/equipment, or for agricultural production, or when using reclaimed water, greywater or private well water. Anyone using such alternative water sources shall post signs along public rights of way noticing the type of usage.

5. Hosing or Spraying of Paved or Hard Surfaces

Hosing paved or hard surfaces including but not limited to sidewalks, driveways, patios, streets and parking areas is prohibited except for compelling public health and safety reasons. Allowed hosing activities shall be done only with a hose equipped with a positive shutoff nozzle.

Spraying hard surfaces during irrigation activities is prohibited.

6. Runoff and Repairing of Leaks.

All runoff except natural runoff from property is prohibited. Leaks to irrigation and plumbing systems shall be immediately repaired.

7. Filling and Draining of Pools and Spas.

Filling of new residential pools and spas is prohibited except under the following circumstances:

- a. where the owner can produce and demonstrate a conservation offset; or,

- b. where the owner can produce evidence that private well water will be utilized.

Draining of existing pools is prohibited except under orders of the appropriate local health or building official.

8. Recreational and Ornamental Lakes and Ponds.

Recreational and ornamental lakes and ponds may not be filled or refilled except with reclaimed water or other non-potable water. Lakes and ponds utilizing reclaimed water or other non-potable water must post signs noticing such usage.

9. Golf Course Irrigation.

Golf courses may use potable water supplied by a member agency only to irrigate tees and greens. Irrigation of fairways and roughs with potable water or any blend thereof is prohibited. Golf courses irrigating with reclaimed water or other non-potable water shall post signs noticing such usage.

10. Restaurants

Restaurants shall serve water only upon request.

11. Ornamental Fountains

Operation of ornamental fountains is prohibited except when non-potable or reclaimed water is used and where signs are posted notifying such use.

12. Washing of Vehicles

Washing of vehicles is prohibited except:

- a. in commercial carwashes;
- b. commercial vehicles for reasons of public health and safety;
- c. where water has been salvaged from indoor use, e.g. warmup water from showers, sinks, and/or lavatories; or
- d. by a mobile high-pressure/low volume service.

13. New Services

Except as to property for which a building permit has been heretofore issued, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no commitments (such as, will serve letters, certificates or letters of availability) to provide potable water service shall be issued, except for the following circumstances:

- a. the commitment includes a notice that a water shortage emergency condition prevails resulting in a water moratorium and no water service is currently available;
- b. for projects necessary to protect the public's health, safety, and welfare;
- c. when it can be demonstrated that no net increase in water use will occur; or
- e. when a conservation offset is provided.

D. Landscape Management Plans.

If a member agency has met its monthly allocations pursuant to Section IV for two consecutive months, it may approve a landscape management plan prepared by a licensed landscape architect or landscape contractor which demonstrates that no net monthly increase in water use for the property served will occur. In addition, the property to be served must have been in compliance with the prohibitions in Section II (C) prior to submission of the plan.

E. Member Agency Appeal Process.

Each member agency shall establish an appeal process whereby retail customers may submit requests for consideration of special circumstances, including unusual hardships. Special regard shall be given for domestic uses, sanitation and fire protection, and uniform rules for other users.

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SECTION III. SUBSTANTIAL COMPLIANCE. SURCHARGE FOR FAILURE TO COMPLY. COMPLIANCE MEASURES.

A. Substantial Compliance.

A member agency may submit to the General Manager requests to make minor modifications to the water restrictions provided for in Section II. The General Manager shall promptly notify the member agency whether such modifications are deemed substantially equivalent or more severe in water use impacts. If so, such modifications shall be approved; otherwise, in the General Manager's sole discretion the request shall be denied.

B. Surcharge for Failure to Adopt.

Failure by a member agency to adopt the restrictions set forth in Section II, or restrictions which have been approved by the General Manager will result in a surcharge on such member agency's water deliveries commencing April 15, 1991. The surcharge shall be \$200 for each acre foot of water delivered by Authority to the member agency until such water use restrictions are adopted.

C. Member Compliance Measures.

Each member agency shall take such actions and adopt such measures as it considers appropriate to secure compliance by its retail consumers of the water use restrictions applicable within its service area. The Authority will participate, as requested, to the extent it can in furnishing assistance and coordinating guidelines for use by member agencies.

SECTION IV. MONTHLY ALLOCATIONS TO MEMBER AGENCIES.

A. Amounts.

MWD's Incremental Interruption and Conservation Program (IICP) was adopted as the means of allocating water to its member agencies during drought conditions. The IICP establishes monthly targets for each of MWD's member agencies based on water taken from MWD in the same month of the 1989-90 base year. Adjustments are to be made to reflect growth, changes in local supplies, and significant conservation programs.

The Authority, by Resolution 90-59, adopted a procedure and method by which MWD's IICP target to the Authority is established as monthly allocations for each of the

Authority's member agencies. All provisions for adjustment which apply to the Authority shall apply to Member Agency allocations as provided by Resolution 90-59. The General Manager shall notify each member agency of its monthly allocation, the basis for its calculation, and when changes in MWD's IICP conservation level are proposed and acted upon.

Each member agency shall implement programs necessary to reduce delivery requests of the Authority to comply with its monthly allocation. The General Manager will provide status reports during the month and a formal accounting to each member agency as part of the regular billing process.

B. Adjustments and Modifications to Monthly Allocations.

The General Manager shall make such adjustments and modifications in the monthly allocations (on a daily, weekly or other basis if appropriate) as may be necessary and appropriate to pass through to member agencies any increases or decreases in deliveries received by the Authority from MWD.

SECTION V. SURCHARGES AND INCENTIVES FOR MONTHLY WATER ALLOCATIONS.

A. Amounts.

Commencing February 1, 1991, each member agency delivered less water than its monthly allocation shall receive an incentive credit of one-half MWD's untreated, non-interruptible rate rounded to the nearest dollar (currently \$99) for each acre foot under its allocation. Each member agency delivered more water than its monthly allocation shall be surcharged twice the MWD untreated, non-interruptible rate (currently \$394) for each acre foot over its allocation.

B. Cumulation - Reconciliation.

Surcharges and credit incentives shall be calculated monthly and debited or credited to the member agency's regular monthly statement. As of September 30, 1991, each member agency's account for surcharges and credit incentives as provided in this section shall be cumulated on a per acre foot basis. The net financial impact shall be adjusted accordingly. That is, if a member agency is delivered 1,000 acre feet in excess for one month and reduces deliveries for another month 1,000 acre feet below the monthly allocation as may have been adjusted,

then the financial impact on such member agency will be zero.

C. Modification of Surcharges and Incentives.

If MWD modifies the amount or condition of the surcharge and incentive payments in its IICP, the General Manager shall notify the member agencies and pass through all changes. The General Manager shall implement such modified changes immediately upon their imposition upon the Authority, and no further action of the Board of Directors shall be required.

SECTION VI. DELIVERY RESTRICTIONS.

A. Notices.

The General Manager shall, in a timely and appropriate manner, notify each member agency about the differences between monthly allocations and actual deliveries. If the differences indicate that a member agency is unlikely to be able to meet its monthly allocations, a warning notice shall be given.

B. Reductions.

Any member agency which is more than 5% over its monthly allotment on April 30, 1991, shall be given notice by the General Manager. The notice shall specify the amount of the overage, offer specific assistance in developing an action plan, and advise of the specific consequences of a failure to reduce demands. Deliveries will be monitored on a daily basis.

Beginning May 1, 1991, member agencies which have not reduced deliveries to within 5% of monthly allocations shall have their daily deliveries reduced by the General Manager in a manner estimated to result in attainment of monthly allocations.

C. Adjustments.

The General Manager may make adjustments in deliveries to a member agency because of special circumstances or to protect the ability of the member agency to meet its needs for domestic use, sanitation, and fire protection.

Particular regard will be given to domestic use, sanitation and fire protection. Also, consideration will be given to pertinent matters designed to avoid discrimination between consumers using water for the same

purpose and to promote uniformity in the beneficial uses made of water within the boundaries of the San Diego County Water Authority.

SECTION VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The General Manager shall cause to be filed a notice of exemption from CEQA for the actions taken by this Ordinance in accord with section 21152(b) of the Public Resources Code, Sec. Title 14, California Code of Regulations 15062.

SECTION VIII. APPEALS.

A. Appeals Board.

There is hereby created an Appeals Board consisting of five members, to wit: Directors Anderson, Brannon, Krauel, Mason and Omsted. The following five directors shall serve as alternate members, to wit: Directors Hollingsworth, Parker, F. Thompson, Tinker, and Turner. There is delegated to the Appeals Board the full authority of the Board of Directors to consider and resolve all appeals lodged by member agencies with the Executive Secretary.

B. Appeals by Member Agencies.

Each member agency may file with the Executive Secretary a request to have the Appeals Board review any action taken by the General Manager hereunder. Representatives of the member agency may appear before the Appeals Board and present such testimony and documentation considered appropriate for a proper understanding and evaluation of the claims and basis for the appeal.

The General Manager shall arrange for such counter presentation considered appropriate for the Appeals Board to fully comprehend all aspects relative to the decision which is the subject of the appeal.

C. Procedure - Decisions.

The Appeals Board shall meet as soon as practical but no later than 5 business days after a request is made by a member agency, if desired by the member agency. The Chairman of the Board shall designate a person to be the presiding member of the Appeals Board. No member of the Appeals Board shall participate in or act upon any appeal by the member agency he or she represents. The Appeals Board, with the advice of General Counsel, shall

establish fair and reasonable procedures for hearing the appeal and reviewing determinations by the General Manager.

The Chairman shall appoint alternates to serve in the case of any appeal which a member is disqualified or unable to attend. Consistent with circumstances relative to the nature of the appeal, the Appeals Board shall conduct the appeal and render its decision as expeditiously as practical. The decision shall be in writing briefly describing the pertinent circumstances for the appeal, and the basis for the decision. General Counsel may prepare a draft, pursuant to oral instructions from the Appeals Board, but each member of the Appeals Board must either approve or dissent in writing. The decision of a majority of the Appeals Board shall be the final decision on the subject of the appeal.

SECTION IX. RESERVED DISCRETION.

The Board of Directors hereby reserves its legislative discretion to modify any of the provisions hereof as changed circumstances may warrant. The provisions herein are considered to be temporary and will be revoked as soon as the water shortage emergency condition ends. Modifications to increase or decrease restrictions or water allocations will be made as deemed necessary and appropriate. The General Manager shall keep the Board advised about matters pertinent to drought conditions, MWD deliveries, Authority deliveries to member agencies, appeals, and the nature and extent of other emergency conditions.

SECTION X. SUPERSEDURE.

If any provisions of this ordinance are inconsistent with previous actions of the Board pertaining to plans to respond to drought conditions, the provisions hereof shall supersede such inconsistent provisions.

SECTION XI. SUNSET PROVISION.

This ordinance, unless sooner terminated by the Board, shall terminate September 30, 1991, unless prior to said date the Board acts to extend it.

SECTION XII. LEGAL BASIS FOR ACTIONS.

The foregoing rules, regulations and restrictions are taken pursuant to Article X, section 2, of the California Constitution and the legislative powers delegated to the Authority by Section 5(11) of the County Water Authority Act (West's Water Code, Appendix, Section 45) and Sections 350 through 357 of the Water Code providing for declaration of water shortage emergencies.

PASSED, APPROVED AND ADOPTED, this 14th day of March, 1991.

  
\_\_\_\_\_  
M.D. Madigan  
Chairman, Board of Directors  
San Diego County Water Authority

ATTEST:

  
\_\_\_\_\_  
John M. Leach  
Secretary, Board of Directors  
San Diego County Water Authority

I, Janet R. Maltman, Executive Secretary of the Board of Directors of the San Diego County Water Authority, do hereby certify that the above and foregoing is a full, true and correct copy of said ordinance of said Board and that the same has not been amended or repealed.

  
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Executive Secretary, Board of Directors  
San Diego County Water Authority