

RESOLUTION NO. 2022-5-7

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CUCAMONGA VALLEY WATER DISTRICT DECLARING A STAGE 3 WATER SHORTAGE PURSUANT TO ITS WATER SHORTAGE CONTINGENCY PLAN

WHEREAS, on October 19, 2021, Governor Newsom proclaimed a drought emergency impacting all of California due to worsening drought conditions which was preceded by drought proclamations on April 12, 2021, May 10, 2021, and July 8, 2021, which were limited in their scope; and

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order (N-7-22) directing the State Water Resources Control Board (SWRCB) to consider adopting drought emergency water conservation regulations to prepare for and mitigate the effects of the drought conditions, specifically requiring all urban water suppliers to activate their Water Shortage Contingency Plans and implement the response actions identified for a shortage level of at least 20 percent; and

WHEREAS, on March 18, 2022, the Department of Water Resources reduced the State Water Project (SWP) allocation from 15 percent to 5 percent of contract amounts. This is the second consecutive year of 5 percent allocation and is the lowest three-year combined allocation in the history of the SWP; and

WHEREAS, on April 20, 2022, the SWRCB issued a draft of the proposed text of the Operative Conservation Provisions of Emergency Regulations, requiring all urban water suppliers who submitted a Water Shortage Contingency Plan to the Department of Water Resources to implement at minimum, demand reduction actions identified in the supplier's Water Shortage Contingency Plan for a shortage level of up to twenty percent by June 10, 2022; and

WHEREAS, on April 26, 2022, the Metropolitan Water District (MWD) Board of Directors adopted a resolution declaring a water shortage emergency condition and implementing an emergency water conservation program in the portions of the service area dependent on SWP supplies. MWD states there are insufficient SWP supplies this year to meet the minimum human health and safety (HH&S) needs in the SWP dependent area. DWR has agreed to provide additional SWP supplies to MWD to fulfill unmet HH&S needs; however, mandatory water use restrictions will apply to agencies who take the HH&S supplies; and

WHEREAS, Cucamonga Valley Water District (District) has invested in developing and managing a diverse water supply, which includes imported water supplies through the SWP, groundwater, local canyon water, and recycled water; and

WHEREAS, under N-7-22 and the draft SWRCB Regulation, the District is required to enact a shortage level in accordance with the District's adopted Water Shortage Contingency Plan that anticipates a reduction of potable supplies of up to 20 percent; and

WHEREAS, based on the draft Regulation and restrictions on the availability of imported water, the District will need to declare a Stage 3 Water Shortage, which equates to a 20 percent reduction in potable water supplies as mandated by the SWRCB; and

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WHEREAS, Water Code Section 31026 provides that the District has the power to restrict the use of water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the waste of water or the use of water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the District and may prohibit use of such water during such periods for specific uses which the District may from time to time find to be nonessential. The District has the authority to impose monetary fines and penalties and take other applicable actions pursuant to Water Code Sections 350, 358, 375-377, and 31029; and

WHEREAS, pursuant to the District Code Section 4.24.030, the District, through its Board of Directors (Board), may take action by resolution to declare, change, and rescind, as applicable, the particular stage of the water supply shortage. The District Code provides for declaring Drought Alert Stages and for implementing a corresponding Drought Rate structure in the event such a rate structure is adopted by the Board and made part of the District's rules and regulations.

Therefore, the Board desires to adopt this Resolution in order to declare a District Stage 3 Water Shortage and establish the measures to be implemented during said Stage 3.

NOW THEREFORE BE IT RESOLVED by the Board of Directors as follows:

Section 1. Incorporation of Recitals. All of the foregoing Recitals are true and correct, and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

Section 2 Compliance With SWRCB Regulation. The Board hereby determines that it must declare a Stage 3 Water Shortage, as defined in the District's Water Shortage Contingency Plan, which equates to a 20 percent reduction in supplies in compliance with the SWRCB draft Regulation and to preserve SWP supplies. In addition to Stage 3 measures, limits may be applied to the number of days, frequency and duration of outdoor watering as determined by the District and enacted by Board resolution. Penalties for violating any of the above provisions will be assessed according to the District Code.

Section 3 Declaration Of Stage 3 .Water Shortage. The Board hereby declares a Stage 3 Water Shortage and hereby establishes the restrictions and prohibitions as set forth below. The following actions are prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

- (a) Hosing paved areas for health and safety purposes only with the use of a water broom or water-efficient pressure washer using not more than five gallons per minute.
- (b) Wash vehicles using a hose equipped with a shutoff nozzle so that water does not flow to waste.
- (c) All decorative fountains shall be equipped with recirculating systems.
- (d) Upon notification by the District, repair all leaks.
- (e) Adjust sprinklers so there is no run-off, over-spray or excessive irrigation from the property.
- (f) Restaurants will only serve water on request.
- (g) Hotels will offer guests the option to not launder linen daily.
- (h) Industrial customers will review their water-using processes to evaluate ways to increase water conservation.

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- (i) Prohibition of watering outdoor landscapes during and within forty-eight (48) hours after a measurable rainfall.
- (j) Prohibition of the use of potable water for the irrigation of non-functional turf at commercial, industrial, and institutional (CII) sites.

In addition to the water use efficiency practices listed in above, hours of watering are limited to 4:00 p.m. through 9:00 a.m., and outdoor irrigation with potable water is limited to 3 days a week with no watering on Mondays and alternating watering days Tuesday through Sunday based on even and odd addresses. Penalties for violating any of the above provisions will be assessed according to Section 4.24.050 of the District's Municipal Code.

Section 4 Fines For Noncompliance. Financial penalties will be assessed in accordance with the notice, imposition, appeal, and collection procedures for noncompliance as set forth in the District Code including, but not necessarily limited to, the applicable provisions of Sections 4.20.040 and 4.24.050 regarding the failure to comply.

- (a) For example, financial penalties will be assessed when a customer who, in the reasonable discretion of the General Manager, or designated representative, violates the requirements set forth in this Resolution. The applicable provisions of the District Code outline those penalties and the method of notifying a customer.
- (b) Any notice required under this Resolution may include, for example and not by way of limitation, the following information: the water conservation stage and restrictions that are in effect; actions required for compliance in order to prevent future violations; and penalties and enforcement actions which may be imposed for future violations.
- (c) As set forth in the Water Shortage Contingency Plan and the District Code, the financial penalties will be assessed when a customer violates the requirements outlined in this Resolution as follows:
 - (i) First Violation - The District shall issue a written notice of a first violation to the customer. The first notice of violation shall be a warning given to the customer by using a door hanger.
 - (ii) Second Violation - For a second violation, the District shall impose a penalty in the amount of fifty dollars (\$50.00) which will be added to the water customer's water bill. The second notice of violation shall be in writing by regular mail to the address at which the customer is normally billed.
 - (iii) Third Violation - For a third violation, the District shall impose a penalty in the amount of one hundred dollars (\$100.00) which will be added to the customer's water bill. The third notice of violation shall be given in writing in the following manner: (1) giving the notice to the customer at the property where the violation occurred; (2) if the water customer is absent from or unavailable at the premises at which the violation occurred, by leaving a copy with some person of suitable age and discretion at the premises and sending a copy through the regular mail to the address at which the water customer is

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normally billed; or (3) if a person of suitable age or discretion cannot be found, then by affixing a copy in a conspicuous place at the premises at which the violation occurred, and also sending a copy through the regular mail to the address at which the customer is normally billed.

(iv) Fourth Violation - After a fourth and any subsequent violation, the District shall impose a penalty in the amount of one hundred fifty dollars (\$150.00) which will be added to the customer's water bill. The fourth notice of violation shall be given in the same manner as the third notice of violation.

(c) If the General Manager, or designated representative, deems it appropriate, water service will be terminated at the location where the violation occurred due to a failure to comply with this Resolution or a failure to pay financial penalties. Any such service termination shall be implemented under the District's authority and procedures including, but not limited to, the District's rules and regulations for water service.

Section 5 Purpose Of Restrictions And Fines. The regulatory purposes of imposing the requirements and financial penalties, as set forth in this Resolution, are to conserve water, deter waste and unreasonable use of water, encourage efficiency, and to help cover the costs incident to the investigation, inspection, and administration of enforcement of this Resolution.

Section 6 Future Stage(s). The Board may make a determination as to when it may be necessary to move to a further Stage, or a lesser Stage, under the District Code Section 4.24.030 of the District Code provides that Stage 1 remains in effect at all times and does not require the Board to adopt a resolution for implementation.

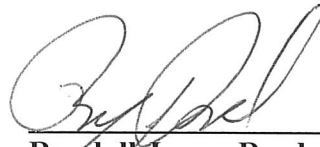
Section 7 CEQA. The Board finds that adopting and enforcing mandatory restrictions on water use in order to comply with SWRCB requirements is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15268 and Public Resources Code Section 21080(b)(1) as a ministerial action. The Regulations mandate that each urban water supplier enact a shortage stage according to the Water Shortage Contingency Plan, which equates to a 20 percent reduction of water supply as imposed by the SWRCB. Therefore, an action to implement a particular drought stage is not a discretionary action, and as such, it is statutorily exempt from CEQA.

Section 8 Publication Following Adoption. This Resolution shall be in full force and effect immediately upon adoption. Within ten (10) calendar days of adoption of this Resolution, the Board shall issue its determination of shortage and corrective measures by public proclamation published in a daily newspaper of general circulation a minimum of three (3) times for three (3) consecutive weeks. Three publications in a newspaper regularly published once a week or more often, with at least 5 days intervening between the respective publication dates not counting such publication dates, are sufficient. Such declaration and notice shall provide the extent, terms, and conditions respecting the use and consumption of water in accordance with the applicable water conservation stage. Upon such declaration and publication of such notice, due and proper notice shall be deemed to have been given each and every person supplied water within the District.

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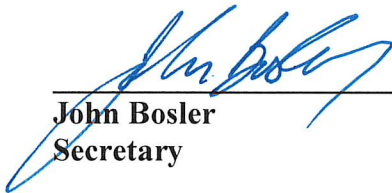
Section 9 Severability. If any section, subsection, clause, or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof be held invalid.

PASSED AND ADOPTED this 24th day of May 2022.



Randall James Reed
President

ATTEST:



John Bosler
Secretary