

ORDINANCE NO. 15-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF CONTRA COSTA
WATER DISTRICT ESTABLISHING A DROUGHT MANAGEMENT
PROGRAM AS MANDATED BY THE GOVERNOR OF CALIFORNIA
UNDER EXECUTIVE ORDER B-29-15**

WHEREAS, the Contra Costa Water District (District) is a County Water District organized and existing pursuant to the County Water District Law, Division 12 of the California Water Code beginning with section 30000 and is empowered thereunder and under article XI, section 9 to provide raw and treated water service to its customers in northern, eastern and central Contra Costa County; and

WHEREAS, article X, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare, and further declares that it is self-executing; and

WHEREAS, the District is authorized pursuant to sections 31024, 31026, 31027, 31028, 31029, and 31035 of the County Water District Law, and California Water Code sections 350 et seq., and sections 375 et seq., to establish and enforce rules and regulations for the sale, distribution, and use of water; and to enact rules and regulations to restrict the use of water during any water emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of District water or the use of District 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 non-essential; and

WHEREAS, District Regulations 5.04.020, 5.04.030, 5.04.060, and 5.04.070 provide further authority for the District's adoption of rules and regulations regarding the use of water delivered by the District, the prevention of waste or unreasonable use during times of water shortage, and compliance with District rules and regulations; and

WHEREAS, the California Governor formally declared a condition of statewide drought related emergency conditions on January 17, 2014, encouraging local water agencies to promote water conservation, and on April 25, 2014, by Executive Order, Governor Brown announced that he was strengthening the State's ability to respond to ongoing drought conditions and directed the State Water Resources Control Board (SWRCB) to notify urban water suppliers not already implementing drought contingency plans to limit outdoor irrigation and other wasteful practices; and

WHEREAS, the District adopted a 15% drought management program in April 2014 in response to the Governor's 2014 Executive Order and achieved a 15% reduction in water use compared to 2013, and a 24% reduction compared to the District's established baseline period of average use during 2005-2007, which represents normal customer usage before the recent periods of drought so as to recognize customers for their recent conservation efforts; and

WHEREAS, on July 15, 2014, the SWRCB approved emergency regulations mandating that residents and water suppliers take certain action relative to water use and use of potable water for irrigation purposes and on March 17, 2015, the SWRCB, in light of California entering a fourth year of extraordinary drought conditions, reauthorized the emergency regulations adopted in 2014, and approved additional mandates requiring water suppliers and businesses to take certain further actions relative to water use and use of potable water for irrigation purposes, including the imposition of fines of up to \$500 per day for each violation of the SWRCB emergency regulations, and the imposition of fines of up to \$10,000 per day against urban water suppliers found to be non-compliant with the SWRCB rules and regulations; and

WHEREAS, the California Governor formally declared on April 1, 2015, by Executive Order B-29-15 that a continued state of emergency exists due to water shortage and drought conditions, that the orders and provisions of Executive Orders B-26-14 and B-28-14 remain in full force and effect subject to modification by Executive Order B-29-15, and that he was directing the SWRCB to impose additional water use restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016; and

WHEREAS, the SWRCB approved additional regulations on May 5, 2015 to implement Executive Order B-29-15, which requires the District to achieve an overall 28% reduction in potable urban water usage for its retail customers through February 28, 2016 compared to 2013 baseline usage; and

WHEREAS, the District has developed its drought management program to achieve the mandated 28% water use reduction by requiring greater than 25% reductions in water use for dedicated irrigation and agricultural customers who have a higher degree of discretionary water use; and

WHEREAS, the District's municipal retail customers are required to reduce their water use consistent with the Governor's Executive Order and SWRCB water use reduction requirements applicable to them; and

WHEREAS, the United States Bureau of Reclamation (Reclamation) has announced its initial 2015 water year allocations for the Central Valley Project (CVP) and has forecast that the water supply available to the District to be no more than 50,500 acre-feet under a median forecast; and

WHEREAS, drought conditions contribute to further uncertainty regarding regulatory conditions in the Sacramento-San Joaquin Delta that affect the amount and quality of water that can be legally moved from Reclamation's reservoirs to pumping plants in the Delta, including the District's; and

WHEREAS, as of the date of enactment of this ordinance and based on current and historic water supply availability, District staff projects that the District water supplies will be impacted in 2015-2016 as a result of drought conditions; and

WHEREAS, conservation and waste prevention measures are necessary to manage demands within the District to comply with emergency regulations of the State of California and to ensure sufficient water is available critical domestic, municipal and industrial water needs of the District's customers in 2015-2016, and to ensure that water supplies are not depleted in the event that the following year is also dry; and

WHEREAS, while District water conservation efforts, recycled water, and supplemental water purchases have stretched the District's available water supplies, discretionary outdoor water use will require further reduction pursuant to the actions and requirements of the Governor and SWRCB.

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Contra Costa Water District, in accordance with the applicable provisions of the California Constitution, the County Water District Law, and the Contra Costa Water District Code of Regulations, that the Board hereby finds, determines and declares:

1. Each of the facts recited above is incorporated herein; and
2. Based upon the facts recited above, and based upon the authority contained in Water Code sections 31026 et seq., sections 350 et seq., and in sections 375 et seq., a water shortage condition now exists within the District, and said shortage is caused by drought and other contributing factors; and
3. Conservation measures are required to meet the State mandated water use reduction target, and to conserve the use of water supplied by the District during this water shortage condition, to prevent waste or unnecessary use of water, to prohibit nonessential uses of water, and to conserve the District's water supply in order to meet critical needs of District customers in 2015, and to ensure that the District has an adequate amount of water at the end of 2015 so that customers' needs can still be met in 2016 even if dry conditions and other factors effecting water supply availability result in a continuing water shortage.

NOW THEREFORE BE IT FURTHER ORDAINED by the Board of Directors of the Contra Costa Water District as follows:

1. Based upon the facts recited above, and upon the authority contained in Water Code sections 350 et seq., sections 375 et seq., sections 31021 et seq., sections 31024 et seq., and sections 31026 et seq., drought conditions exist that can affect water supply and quality available to the District.
2. Conservation and measures to prevent waste and unreasonable use are necessary to manage demands so that reasonable water needs of District customers can be met in 2015-2016, and to ensure that water supplies are not depleted in the event that the following year is also dry.
3. The District intends to meet the overall drought management program reduction goal of 28% as established by the SWRCB by requiring the following reductions:

- a. Industrial customers are hereby required to reduce their water use by 5%, with water use for the same billing period during calendar year 2013 used as the baseline for reduction; and
 - b. Dedicated Irrigation and Agricultural customers are hereby required to reduce their irrigation water use by 45%, with water use for the same billing period during calendar year 2013 used as the baseline for reduction; and
 - c. Municipal Retail customers are hereby required to reduce their water use consistent with the Governor's Executive Order and SWRCB water use reduction requirements applicable to them; and
 - d. All other customer classes are hereby required to reduce their water use by 25%, with water use for the same billing period during calendar year 2013 used as the baseline for reduction.
4. Any customer whose account does not have consumption history for calendar year 2013, or whose usage has changed significantly due to changed conditions such as the addition of a family member, may apply for an exception pursuant to Paragraph 10 so that a 2013 water usage threshold amount may be established or modified.
 5. The District shall implement a Temporary Conservation Pricing increase of \$0.50 per unit (748 gallons) in the treated water quantity charge, and of \$0.25 per 1,000 gallons in the untreated water quantity charge during the duration of this Drought Management Program applicable to all customer classes to provide a further pricing mechanism to promote water conservation consistent with the Governor's Executive Order. The pricing adjustment will cease by action of the Board of Directors or at the end of the full cycle of all customer billings following the lifting of the Governor's Executive Order. Residential customers with water use less than two hundred (200) gallons per day (gpd) are considered efficient and will be credited back the pricing adjustment if use over the entire billing cycle averages less than 200 gpd.
 6. The water use prohibitions, attached hereto as Exhibit and incorporated herein as if fully set forth, are necessary to conserve water, promote effective water supply planning, assure reasonable and beneficial use of water, prevent waste and unreasonable use of water, and prevent unreasonable methods of use of water within the District; and said water use prohibitions are necessary to assure that sufficient supplies of water will be available to meet the needs of, and to protect the health and safety of, the District's customers and other members of the public. This paragraph is not a limit on the District's authority to determine that a customer is wasting or failing to put water received from the District to reasonable and beneficial use.
 7. After the publication or posting of any ordinance as provided in Section 31027, it is a misdemeanor for any person to use or apply water received from the District contrary to or in violation of its Drought Management Program, or other restrictions or prohibitions on water use contained in the District Code of Regulations, and, upon notice thereof, that person shall be subject to punishment by an administrative fine of not more than two

hundred fifty dollars (\$250) for a first offense, five hundred dollars (\$500) for a second offense, each administrative fine to be accompanied by an additional penalty of up to \$10 per unit of water used or applied in violation of or contrary to this ordinance, an amount to be determined in the District's sole discretion. Each and every day a violation of this exists constitutes a separate and distinct offense for which an administrative fine and penalty may be assessed. The District, in its sole discretion, may choose to provide a warning to alleged violators prior to imposing administrative fines or penalties pursuant to this ordinance, which warning shall not itself constitute a violation of the rules and regulations. Administrative fines or penalties are to be imposed pursuant to the authority provided in California Government Code section 53069.4, or such additional authority as may later be approved by the Governor pursuant to the California Emergency Services Act or Executive Order, or by action of the California Legislature.

8. The purpose of the administrative fines and penalties assessed pursuant to this Ordinance is to assure future compliance by customers through the imposition of increasingly significant fines and penalties so as to create a meaningful disincentive to commit future violations of the rules and regulations contained and referenced herein.
9. Violations of this ordinance, and the rules and regulations contained and referenced herein, shall remain subject to administrative fines and penalties, until this ordinance has been repealed, or the emergency or threatened emergency has ceased as evidenced by termination of the statewide emergency declared by the Governor, or termination of the emergency regulations adopted by the SWRCB. Pricing adjustments contained herein will cease by action of the Board of Directors or at the end of the customer billing period following the lifting of the Executive Order. Violations pursuant to other District rules, regulations, or federal or state law shall not be affected by this section and shall continue to be enforced pursuant to their terms. The District reserves the right to pursue, in its sole discretion, any additional remedies available to it by law, including criminal, civil and administrative remedies as necessary.
10. Written applications for exceptions to, or waivers from, any provision of this Drought Management Program, including fines and penalties, shall be submitted to the District using a form prepared for such use and provided by the District, and shall be granted in any case where the District determines, in its sole reasonable discretion, that the applicable water usage threshold, restriction, or prohibition may create a hazard to the health and safety of any individual or the public, or would cause undue hardship, including but not limited to, adverse economic impacts such as loss of production or jobs. Denial of an application for exception or waiver may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.
11. If a customer fails to take prompt, reasonable action to stop wasteful use, the District may at its discretion suspend delivery of water to the customer or install a device to restrict the flow of water to the customer, or terminate service until the District determines, at its sole reasonable discretion, that there will be no further wasteful use of water by the customer. All applicable District fees for the installation or removal of a water restricting device or for disconnection or reconnection of service shall apply. District determinations made

pursuant to this Ordinance may be appealed in writing to the District's General Manager or his designee, whose decision shall be final and binding.

12. If any provision of this ordinance, including the rules and regulations referenced herein, or any part thereof, is for any reason held to be ultra vires, invalid, or unconstitutional, the remaining provisions of this ordinance shall not be affected, but shall remain in full force and effect, and to this end the provisions of this ordinance are severable.
13. The rules and regulations contained in this ordinance shall take effect immediately after its adoption pursuant to Water Code section 31027, except that the fines and penalties contained in Section 7 shall take effect following publication of this ordinance pursuant to Water Code section 31027. A summary of this ordinance was published at least five days prior to adoption and said summary will be published again within fifteen days of this adoption in a newspaper of general circulation within the District. The General Manager is authorized to cause the rules and regulations established hereby to be inserted in Title 5 of the Contra Costa Water District Code of Regulations and to effect the immediate enforcement thereof. Should any rule or regulation contained or referenced herein conflict with an existing District rule or regulation, the conflicting rule or regulation contained or referenced herein shall apply during the time in which this Ordinance is in effect and operative.
14. CCWD Resolution 2015-09 is hereby repealed and superseded in full by this Ordinance 15-01 upon this Ordinance becoming effective and operative.

The foregoing Ordinance was duly and regularly adopted at a meeting thereof held on June 3, 2015, by the Board of Directors of Contra Costa Water District, by the following vote of the Board:

AYES: Burgh, Boatman, Borba, Campbell, Holdaway

NOES:

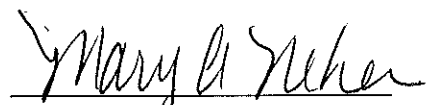
ABSTAIN:

ABSENT:



Joseph L. Campbell, President

ATTEST:


Mary A. Neher
District Secretary

WATER USE PROHIBITIONS

The following uses of water supplied by the District have been determined to be wasteful and are prohibited at any time when a Drought Management Program is in effect:

Single Family and Multi-Family Residential Customers

- a. Watering of outdoor landscapes in a manner that causes excessive runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
- b. Watering of outdoor landscapes during and up to 48 hours after measurable rainfall.
- c. Watering of outdoor landscapes more than two days per week unless an exception is granted by the District. Examples include newly planted drip irrigated drought tolerant landscaping, and vegetable gardens.
- d. Watering of outdoor landscapes during the daylight hours of 9AM-5PM.
- e. Watering of landscape of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
- f. Washing a vehicle, trailer or boat using a hose without a shut off nozzle.
- g. Washing paved or other hard-surfaced areas, including sidewalks, walkways, driveways, patios, and parking areas.
- h. Use of water for non-recirculating decorative fountains or filling decorative lakes or ponds. The District strongly suggests all fountains be turned off.

Non-Residential Customers

- a. Watering of outdoor landscapes in a manner that causes excessive runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
- b. Watering of outdoor landscapes during and up to 48 hours after measurable rainfall.
- c. Watering of outdoor landscapes more than two days per week unless an exception is granted by the District. Examples include newly planted drip irrigated drought tolerant landscaping, and vegetable gardens.
- d. Watering of outdoor landscapes during the daylight hours of 9AM-5PM.
- e. Watering of ornamental turf on public street medians.
- f. Watering of landscape of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
- g. Washing a vehicle, trailer or boat using a hose without a shut off nozzle.
- h. Washing paved or other hard-surfaced areas, including sidewalks, walkways, driveways, patios, and parking areas.
- i. Use of water for non-recirculating decorative fountains or filling decorative lakes or ponds. The District strongly suggests all fountains be turned off.

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- j. Serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
- k. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. A notice shall be prominently displayed in each bathroom.
- l. Recycled water must be used for construction and dust control unless not available.