

RESOLUTION NO. 543

ARTICLE 15

WATER SHORTAGES AND WATER SHORTAGE EMERGENCIES

15.1 **RESOLUTION OF THE FERN VALLEY WATER
DISTRICT RELATING TO WATER SHORTAGES
AND WATER SHORTAGE EMERGENCIES**

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 375 through 378, the Fern Valley Water District (the "District") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

WHEREAS, the total water supply available to the District is dependent upon local rainfall and snow melt, especially from the higher elevations of the San Jacinto Mountains; and

WHEREAS, the District serves and utilizes water diverted from the local streams or produced from local groundwater, or both, and no source of imported water is economically or reasonably available to the District; and

WHEREAS, in periods of significantly reduced or insufficient natural stream flow or groundwater recharge, it may be necessary for the District to declare a Water Shortage or a Water Shortage Emergency; and

WHEREAS, pursuant to Water Code sections 350 through 359, the Board of Directors ("Board") of the District is authorized to declare a Water Shortage Emergency whenever the Board finds and determines that the ordinary demands and requirements of water users cannot be satisfied without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation and fire protection; and

WHEREAS, in the event the District determines that it is necessary to declare that a water shortage emergency exists, the District will be authorized pursuant to

Article 15 to implement certain water shortage response measures and a water conservation and regulatory program to regulate water consumption activities within the District and ensure that the water delivered in the District is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

WHEREAS, the District is authorized to prescribe and define by resolution restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce a water conservation and regulatory program to: (i) prohibit the waste of District water or the use of District water during such period; (ii) prohibit use of water during such periods for specific uses that the District may from time to time find nonessential; and (iii) reduce and restrict the quantity of District water use for the purpose of conserving the water supplies of the District; and

NOW, THEREFORE, the Board of Directors of Fern Valley Water District does order as follows:

Section 1. Water Shortage Conditions. A Critical Water Supply Condition (“Critical Condition”) is deemed to exist when the District’s General Manager (“General Manager”) determines that water supply conditions within the District are insufficient to meet normal water demands.

Section 2. Demand Management.

(a) Because it is not possible to determine in advance how long a Critical Condition will last, this Resolution provides for a staged approach to be taken for demand management. The longer a Critical Condition persists, or the more severe the Critical Condition becomes, the more stringent demand management may become.

(b) This Resolution provides for Water Conservation Stages One, Two, Three and Four. At the Board’s direction, the General Manager may implement the water use restrictions provided for in each of the Water Conservation Stages based on operational considerations. Operational considerations include, but are not limited to, the District’s ability to meet actual and anticipated customer demands, and sanitation and fire fighting demands. Movement from one Water Conservation Stage to another need not be consecutive.

(c) If the General Manager finds that the actual production capacity and storage capacity of the District is insufficient to meet projected demands for any 60-day period while maintaining an adequate emergency reserve, then the appropriate Water Conservation Stage, which in the General Manager’s opinion will maintain such adequacy, will be implemented, at the Board’s direction.

(d) If the General Manager finds that production capacity and storage volume are more than adequate to meet actual and projected demands while maintaining

an adequate emergency reserve, and if he or she further finds that such adequacy would persist at a lower Water Conservation Stage, then such lower Water Conservation Stage may be implemented, with the Board's concurrence.

(e) When the General Manager has determined that it is necessary to declare a Water Shortage Emergency, the Board shall hold a public hearing in accordance with Water Code section 350 through 352. At the hearing, users of District water will have an opportunity to be heard relative to a declaration by the Board that a Water Shortage Emergency exists within the District. Following the public hearing and upon a Board declaration, in the form of a resolution, that a Water Shortage Emergency exists, all water users within the District shall restrict their use of water supplied by the District in accordance with any of the Water Conservation Stages set forth herein. The District's General Manager shall be authorized to implement the requirements of each Water Conservation Stage as approved or directed by the Board.

Section 3. Water Conservation Stages. Users of the District's water shall comply with the restrictions established for the applicable Water Conservation Stage as described below. Failure to comply with any mandatory water conservation restrictions shall result in fines and penalties.

(a) Water Conservation Stage 1. Upon implementation of Water Conservation Stage 1:

(1) Users of District water shall prohibit irrigation runoff and shall eliminate water leaks on their property.

(2) Users of District water shall voluntarily limit the quantity of water used to that quantity absolutely necessary for domestic and business purposes.

(3) Users of District Water shall take all steps necessary to prevent waste of water and to assure that all water is beneficially used to the maximum extent possible.

(4) Users of District water shall not wash hard or paved surface areas, including driveways, parking areas, patios, tennis courts, and similar impermeable surfaces, and shall not sprinkle unplanted areas for dust control or other purposes, except to alleviate immediate fire or sanitary hazards.

(b) Water Conservation Stage 2. Upon implementation of Water Conservation Stage 2, Users of District water shall continue to follow water conservation measures under Water Conservation Stage 1 in addition to the further measures under Water Conservation Stage 2, as follows:

(1) Users of District water shall only irrigate outdoor plants and gardens between the hours of 6 p.m. and 8 a.m. and shall prohibit irrigation runoff.

(2) Restaurants shall provide drinking water to patrons only upon request

(3) Users of District water may wash automobiles, trucks, trailers, and other types of mobile equipment at any time, but only with a hand-held bucket and a hand-held hose equipped with an automatic, positive, shut-off nozzle. Such users shall not permit continuous flow during washing and rinsing. Such washings are exempted from these regulations where the health, safety, and welfare of the public is contingent upon frequent vehicle cleanings, such as ambulances, garbage trucks, and vehicles used to transport food and perishables.

(c) Water Conservation Stage 3. Upon implementation of Water Conservation Stage 3, Users of District water shall continue to follow water conservation measures under Water Conservation Stages 1 and 2 in addition to the further measures under Water Conservation Stage 3, as follows:

(1) Users of District water shall not fill or refill swimming pools, except to replace evaporation losses.

(2) Users of District water shall not use water from fire hydrants except for emergencies, the maintenance of system water quality, or the delivery of construction water.

(d) Water Conservation Stage 4. Upon implementation of Water Conservation Stage 4, Users of District water shall continue to follow water conservation measures under Water Conservation Stages 1, 2, and 3 in addition to the further measures under Water Conservation Stage 4, as follows:

(1) Use of water for construction purposes is prohibited.

(2) Washing of automobiles or equipment is prohibited

Section 4. Water Shortage Emergency: A Water Shortage Emergency exists when the Board of Directors finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

(a) Upon the declaration of a Water Shortage Emergency, the General Manager shall determine which Water Conservation Stage shall be in effect. Upon such determination, and upon approval of the Board, the water use restrictions set forth in the applicable Water Conservation Stage shall be in effect.

(b) Upon the declaration of a Water Shortage Emergency, the General Manager may deny applications for new or additional water service connections.

Section 5. Water Conservation Rates. Upon the implementation of any Water Conservation Stage, the General Manager shall be authorized to implement a water conservation surcharge as established and adopted by the Board of Directors.

Section 6. Violations: All violations of the water use restrictions and prohibitions set forth herein shall result in the following actions.

(a) Violations of any of the water use restrictions set forth in Sections 3 and 4 shall be cumulative.

(b) All notices of violation shall be directed to the customer of record and property owner for the premises where the violation was observed.

(1) First Violation - Notice of Violation. The General Manager is authorized and directed to issue a written notice of violation to any person who fails or refuses to comply with the water use restrictions set forth herein. The notice shall specify a reasonable period of time in which compliance is to be achieved.

(2) Second Violation - Excessive Use Charge. For a second violation of the water use restrictions set forth herein, an excessive water use charge shall be imposed. The excessive use charge shall be a fine in the amount of \$100, which shall be added to the water bill for the period in which the violation occurred. Failure to make payment of the entire amount due, including the excessive use charge, shall subject the person to the normal consequences for failure to timely pay a water bill as set forth in the District's Rules and Regulations.

(3) Third Violation - Extreme Use Charge. For a third violation of the water use restrictions set forth herein, an extreme water use charge shall be imposed. The extreme use charge shall be a fine in the amount of \$200, which shall be added to the water bill for the period in which the third violation occurred. Failure to make payment of the entire amount due, including the extreme use charge, shall subject the person to the normal consequences for failure to timely pay a water bill as set forth in the District's Rules and Regulations.

(4) Fourth Violation - Termination of Service. For a fourth violation of the water use restrictions set forth herein, the General Manager has the authority to impose an additional fine in the amount of \$200 and to terminate service to the premises involved.

Section 7. Appeal Provisions. A customer may file a request for relief from any provision of this Ordinance, which request shall be submitted in writing to the General Manager and shall include all information necessary for resolution of the request.

(a) The General Manager may grant relief from the provisions of this Ordinance if he or she determines that the requested relief is necessary to protect public health, sanitation, safety or the welfare of the customers of the District. The General Manager may deny or approve, in whole or in part, the request for relief. Within a reasonable period of time, the customer will be notified of the General Manager's decision in writing.

(b) A customer has the right to appeal the General Manager's decision to the Board. The appeal must be in writing and received by the District within 10 days of the date of delivery of the General Manager's decision. The appeal shall be considered by the Board within a reasonable period of time from the date the timely appeal is filed. The customer shall have the right to personally appear before the Board as part of the appeals process. The Board may, at its discretion, affirm or modify the General Manager's decision and impose any conditions it deems proper. The customer will be notified of the Board's decision within a reasonable period of time by the General Manager. The decision of the Board will be final.

Section 8. Sale of Water to Other Districts. The General Manager is authorized to sell water to neighboring districts during a Critical Condition or Water Shortage Emergency, but only with the Board's concurrence and only under the following conditions:

(a) Condition 1

(1) The general manager of the requesting district makes a written certification that, absent the requested sale, its production and storage capabilities are insufficient to meet customer demands for the next 60 days and that it has already implemented a conservation stage equivalent to or more stringent than the Water Conservation Stage then in effect in the District; and,

(2) The General Manager of the District makes a written finding that the facts support the certification of the requesting district's general manager, and that the sale of water to the requesting district will not prevent the District from meeting customer demands for the next 60 days during the declared Water Conservation Stage then in effect; or,

(c) Condition 2

(1) The general manager of the requesting district makes a written certification that, absent the requested sale, its production and storage capabilities are insufficient to meet customer demands for the next 15 days, and that the requesting district has already implemented its highest water conservation stage, which stage is equivalent to or more stringent than the District's highest Water Conservation Stage; and,

(2) The General Manager of the District makes a written finding that the facts support the certification of the requesting district's general manager, and that the sale of water to the requesting district will not prevent the District from meeting customer demands for the next 30 days at the District's current or next higher Water Conservation Stage.

(d) Any water sold to another district in accordance with this section shall be sold at the District's water rates in effect at the time, including any water conservation surcharge, or any such rate implemented within 30 days thereafter.

(e) The provisions of this section 8 of this Resolution are permissive only and shall not create any obligation on the part of the District to sell water to any other district.

THIS RESOLUTION is intended for replacement of Resolution No. 469 in Article 15 of the Fern Valley Water District Rules and Regulations.

ADOPTED this 20 day of June, 2014.