

ORDINANCE NO. 15O-03
AN ORDINANCE OF THE BOARD OF DIRECTORS OF BIGHORN-
DESERT VIEW WATER AGENCY AMENDING AND RESTATING
THE AGENCY'S WATER CONSERVATION PLAN

WHEREAS, pursuant to Water Code Section 353, the Board of Directors may adopt such regulations and restrictions on the delivery of water which will conserve the water supply for the greatest public good; and

WHEREAS, on January 17, 2014, the Governor of the State of California declared a state of emergency (the "Proclamation") due to record dry conditions and concerns over the State's dwindling water supplies. The Proclamation states that "local urban water suppliers and municipalities are called upon to implement their local water shortage contingency plans immediately in order to avoid or forestall outright restrictions that could become necessary later in the drought season"; and

WHEREAS, the domestic water supply for the agency may be inadequate based upon the continued lack of precipitation and the current water levels in the aquifers that provide the domestic water supply for the agency, are such that staff has determined that the available water supply may be insufficient to meet demand; and

WHEREAS, after holding a duly noticed public hearing on **October 27, 2015**, the Board of Directors determined that it is necessary and desirable to adopt revised enhanced water conservation measures and restrictions on the use of potable water; and

WHEREAS, in addition to Water Code Section 353, Water Code Section 375 provides that a public entity that supplies water may, after holding a noticed public hearing, adopt and enforce water conservation programs to reduce the quantity of water used by persons within the entity's service area or jurisdiction for the purpose of conserving the entity's water supplies; and

WHEREAS, additional enhanced water conservation use restrictions are necessary and appropriate in order to protect the health, safety and welfare of the agency.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF BIGHORN DESERT VIEW WATER AGENCY ORDAINS AS FOLLOWS:

SECTION 1. Recitals.

The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Declaration of Policy.

It is hereby declared that, because of the conditions prevailing within the Agency, the general welfare requires that the water resources available to the Agency be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use of water be prevented and the conservation of such water is to be extended with a view to the reasonable and beneficial use thereof in the interest of the people of the Agency and for the public welfare.

The Board of Directors finds the following:

1. Present water supplies are not limitless; and
2. The Agency needs to conserve its available supplies to the maximum extent feasible to provide water to its existing customers.

Based upon the current water supply conditions within the Agency, the Board finds that an emergency water situation exists necessitating the immediate continued implementation of comprehensive water conservation measures.

SECTION 3. Water Conservation Measures and Restrictions on the Use of Potable Water.

The Board of Directors adopts the following Water Conservation Measures and Restrictions on the Use of Potable Water:

STAGE ONE WATER SHORTAGE

A Stage One Water Shortage will take effect when a statewide or county-wide drought is declared or when implemented by a resolution of the Board of Directors whenever the Board finds to do so is necessary to protect the health, safety and general welfare of the public. A Stage One Water Shortage will be lifted when the emergency declaration is lifted or the Board feels that mandatory restrictions are no longer necessary.

1. Use of water from fire hydrants shall be limited to firefighting and construction related activities (i.e. road/lot grading, compaction, or other activities related to building or other construction) and/or activities immediately necessary to maintain the health safety and welfare of the Agency; and
2. Agency potable water, delivered through the property's assigned water meter, shall not be used for soil compaction or grading (construction meter required) or to wash down paved or unpaved sidewalks, driveways and/or parking areas or buildings or other structures, except to alleviate immediate fire or sanitation hazards; and
3. No motor vehicle, boat, trailer, or other type of mobile equipment may be washed, except a commercial carwash unless such vehicle is washed by using a hand-held bucket or water-hose equipped with an automatic shutoff nozzle. No person shall leave a water hose running while washing a vehicle or at any other time, except as necessary to water lawns or landscaping in accordance with this Ordinance; and
4. Irrigating turf or any other landscapes, native or non-native, during and 48 hours following measurable (eg. greater than 0.25-inch) precipitation is prohibited.

STAGE TWO WATER SHORTAGE

A Stage Two Water Shortage will take effect when tank levels drop below 50% every day for 15 days or when implemented by a resolution of the Board of Directors whenever the Board finds to do so is necessary to protect the public health, safety and general welfare of the public. A Stage Two Water Shortage will be lifted when tank levels remain above the 50% mark for 15 consecutive days. In addition to the measures and restrictions set forth in Stage One, the following uses shall be prohibited:

1. Residents and businesses with an odd-numbered street address may water lawns and landscapes (native and/or non-native) on **Mondays, Wednesdays and Saturdays, only before 8 a.m. OR after 6 p.m.**
2. Residents and businesses with an **even-numbered** street address, may water lawns and landscapes (native and/or non-native) on **Tuesdays, Thursdays and Sundays, only before 8 a.m. OR after 6 p.m.**

3. The use of Agency potable water for the filling, refilling or adding of water to swimming pools, wading pools, ornamental fountains, or spas shall be limited to the amount necessary to keep the pool or fountain equipment operative and to refill for evaporative losses.

STAGE THREE WATER SHORTAGE

A Stage Three Water Shortage will take effect when tank levels drop below 40% every day for 15 days or when implemented by a resolution of the Board of Directors whenever the Board finds to do so is necessary to protect the public health, safety and general welfare of the public. A Stage 3 Water Shortage will be lifted when tank levels remain above the 40% mark for 15 consecutive days. In addition to the restrictions set forth in Stages One and Two, the following uses shall be prohibited:

1. Residents and businesses with an odd-numbered street address may water lawns and landscapes (native and/or non-native) on **Mondays and Wednesdays, only before 8 a.m. OR after 6 p.m.**
2. Residents and businesses with an **even-numbered** street address, may water lawns and landscapes (native and/or non-native) on **Tuesdays and Thursdays, only before 8 a.m. OR after 6 p.m.**
3. The use of potable Agency water for construction, compaction, concrete work or other construction related needs is prohibited.
4. Fines will be doubled for violations of Stage 3 restrictions.

STAGE FOUR WATER SHORTAGE

A Stage Four Water Shortage will take effect when tank levels drop below 25% every day for 15 days or when implemented by a resolution of the Board of Directors whenever the Board finds to do so is necessary to protect the public health, safety and general welfare of the public. A Stage 4 Water Shortage will be lifted when tank levels remain above the 25% mark for 15 consecutive days. In addition to the restrictions set forth in Stages One and Two, the following uses shall be prohibited:

1. All outdoor irrigation with potable water shall be prohibited;
2. Use of water from fire hydrants shall be limited to firefighting and/or activities immediately necessary to maintain the health, safety and welfare of the Agency; and
3. Fines will be tripled for violations of Stage 4 restrictions.

SECTION 4. Notices.

The various stages of conservation will be implemented by special mailing or by a notice inserted into the water bills. Notices will also be posted at the Agency Office and on the Agency website.

SECTION 5. Exceptions.

The General Manager may, in his or her discretion, grant exceptions to the terms of this chapter not already provided for, if he or she finds and determines that:

1. The restrictions herein would cause an undue hardship or emergency; or
2. The granting of the exception is necessary to accommodate a documented medical need; or
3. That the granting of the exception will not adversely affect the water supply or service to other existing water customers; or
4. That the granting of the exception is for a public governmental agency and is in the best interest of the public health, safety and welfare; or
5. That the grant of exception is in the best interest of the public health, safety and welfare.

Such exceptions may be granted only upon application in writing. Upon granting any such exception, the General Manager may impose any conditions he or she determines to be just and proper. The terms of any exception shall be set forth in writing. All exceptions granted shall be reported to the Board of Directors at a Board meeting.

An applicant for an exception under this section may appeal the General Manager's decision to the Board of Directors. A request for appeal must be submitted to the Agency in writing not more than ten days after the General Manager's decision.

SECTION 6. Lifting of Restrictions Imposed During A Water Shortage.

The General Manager shall lift or reduce the restrictions imposed during a water shortage as set forth above when he or she determines, after consultation with the President of the Board of Directors and such other persons as he or she deems appropriate, that the conditions which caused the shortage have been alleviated. Such action shall be promptly and extensively publicized.

SECTION 7. Notice of Violations and Penalties.

In addition to any other penalty permitted by law, if and when the Agency becomes aware of any violation of any provision of a Stage One, Stage Two or Stage Three Water Shortage under this Ordinance, a written notice shall be

placed on the property where the violation occurred and/or mailed to the person who is regularly billed for the service where the violation occurs and to any other person known to the Agency who is responsible for the violation or its correction. Said notice shall describe the violation and order that it be corrected, cured and abated immediately or within such specified time as the General Manager determines is reasonable under the circumstances. Said notice shall constitute the first violation of the provisions of this ordinance.

If said violation and order is not complied with, the General Manager may forthwith issue an administrative citation for the following amounts:

1. The notice of violation described above shall constitute the first violation of the provisions of this ordinance.
2. The second violation of any provision of this Ordinance, within the same twelve month period beginning with the first violation, a fine in the amount of one hundred dollars (\$100.00) shall be added to the customer's water bill.
3. The third violation of any provision of this Ordinance, within the same twelve month period beginning with the first violation, a fine in the amount of two hundred and fifty dollars (\$250.00) shall be added to the customer's water bill.
4. The fourth violation of any provision of this Ordinance, within the same twelve month period beginning with the first violation, shall result in the discontinuance of water service.

SECTION 8. Application.

The provisions of this Ordinance shall apply to all persons, customers and property served by the Agency wherever situated. No customer of the Agency, or any employee or invitee of any customer of the Agency, shall knowingly make, cause, use or permit the use of Agency water for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this Ordinance, or in an amount in excess of that use permitted by the following conservation measures.

SECTION 9. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance and each section,

subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

SECTION 10. Effective Date.

This Ordinance shall take effect upon adoption pursuant to Water Code Section 376 and rescinds and replaces Ordinance No. 15O-02 in its entirety.

SECTION 11. Publication.

Pursuant to Water Code Section 376, a summary of this Ordinance shall be published in a newspaper of general circulation and a certified copy of the full text of the proposed Ordinance shall be posted in the office of the Agency at least five days prior to the meeting at which the proposed Ordinance is to be adopted. Within fifteen days after adoption of the Ordinance, the governing body shall publish a summary of the Ordinance with the names of those members voting for and against the ordinance and shall post in the office of the agency a certified copy of the full text of the adopted Ordinance along with the names of those members voting for and against the ordinance.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Bighorn-Desert View Water Agency this 27th day of October, by the following roll call vote:

Ayes: Cori-Lorono, Staley, Burkhart, McBride, Coulombe

Nays:

Abstain:

Absent:

By Judy Cori-Lorono
Judy Cori-Lorono, President of the Board

ATTEST:

Terry Burkhart
Terry Burkhart, Secretary of the Board