

ORDINANCE NO. 2015 - 07

BIG PINE COMMUNITY SERVICES DISTRICT

INYO COUNTY, CALIFORNIA

AN ORDINANCE STATING THE DISTRICT'S WATER CONSERVATION PLAN

On July 29, 2014 the State Water Resources Control Board passed emergency regulations requiring statewide water conservation due to the ongoing drought. In order to meet these regulations, all water systems are required to implement a water conservation plan that results in a significant reduction in water usage. In addition to the state requirement, it is in a water system's best interest to create a plan in case of an emergency water shortage situation. The following document contains staged water usage restrictions, protocols for the water conservation plan, and the accompanying educational material.

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 "[l]ocal 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 District 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 District, are such that staff has determined that the available water supply may be insufficient to meet demand; and

WHEREAS, the Board of Directors determined that it is necessary and desirable to adopt 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;

Last Updated: June 16, 2015

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and

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

NOW, THEREFORE, THE BOARD OF DIRECTORS OF BIG PINE COMMUNITY SERVICES DISTRICT 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 District, the general welfare requires that the water resources available to the District 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 District and for the public welfare.

The Board of Directors finds the following:

1. Present water supplies are limited; and
2. The District 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 District, 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. All residents and businesses may water lawns and landscapes only between the hours of 4 p.m and 10 a.m.
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 District; and
3. All sales or use of District water outside of the District boundaries shall be discontinued; and
4. District potable water shall not be used to wash down sidewalks, driveways, parking areas, buildings or other structures, except to alleviate immediate fire or sanitation hazards; and
5. The washing of automobiles, trucks, trailers, boats, mobile homes and other types of mobile equipment with District potable water is allowed only when using a hose equipped with a shut-off valve so that water is not wasted.

STAGE TWO WATER SHORTAGE

A Stage Two Water Shortage will take effect when use by the water provider of the primary well is lost 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 usage of the primary well is restored for a period of at least two weeks. 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 on Tuesdays, Thursdays, and Sundays, only between the hours of 5 p.m and 9 a.m.
2. Residents and businesses with an even-numbered street address, no street address, or those that irrigate both even and odd addresses within the same zones, which may include multi-family units and homeowners associations, may water lawns and landscapes on Mondays, Wednesdays, and Saturdays, only between the hours of 5 p.m and 9 a.m.
3. The use of District 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; and
4. Restaurants are prohibited from serving District water to their customers except when

specifically requested by the customer.

STAGE THREE WATER SHORTAGE

A Stage Three Water Shortage will take effect when use of the primary well is lost and the backup well is functioning at 75% of normal pumping rates 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 Three Water Shortage will be lifted when the backup well is restored to normal pumping rates. 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 on Thursdays and Sundays, only between the hours of 5 p.m and 9 a.m.
2. Residents and businesses with an even-numbered street address, no street address, or those that irrigate both even and odd addresses within the same zones, which may include multi-family units and homeowners associations, may water lawns and landscapes on Wednesdays and Saturdays, only between the hours of 5 p.m and 9 a.m..
3. All lodging establishments are limited to changing stay-over guest linens to every other day unless specifically requested by the guest; and
4. The use of potable District water for construction, compaction, concrete work or other construction related needs is prohibited.
5. Fines will be doubled for violations of Stage Three restrictions.
6. The washing of automobiles, trucks, trailers, boats, mobile homes and other types of mobile equipment with District potable water shall be prohibited except at car wash facilities utilizing a recycled water system.

STAGE FOUR WATER SHORTAGE

A Stage Four Water Shortage will take effect when use of the primary well is lost and the backup well is functioning at 50% of normal pumping rates 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 Four Water Shortage will be lifted when the backup well resumes pumping at least 75% of normal rates. In addition to the restrictions set forth in Stages One and Two and Three, the following uses shall be prohibited:

1. All outdoor irrigation with potable water shall be prohibited;

2. Fines will be tripled for violations of Stage Four restrictions.

SECTION 4. Notices

The various stages of conservation will be implemented by special mailing or by a notice inserted into the water/sewer bills. Notices will also be posted at the District Office, the local Library, Carroll's Market and the District website (www.bigpinecsd.org).

SECTION 5. Exceptions

The Board may, in their discretion, grant exceptions to the terms of this chapter not already provided for, if it 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 Board may impose any conditions they determine 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 Board's decision to the Board of Directors. A request for appeal must be submitted to the District in writing not more than ten days after the Board's decision.

SECTION 6. Lifting of Restrictions Imposed During A Water Shortage

The Board shall lift or reduce the restrictions imposed during a water shortage as set forth above when it 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 District becomes aware of any violation of any provision of a Stage One, Stage Two, Stage Three or Stage Four 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 District 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 Board 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 Board 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 District wherever situated. No customer of the District, or any employee or invitee of any customer of the District, shall knowingly make, cause, use or permit the use of District 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. The term "District water" as used herein, shall not include reclaimed wastewater.

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 District 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.

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 District 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 district a certified copy of the full text of the adopted Ordinance along with the names of those members voting for and against the Ordinance.

This Ordinance was passed and adopted at a meeting of the Board of Directors of the Big Pine Community Services District on April 15, 2015, by the following roll call vote:

PRESIDENT - BryAnna Vaughan

VOTE: Yay

VICE PRESIDENT - Gary Doyle

VOTE: Yay

MEMBER - Vacant

VOTE: n/a

MEMBER - Robert Steele

VOTE: Yay

MEMBER - David Allen

VOTE: Yay

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PROTOCOLS

Violation Protocol

1. All violations of water use restrictions must be documented by property owner(s) within the District and/or persons of government authority (i.e. County Sheriff, Inyo County Health Officer, etc.). Documentation must include photos of the violation with a date and time stamp and a photo of the address or other location marker where the violation occurred.
2. The violation must be documented in writing or entered into a computer database. The file must include the name/number of restriction which was violated, the address of the violation, and the date and time as previously documented. The file must also list the names and contact information of all responsible parties involved.
3. The letter that corresponds with the number of violations occurred must be sent out to all responsible parties (see appendix) via certified mail.
4. Any and all fines and penalties not paid by the deadlines set forth in the letter are added to the customer's bill and further penalties may be added.

EXEMPTION PROTOCOLS

1. The customer must request an exemption from any water use restriction in writing. Any exemption request must include the restriction they are asking to exempt and the reason for the exemption.
2. The exemption request must also include supporting documentation.
3. After the exemption request is received the Board of Directors has thirty days to make a decision.
4. If an exemption is granted, the notice shall be given in writing and should include any and all restrictions placed on the exemption and the amount of time that the exemption is allowed.
5. All exemptions should be kept on file to ensure that a customer is not wrongly cited for a violation of the restrictions.

APPEALS PROTOCOLS

Any customer may appeal a violation notice or exemption denial.

1. Any and all appeals must be in writing listing the violation or exemption they are appealing and the reason for the appeal.
2. The appeal must also include supporting documentation and/or photos.
3. After the appeal is received the Board of Directors has thirty days to make a decision on the appeal.
4. The final decision must be delivered in writing and include an explanation of the decision.

5. The decision is final and cannot be appealed a second time for the same violation or exemption.

APPENDIX 1. Example Warning Notice

WSV ID xxxx

Date

Name

Company

Address

City, CA xxxxx

Dear Mr/Ms xxxxx,

WARNING NOTICE

Subject: Water Shortage Restrictions

Project: NAME

PCN: xxxxxxxxxxxxxx

A violation of the current Water Shortage Order and Rule XX has been documented. The date, time and location of the violation have been logged into our database (using the WSV ID number listed at the top of this letter) for future reference.

Second Offense violations will result in enforcement action including civil penalties not to exceed \$XXX per day per offense.

Please make any necessary adjustments to your irrigation system immediately to avoid future violations. Information regarding the current Water Shortage restrictions can be found at: www.bigpinecsd.org, or by calling 760-938-2660.

Your prompt attention and cooperation in these matters are appreciated. Should you have any questions regarding this Warning Notice, please contact 760-938-2660 .

Sincerely,

Staff Name

Staff Title

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Department
Company

VIA CERTIFIED MAIL XXXX XXXX XXXX XXXX XXXX

APPENDIX 2. Example Notice of Violation

Date

Dear Sir or Madam:

NOTICE OF VIOLATION/CONSENT AGREEMENT

Subject: Violation of Water Restrictions

Project:

The purpose of this correspondence is to provide notice that you are in violation of Phase X Water Restrictions, as described in Water Shortage Order Number xxxx-xxx-xxx-xx (copy attached). District staff documented this violation at / .m. on /, 2015. The violation consisted of (DESCRIBE VIOLATION).

To resolve this violation, you must agree to pay a civil penalty and recovery of costs in the amount of _____ Dollars (\$ _____.00). NAME OF SYSTEM is authorized to seek civil penalties up to AMOUNT (\$XXX.00) per day, per offense, and to recover staff investigative time and attorney fees under CODE. The penalty amount referenced above was generated from a penalty matrix specifically designed for water restriction violations and is based upon the matrix used by the United States Environmental Protection Agency (EPA). This penalty amount is for a first/second time offense. Be advised that should we document further violations of Water Restriction Orders, civil penalties will increase substantially.

By paying this penalty, without admitting liability, you have provided assurances of good faith compliance with all agreements entered into between yourself and the NAME OF SYSTEM, in consideration for the SYSTEM not taking action to seek judicial imposition of damages, or civil penalties/costs for the violation described above. If you do not pay this penalty, at the address given above, within thirty (30) days of receipt it will be assumed that you do not intend on settling this matter according to the terms described herein. Subsequently, this matter would then be referred to the COUNTY DISTRICT ATTORNEY/SYSTEM ATTORNEY with a recommendation that formal enforcement action be taken against you. If formal enforcement action must be taken, the SYSTEM will seek civil penalties and costs in excess of those referenced in this proposed consent agreement.

The civil penalty/District costs amount of _____ Dollars (\$ _____.00) is to be paid by certified check or money order to the NAME OF SYSTEM AND ADDRESS ATTENTION: STAFF MEMBER.

Should you have any questions or require additional information, please contact STAFF MEMBER AT 760-938-2660. Your attention and cooperation in this matter are important to avoid further action.

Sincerely,

Staff Name
Staff Title
Department
Company

VIA CERTIFIED MAIL xxxx xxxx xxxx xxxx

APPENDIX 3. Educational Materials

WATER SHORTAGE WARNING

Mandatory Landscape Irrigation Restrictions are currently in effect in your area.

For more information:

Visit system website

Call system phone number

Review posted information on the community bulletin board

Please limit lawn watering to your designated day and times or face possible civil penalties.

AVISO DE LA ESCASEZ DE AGUA

Restricciones obligatorias para la irrigación de ornamentales están actualmente en vigor en su área.

Para información:

Visite system website

Llame al system phone number

Lea la información publicada en el tablón de anuncios de la comunidad

Por favor limite la irrigación de su césped al día y horas designadas o enfrente posibles multas

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