


TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL   
DATE: MAY 22, 2009

**AGENDA ITEM  
E-6  
MAY 27, 2009**

DEVELOPMENT OF EMERGENCY WATER SHORTAGE REGULATIONS

**ITEM**

Receive update from Water Conservation Committee on development of emergency water shortage regulations [RECEIVE UPDATE]

**BACKGROUND**

Your Honorable Board referred this matter to the Water Conservation Committee in April and set an item on this agenda to discuss progress. The Committee has met and provided direction to staff regarding a draft set of regulations that could be usable for the four water suppliers subject to the judgment. Attached is staff's draft, which will be reviewed by the Committee at their June 5, 2009 meeting and the Technical Group at their June 1, 2009 meeting.

**FISCAL IMPACT**

Development of this draft did use previously budgeted staff time and legal consulting cost.

**RECOMMENDATION**

Staff recommends that the Board receive the update and ask questions of the Committee.

**ATTACHMENTS**

- Rough draft regulations

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## Partial Emergency Water Shortage Regulations

Definitions:

**Purveyor**, unless context dictates to the contrary, means purveyor's designated representative.

### 3.24.060 Water Shortage Conservation Stages.

#### A. Stage I Conservation – Water Watch.

1. Until such time as supplemental water is delivered to the NMMA water Purveyors, each water Purveyor agrees to promote the following voluntary strategies within their respective jurisdictions:
  - (a) All outdoor irrigation of vegetation should occur only after 8 p.m. and before 9 a.m.
  - (b) Discourage the use of potable water to wash sidewalks, walkways, driveways, parking lots, open ground and other hard-surface areas by direct application.
  - (c) Discourage the use of non-drinking water fountains, except for those using recirculated water.
  - (d) Discourage the use of potable water which results in run-off in gutters or streets.
2. The goal of Stage I is to achieve an aggregate 15% per capita reduction in water usage by water Purveyors.
3. Each Purveyor shall provide notice to all purveyor customers regarding the declaration of Water Watch conditions and activation of Stage I Water Conservation Program. Such notice shall be mailed within fourteen (14) days of the Court's approval of the Water Shortage Conditions and Response Plan.

#### B. Stage II Conservation – Potentially Severe Water Shortage Conditions.

1. Upon a determination by the NMMA Technical Group that the a Potentially Severe Water Shortage Conditions exist, the following

measures and prohibitions shall take effect, within each of the water purveyors jurisdictions, with the goal of achieving a **thirty percent (30%)** reduction in water consumption:

- (a) The water conservation recommendations referenced in Stage 1 shall be mandatory and constitute prohibitions.
- (b) Water deliveries for residential uses shall be limited as follows:
  - 1. 11 ccf of water bi-monthly or 295 gallons per day per multi-family residential unit.
  - 2. 24 ccf of water bi-monthly or 298 gallons per day per single family residential unit on lots 0 -13,068 sf.
  - 3. 40 ccf of water bi-monthly or 497 gallons per day per single family residential unit on lots 13,069 – 26,136 sf.
  - 4. 49 ccf of water bi-monthly or 599 gallons per day on single family residential lots >26,137 sf.
- (c) Non-Residential Uses shall be limited to seventy percent (70%) of their water consumption for the same billing cycle during the Base Year.
- (d) A surcharge of **two hundred percent (200%)** will be levied on all water use in excess of the maximum water use allotment referenced in subparagraphs (b) and (c) above and shall be assessed to the account of the Customer .
- (e) Use of water from fire hydrants shall be limited to fire suppression and/or other activities immediately necessary to maintain health, safety and welfare of residents within the boundaries of each water Purveyor.
- (f) The use of potable water, including fire hydrant water, for dust control and compaction for construction projects shall be prohibited.
- (g) The washing of automobiles, golf carts, pickup trucks, horse trailers, boats and other types of mobile equipment not occurring upon the immediate premises of a commercial car wash and/or commercial service station that use recirculated water shall be prohibited. Emergency service vehicles are subject to Section 3.24.100.

- (h) Restaurants shall not serve water to their customers except upon specific request.
  - (j) Water main flushing shall only occur in emergency situations.
  - (k) All swimming pools and spas shall be covered when not in use.
2. Each Purveyor is authorized and directed to pursue a vigorous public information program about water supply conditions and the need to reduce water consumption by such means deemed appropriate by each Purveyor.
  3. Each purveyor will meet with other non-stipulating water purveyors, public school districts, park agencies, and golf courses, that use water sources other than Purveyor supplied water, to seek voluntary reduction in irrigation of decorative landscape and reduce irrigation of turf and play areas.
  4. In addition to those measures stated above, each Purveyor may, by resolution, ordinance, rule or regulation, adopt additional water conservation measures on an urgency basis.

C. Stage III Conservation – Severe Water Shortage Condition.

1. Upon a determination of the NMMA Technical Group, that Severe Water Shortage conditions exist, the following measures and prohibitions shall take effect, within each of the water purveyor's jurisdiction, with a goal of achieving a **fifty (50%)** reduction in water consumption:
  - (a) The water conservation measures and prohibitions referenced in Stage 2, above.
  - (b) Water deliveries for residential uses shall be limited as follows:
    1. 8 ccf of water bi-monthly or 100 gallons per day per multi-family residential unit.
    2. 17 ccf of water bi-monthly or 213 gallons per day per single family residential units 0 – 13,068 sf.
    3. 29 ccf of water bi-monthly or 355 gallons per day per single family residential units 13,069 – 26,136 sf.

4. 35 ccf of water bi-monthly or 428 gallons per day per single family residential units >26,137 sf.

- (c) Non-Residential Uses shall be limited to **fifty percent (50%)** of their water consumption for the same billing cycle during the Base Year.
- (d) A surcharge of **four hundred percent (400%)** will be levied on all water use in excess of the maximum water use allotment reflected in subparagraphs (a) and (b) above, and shall be assessed to the account of the Customer.
- (e) Will-Serve Letters shall be suspended and the setting of new water meters shall be prohibited.
- (f) The use of potable water to irrigate grass, lawns, ground cover, shrubbery, crops, vegetation, and ornamental trees, etc. shall be prohibited; and all irrigation meters within the water Purveyors' jurisdictions shall be locked.

2. In addition to those measures stated above, each water Purveyor, by resolution, ordinance, rule or regulation, may adopt additional water conservation measures on an urgency basis.

#### 3.24.070 Termination of Stages

Stage I will terminate upon supplemental water arriving on the Nipomo Mesa Management Area. All other stages shall be terminated by the NMMA Technical Group as provided in the Water Shortage Response Plan.

#### 3.24.080 Calculations

A. When Multi-Family units are served by a single water meter, the total volume of metered water shall be divided by the number of units to determine compliance with conservation stages.

B. Limitations of water use referenced in 3.24.060 B(1)(b) and C (1)(b) shall be based on the gross square footage of the relevant parcels.

C. The surcharge calculations for exceeding water allotments referenced in 3.24.060 B(1)(b) and C(1)(b) shall be based on the standard charge for water use over the limitation times the surcharge. For example, if a multifamily residential unit used 27 ccf of water during a bi-monthly period instead of the 17 ccf maximum water allotment referenced in 3.24.060 C(1)(b)(1), then the excess use over the allotment would be 10 ccf and if the standard cost

per ccf was \$1, the surcharge for the multi-family unit in addition to the normal bill would be \$40 (10 ccf times \$1 times 4).

**\*\*Requires additional work\*\***

3.24.090 Enforcement (**\*\*Separately considered by each water Purveyor\*\***)

A. In addition to the water surcharges referenced in Section 3.24.060, the following applies to customers violating the water allotment provisions of this Chapter commencing with Stage II:

1. First Violation. A Notice of Violation shall be both mailed to the customer by first class mail, return receipt requested, and posted by door hanger on the affected property.
2. Second Violation. A Notice of Violation shall be sent to the customer by certified mail, return receipt requested, and by door hanger, with an explanation of the gravity of the situation and the penalties for future violations. A delinquent bill, including the appropriate surcharge, shall be increased by a penalty of ten percent (10%).
3. Third Violation. Water service will be discontinued and the water meter will be locked, or if necessary, removed from the premises of the violator. The Purveyor will send notice via certified mail at least seventy-two (72) hours prior to discontinuance of service and will attempt to contact an adult person at the premises by telephone or personal contact at least twenty-four (24) hours prior to discontinuance of service.

The meter will be reinstalled on conditions set by the Purveyor and after the payment of Purveyor reconnection charges and the payment of all other charges, surcharges and penalties owing.

B. Violation of Conservation Measures Other Than Water Allotment.

1. First Violation. A Notice of Violation shall be both mailed to the customer or person other than the customer, (i.e. tenant), by first class mail, return receipt requested, and posted by door hanger on the affected property.
2. Successive Violations. The second violation and each and every violation thereafter shall be subject to the provisions of Section 3.24.080 C, below.

C. Violations Unlawful.

1. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. A violation of any of the provisions or failure to comply with any of the requirements shall constitute a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600).
2. Notwithstanding subparagraph 1, above, any misdemeanor violation or failure to comply may, in the discretion of the Purveyor's Legal Counsel, be initially charged and subsequently prosecuted as an infraction. Each and every infraction or violation is punishable by a fine not exceeding fifty dollars (\$50) for the first violation; a fine not exceeding one hundred dollars (\$100) for the second violation of this Chapter within one year; and a fine not exceeding two hundred fifty dollars (\$250) for the third violation of this Chapter within one year.
  1. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued, or permitted by such person and shall be punishable accordingly.

D. Injunctive Relief

The Purveyor may petition the Superior Court for the issuance of a permanent or temporary injunction, or both, as may be appropriate, in restraining any person or customer from the continued violation of this Chapter.

E. Enforcement Officer.

1. The Purveyor, or its designee, shall be the Code Enforcement Officer primarily charged with enforcement of this Chapter.
2. For new construction, the Purveyor's designee has the authority to establish monthly Base Year water consumption for Non-Residential Use.

F. Collections.

1. Charges, surcharges and penalties authorized by this Chapter shall constitute a lien on the property, and the Purveyor is authorized to record a certificate declaring the amount of the charges, surcharges and penalties due pursuant to applicable law.

2. The Purveyor may order that the charges, surcharges and penalties be collected on the tax roll in the same manner as property taxes pursuant to applicable law.

G. Remedies Cumulative

The remedies available to the Purveyor to enforce this Chapter are cumulative and may be pursued consecutively by the Purveyor. The Purveyor's use of any one of the remedies and/or legal actions prescribed herein shall not bar the use of any other remedies provided in this Chapter, or other Purveyor ordinances, resolutions, rules, regulations or by law for the purpose of enforcing the provisions hereof.

3.24.095 Appeals

A. Water Allotment Appeals.

1. Each Purveyor or its designated representative may, in its discretion, grant exceptions to the water delivery limitations referenced in Section 3.24.060, if it finds based on a certification by a California-licensed physician or other California-licensed health care provider that the water delivery limitations would cause undue hardship or emergency medical conditions. The application for an exception shall be on a Purveyor form provided by the Purveyor.
2. In determining whether or not to grant the exception and the terms and conditions of the exception, the Purveyor shall consider the water conservation measures currently implemented by the applicant, (eg. low flush toilets, aerated shower fixtures, landscape conservation, etc.) and the appropriate water conservation stage that should be applied to the applicant.

B. Lot Size Appeals

The Purveyor or its designated representative will consider appeals based on the Purveyor's determination of lot size for the purposes of imposing water delivery limitations. Said appeals shall be in writing and shall include proof of gross lot size based on square footage.

C. Change in Commercial Use

When commercial use is changed, (eg. when an office building is converted to restaurant use), the Purveyor or its designated representative may consider appeals to adjust the Base Year for the purposes of compliance with the water use limitations. Requests shall be in writing and shall contain an engineer's or architect's water use calculation of the new use. The Purveyor shall consider other similar existing uses in considering whether or not an adjustment is warranted.



D. Applicable to All Appeals

1. The terms of any exception or determination shall be set forth in writing and may contain conditions. The Purveyor's determination shall be kept on file with the Purveyor and a copy will be furnished to the applicant.
2. An applicant may appeal the decision of a Purveyor's designated representative to the Purveyor in accordance with each Purveyor's adopted policies and procedures.

3.24.100 Exceptions

A. Public safety departments, such as fire departments and police departments, are exempt from the requirements of this Chapter, provided that said departments first lodge with the General Manager a water conservation plan.

B. Commercial car washes that provide proof of the use of recycled water, to the satisfaction of the General Manager, are exempt from the requirements of this Chapter.