

**ORDINANCE NO. 47**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
SAN BENITO COUNTY WATER DISTRICT  
ESTABLISHING SAN FELIPE DISTRIBUTION SYSTEM WATER CHARGES FOR  
AGRICULTURAL AND NON-AGRICULTURAL WATER**

**WHEREAS**, on November 8, 1977, the voters of San Benito County passed Proposition B, which authorized the levy of charges sufficient to repay the United States for the District's share of the cost of construction and cost of operation and maintenance of the Federal Facilities portion of the San Felipe Division of the Central Valley Project; and

**WHEREAS**, Proposition B also authorized a levy of charges sufficient to repay the costs of construction and cost of operation and maintenance of the District's Distribution Facilities; and

**WHEREAS**, the Board of Directors has determined charges which together with other revenue sources, are sufficient to repay the United States for the construction and operation and maintenance of the Federal Facilities or for the cost of operation and maintenance and repayment of the District's Distribution Facilities; and

**WHEREAS**, the District mailed notices to all parcels upon which the charge is to be imposed setting forth the information required in Section 6 of Article XIII D of the California Constitution (Proposition 218) and notifying the owners thereof of a public hearing on January 27, 2009, to consider the charge; and

**WHEREAS**, after 45 days from the date said Notice was mailed, the Board conducted a public hearing on January 27, 2009, to determine whether or not the charge should be levied in Zone 6, and to consider the amount of any such charge; and

**WHEREAS**, less than a majority of the owners or lessees of parcels upon which the charge is proposed for imposition filed protests.

**BE IT ORDAINED** by the Board of Directors of the San Benito County Water District as follows:

1. Rates and Charges: In order to meet said costs, the rates for water delivered through the pressurized San Felipe Distribution System shall be established as follows:

Water Charge:

<u>USE</u>	<u>RATE</u>
Agricultural - Non-Full Cost	\$115.00 per acre foot
Full-Cost (RRA Section 205(a)(3))	\$240.00 per acre foot
Full-Cost (RRA Section 202(3))	\$230.00 per acre foot
Non-Agricultural (Municipal & Industrial)	\$180.00 per acre foot

Small Parcel Service (Parcels 10 acres or less in area)	
Agricultural	\$ 52.15 bi-monthly
Municipal & Industrial	\$ 43.80 bi-monthly

Bi-monthly charges includes base rate and annual minimum quantity (Agricultural @ 2 acre feet per year and M&I @ 1 acre foot per year); water use above annual minimum charged at applicable Agricultural or Non-Agricultural water rate.

Power Charge: For all water delivered through Subsystems

<u>SUBSYSTEM</u>	<u>RATE</u>
2	\$ 17.50 per acre foot
6H	\$ 20.25 per acre foot
9L	\$ 42.55 per acre foot
9H	\$ 74.85 per acre foot
All Others	\$ 16.30 per acre foot

<u>Base Rate by Meter Size</u>	<u>Monthly Charge</u>
2 to 4 inch meter	\$ 6.90
6 inch meter	\$ 29.40
8 inch meter	\$ 51.40
10 inch meter	\$ 76.80
12 inch meter	\$122.10

If customer terminates service and reactivates service in less than 365 days, they must pay all past base rate charges. Monthly base rate for single parcels that are served by multiple meters will be calculated at \$.86 per acre.

2. Findings:

The Board of Directors hereby finds and determines that:

- a) Revenues derived from the charge imposed herein do not exceed the funds required to pay for operation and maintenance costs associated with the delivery of San Felipe water and the power costs for pumping, transmission and distribution of San Felipe water to the District's customers, and shall not be used for any other purpose;
- b) The amount of the charge does not exceed the proportional cost of the service attributable to the parcel;
- c) The service for which the charge is imposed (see 1. above) is actually used by or is immediately available to the owner in question;
- d) The charge is not imposed for general governmental services.

3. Effective Date: The above rates and charges shall be effective March 1, 2009, and shall remain in full force and effect until changed by Ordinance of the San Benito County Water District.

4. Repeal of Prior Ordinances: All Ordinance and parts of Ordinances inconsistent herewith are hereby repealed.
5. Severability Clause: In the event that any portion or provision of this Ordinance shall be determined by a court of law or other tribunal to be invalid or unconstitutional, such findings of invalidity or unconstitutionality shall not affect the validity of the remaining provisions of this Ordinance, which shall remain in full force and effect.
6. Declaration of Urgency:  
This ordinance is declared to be an urgency ordinance to take effect immediately, and is for the immediate preservation of the public peace, health, safety and welfare. The facts constituting the urgency are as follows:  
  
The requirements of the Proposition 218 protest process required a delay in the adoption of this ordinance in order to validate and tabulate protests. Water rates must be in effect at the beginning of the water year, March 1, 2009. Therefore this ordinance must become effective immediately upon its adoption.
7. Publication: This Ordinance shall take effect immediately. Within 15 days after its passage, this Ordinance shall be published once in a newspaper of general circulation in the County of San Benito, State of California, together with the names of the members of the Board of Directors voting for and against same.

**PASSED AND ADOPTED** this 3<sup>rd</sup> day of February, 2009, by the San Benito County Board of Directors by the following vote:

AYES: DIRECTORS: Bettencourt, Flores, Swanson, Tobias and Tonascia  
 NOES: DIRECTORS: None  
 ABSENT: DIRECTORS: None

*/s/ Frank E. Bettencourt*  
 Frank E. Bettencourt  
 President

ATTEST: */s/ Sara Singleton*  
 Sara Singleton  
 District Secretary