

ORDINANCE NO. 49

**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 25, 2010, to consider the charge; and

WHEREAS, after 45 days from the date said Notice was mailed, the Board conducted a public hearing on January 25, 2010, 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:

CONTRACT CUSTOMERS	Effective March 1, 2010	Effective March 1, 2011	Effective March 1, 2012	Unit of Measure
Agricultural	\$ 135.00	\$ 155.00	\$ 170.00	per acre foot
Agricultural Full Cost (RRA Section 205(a)(3)*	\$ 290.00	\$ 310.00	\$ 340.00	per acre foot
Agricultural Full Cost (RRA Section 202(3)*	\$ 280.00	\$ 300.00	\$ 330.00	per acre foot
Non-Agricultural (Municipal and Industrial)	\$ 200.00	\$ 220.00	\$ 235.00	per acre foot

SMALL PARCEL CUSTOMERS Small Parcel Service (parcels 10 acres less in area)	Effective March 1, 2010	Effective March 1, 2011	Effective March 1, 2012	Unit of Measure
Agricultural	\$ 16.90	\$ 19.40	\$ 21.25	flat rate
<i>Frequency</i>	monthly	monthly	monthly	
<i>Acre Feet Included</i>	1.5 AF water	1.5 AF water	1.5 AF water	
Non-Agricultural (Municipal & Industrial)	\$ 16.70	\$ 18.35	\$ 19.60	flat rate
<i>Frequency</i>	monthly	monthly	monthly	
<i>Acre Feet Included</i>	1.0 AF water	1.0 AF water	1.0 AF water	

Power Charge: For all water delivered through Subsystems				
	Effective March 1, 2010	Effective March 1, 2011	Effective March 1, 2012	Unit of Measure
Subsystem 2	\$ 22.00	\$ 22.70	\$ 23.35	per acre foot
Subsystem 6H	\$ 27.30	\$ 28.15	\$ 29.00	per acre foot
Subsystem 9L	\$ 49.75	\$ 51.25	\$ 52.80	per acre foot
Subsystem 9H	\$ 84.35	\$ 86.90	\$ 89.50	per acre foot
All other subsystems	\$ 21.75	\$ 22.40	\$ 23.10	per acre foot

Regulatory Overuse Charge
Water used over the allocation(s) will be billed at the applicable agricultural or non-agricultural rate along with the regulatory overuse charge. The regulatory charge is to encourage conservation and discourage overuse, and is the current spot market rate, with a minimum of \$450.00 per acre foot. The regulatory charge is applied to blue valve water use which exceeds the parcel or account allocation.

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 as listed in Paragraph #1, 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. 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 25th day of January, 2010, by the San Benito County Board of Directors by the following vote:

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

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

ATTEST: /s/Sara Singleton
Sara Singleton
Manager of Administration and Finance