

RESOLUTION NO. 2008-04

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT, DECLARING AN EXTREME WATER SHORTAGE CONDITION, PROVIDING FOR INTERIM WATER ALLOCATION PROCEDURES AND PENALTY FOR OVERUSE OF WATER ALLOCATIONS, AND TEMPORARILY SUSPENDING ALL PROVISIONS OF THE WATER USER'S HANDBOOK IN CONFLICT WITH THIS RESOLUTION

RECITALS:

- A. On January 25, 2008, the Bureau of Reclamation issued its preliminary 2008 Central Valley Project (CVP) water supply outlook for CVP contractors. The outlook and resulting forecast provide for significant reductions in available water supplies for Agricultural and Municipal and Industrial (M&I) CVP contractors. The reductions are the result of: 1) lack of adequate rainfall, and, 2) a federal court ruling requiring that the Bureau implement interim court-ordered measures to provide additional protection for Delta smelt. The Delta smelt decision and other pending court actions to protect threatened or endangered species will significantly impact the District's CVP allocations. Based upon the foregoing facts, there exists an extreme water shortage condition and water supply emergency.
- B. In such extreme water shortage years, it is critical that the District implement policies that provide for conservation and discourage overuse of water by both Agricultural and M&I contract customers and Agricultural and M&I small parcel customers.
- C. Accordingly, the District wishes to establish interim allocation procedures pertaining to water overuse including a regulatory overuse penalty. Such overuse will result in a reduction of water available to other users who are entitled to their allocation and will require that the District locate and purchase water on the open market to compensate for the overused water. This penalty is not imposed upon a parcel as an incident of property ownership but is a regulatory penalty on water users who choose to overuse water allocations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT AS FOLLOWS:

- 1. Declaration of Water Shortage:** The Board hereby declares an extreme CVP water shortage condition and emergency in the District for water year 2008-2009 and adopts the following interim policies regarding water overuse to address the emergency.
- 2. Interim Overuse Policies Applicable to Agricultural and M&I Contract Customers:** If an Agricultural or M&I contract customer overuses their applicable water allocation, the District shall discontinue water service by closing the customer's valve. The customer will be billed their applicable water rate for usage and assessed a regulatory conservation penalty for the overused water at the then average market rate (currently estimated at \$450/Acre-Foot). This penalty is intended to recover the District's costs for locating and purchasing water in the open market to back-fill the District's supplies so that other District customers' allocations will not be impacted.
- 3. Interim Overuse Policies Applicable to Agricultural and M&I Small Parcel Customers (10 acres or less):** If an Agricultural customer's water usage for a small parcel exceeds 3.6 acre feet (for parcels with an allocation of 1.2 acre feet per acre) or 6 acre feet (for parcels with an allocation of 2 acre feet per acre), or an M&I customer's usage exceeds 3.6 acre feet, the District shall close the customer's valve.
- 4. Changing Account Service Type:** Effective with approval of this resolution, customers will not be allowed to change account service type between contract and small parcel. However, the District has the discretion to authorize changing of account service type when such is deemed justified under the circumstances.
- 5. Miscellaneous:** Any and all provisions of the Water User's Handbook that are in conflict with the provisions of this Resolution are hereby suspended during the term of this interim Resolution. This Resolution shall be reviewed periodically but not later than the first meeting in January, 2009, to determine whether a water shortage condition and emergency exists and whether the policies set forth

herein should continue in effect. In the event a court of law determines that any provision of this Resolution is invalid, such determination shall not invalidate the remaining provisions of this Resolution.

The foregoing Resolution was passed and adopted at a special meeting of the Board of Directors of the San Benito County Water District held on February 6, 2008 by the following vote:

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

SAN BENITO COUNTY WATER DISTRICT

/s/Robert M. Swanson
Robert M. Swanson
President

ATTEST:

/s/Shelley Giancola
Shelley Giancola
District Secretary