

ORDINANCE NO. 59

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
IDYLLWILD WATER DISTRICT
FINDING THE NECESSITY OF, AND PROVIDING FOR THE
IMPLEMENTATION AND ENFORCEMENT OF AN EMERGENCY
WATER CONSERVATION PLAN TO MITIGATE THE
EFFECTS OF CALIFORNIA'S DROUGHT AND RESCINDING
ORDINANCES NOS. 26, 30 AND 50, 52, 53, 56 AND
ALL AMENDMENTS THERETO.

RECITALS

A. California is in the fifth consecutive year of below normal precipitation, this could be expected to reoccur in the future; and

B. One hundred percent (100%) of the IDYLLWILD WATER DISTRICT'S ("DISTRICT") total water supply is dependent upon rainfall and snow in the higher elevations of the San Jacinto mountains, above Idyllwild; and

C. Because of its location, the DISTRICT is unable to supplement its local water supplies with imported water; and

D. The effect of the drought has been exacerbated by the continued growth of the community, thereby placing increasing demands on local water supplies, hampering the DISTRICT'S ability to meet numerous peak demands and to provide a safe margin for fire protection purposes; and

E. Recently, the DISTRICT has undertaken plans to expand its water system, including an intensive well-drilling program, in an effort to keep pace with demand; and

F. Despite the addition of new sources of supply and plans to expand the storage capability of the DISTRICT, the DISTRICT may not be able to continue to meet minimum requirements necessary to protect the public's health, safety and general welfare under present and future drought conditions without the implementation of mandatory emergency water conservation plan.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE IDYLLWILD WATER DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Purpose and Scope.

a. The purpose of this Ordinance is to provide a mandatory emergency water conservation plan to minimize the effect of a shortage of water supplies on the customers of the DISTRICT to:

(i) Protect the health, safety and welfare of inhabitants and customers of the DISTRICT; and

(ii) Assure the maximum beneficial use of the water supplies of the DISTRICT; and

(iii) Ensure sufficient water supplies to meet the basic needs of human consumption, sanitation and fire protection.

b. This Ordinance adopts certain specified rules and regulations to implement a two-stage mandatory water conservation plan consistent with the DISTRICT'S projected water supply availability; and

c. This Ordinance shall remain in effect until the Board of Directors finds and declares by ordinance that the provisions of this Ordinance are no longer applicable to existing water supply conditions and that the supply of water available for distribution within the DISTRICT'S service area has been permanently replenished or augmented.

Section 2. Authority. The DISTRICT has the power and authority to enact this Ordinance pursuant to the following authorities:

a. Water Code Section 31026, which authorizes the DISTRICT to (i) restrict the use of DISTRICT water during any emergency caused by drought, or other threatened or existing water shortage, (ii) to prohibit the waste of DISTRICT water or the use of DISTRICT water during such periods, and (iii) to prohibit the use of such water during such periods for specific uses which the DISTRICT may from time to time find to be nonessential; and

b. Water Code Section 375, which authorizes the DISTRICT to adopt and enforce a water conservation program to reduce the quantity of water used by the inhabitants of the DISTRICT for the purpose of conserving the water supplies of the DISTRICT; and

c. Water Code Section 350, which gives the Board of Directors the authority to declare a water shortage emergency condition whenever the Board finds and determines that the

ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the DISTRICT to the extent that there would be insufficient water for human consumption, sanitation and fire protection.

SECTION 3. Adoption of Three-Stage Water Conservation Plan.

There is hereby enacted a DISTRICT - wide Water Emergency Conservation Plan consisting of three stages, as follows:

Stage I -Water Shortage Alert, which requires each user of DISTRICT water to reduce the consumption of water by not less than 15%, as more particularly described in Section 4 below.

Stage II - Water Shortage Emergency, which requires each user of DISTRICT water to reduce the consumption of water by not less than 25%, as more particularly described in Section 5 below.

Stage III - Water Shortage Extreme, which requires each user of DISTRICT water to reduce the consumption of water by not less than 40%, as more particularly described in Section 6 below.

The DISTRICT shall compare the amount of water consumed in the then-currently billing month to the amount of water consumed at the same water service address in the same month as in a previous normal base year as determined by the DISTRICT.

Section 4. Determination and Declaration of Water Conservation Stage I Water Shortage Alert.

a. Authorization. The General Manager of the District, after compliance with the procedures described in Subsection c below, is hereby authorized to declare a Stage I Water Shortage Alert upon determining that water supply conditions prevailing in the DISTRICT indicate that the probability exists that the DISTRICT cannot meet all of the demands of its customers. Declaration of a Stage I Alert requires mandatory compliance by all DISTRICT water users during the period of the declaration.

b. Water Use Restrictions. Declaration of Stage I Water Shortage Alert requires a mandatory reduction in water consumption by all water user's of not less than 15%. To help achieve the reduction requirement, the following Stage I restrictions shall apply to all customers:

(i) No outside irrigation shall be permitted on Fridays, Saturdays, Sundays, and holidays;

and

(ii) Upgrading existing water meters to larger meters shall be prohibited; and

(iii) Such self-help conservation measures as may be taken by DISTRICT customers in order to achieve the mandatory 15% reduction requirement.

c. Procedures for Declaring a Stage I Water Shortage Alert. The General Manager, after consultation with, and the concurrence of, the Board of Directors, may declare a Stage I water alert to be effective on the 10th day following the declaration, which declaration shall be published at least once in the local newspaper and posted in at least three public places within the DISTRICT. The General Manager shall also provide mailed notice of the declaration to each customer of the DISTRICT by inserting a notice of the declaration in the next billing to each customer of the DISTRICT. The failure to receive mailed notice prior to the effective date of the declaration shall not invalidate the declaration, nor shall it prevent enforcement of this Ordinance.

Section 5. Stage II: Water Shortage Emergency.

a. Authorization. Pursuant to Water Code Section 355, the Board of Directors, after compliance with the notice and hearing procedures set forth in Subsection c below, is authorized and directed to declare a Stage II Water Shortage Emergency whenever it finds and determines that the ordinary demands and requirements of the DISTRICT's customers cannot be satisfied without depleting the water supply of the DISTRICT to the extent that there would be insufficient water for human consumption, sanitation and fire protection. The regulations and restrictions under Stage II Water Shortage Emergency shall remain in full force and effect during the period of the emergency and until the

supply of DISTRICT water has been replenished or augmented, as determined by the DISTRICT.

The declaration of a Stage I Alert shall not be a condition precedent to the declaration of a Stage II Emergency.

b. Water Use Restrictions. Upon declaration of a Stage II Emergency by the Board of Directors, the following restrictions shall apply to all persons. Declaration of a Stage II requires a mandatory reduction in water consumption by all DISTRICT customers of not less than 25%, or such other amounts determined by the District.

To achieve the 25% reduction requirements, the following Stage II restrictions shall apply to all customers:

(i) The restrictions listed under Stage I shall be complied with;

(ii) All outstanding "Will Serve" letter will be temporarily suspended and no new letters or water meters shall be issued;

(iii) Fire hydrants will be used for emergency purposes only and no water will be sold for construction purposes;

(iv) All landscape irrigation shall be permitted no more than once every two weeks, only in odd/even calendar weeks corresponding to the last two digits of a service address; and

(v) The washing of any motor vehicle, recreational vehicle or trailer is prohibited: and

(vi) No initial filling of swimming pools.

c. Procedure for Declaring a Stage II Water Shortage Emergency. In the event the Board of Directors of the DISTRICT determines to declare a Stage II water shortage emergency, the declaration shall be made, pursuant to Water Code Section 351 and 352, after a public hearing at which DISTRICT consumers shall have an opportunity to be heard to protest against the proposed declaration and to present their respective needs to the Board of Directors.

Notice of the time and place of the hearing shall be published in the local newspaper at least seven days prior to the date of the hearing. At the conclusion of the public hearing, the Board of Directors may, at its discretion and in light of the evidence and testimony presented at the public hearing, declare a Stage II water shortage emergency to be effective on the date specified by the Board of Directors.

The regulations and restrictions on the delivery and consumption of water within the DISTRICT shall be those specified in this Section, and such additional regulations and restrictions as the Board of Directors deems appropriate in order to ensure that water will be available in sufficient quantities to provide for human consumption, sanitation and fire protection during the expected period of the water emergency. The declaration and the applicable regulations and restrictions shall thereafter be and remain in full force and effect during the period of emergency

and until the supply of water available for distribution within the DISTRICT has been replenished or augmented.

The declaration of a Stage I Alert shall not be a condition precedent to the declaration of a Stage II Emergency.

Section 6. Stage III: Water Shortage Extreme.

a. Authorization. Pursuant to Water Code Section 355, the Board of Directors, after compliance with the notice and hearing procedures set forth in Subsection c below, is authorized and directed to declare a Stage III Water Shortage Extreme whenever it finds and determines that the ordinary demands and requirements of the DISTRICT's customers cannot be satisfied without depleting the water supply of the DISTRICT to the extent that there would be insufficient water for human consumption, sanitation and fire protection. The regulations and restrictions under Stage III Water Shortage Extreme shall remain in full force and effect during the period of the emergency and until the supply of DISTRICT water has been replenished or augmented, as determined by the DISTRICT.

b. Water Use Restrictions. Upon declaration of a Stage III Emergency by the Board of Directors, the following restrictions shall apply to all persons. Declaration of a Stage III requires a mandatory reduction in water consumption by all DISTRICT customers of not less than 40%, or such other amounts determined by the District.

To achieve the 40% reduction requirements, the following Stage III restrictions shall apply to all customers:

(i) The restrictions listed under Stage I and Stage II shall be complied with; and

(ii) There shall be no outside irrigating, watering, and/or sprinkling any outdoor plants, trees or other landscaping of any kind in any amount at any time; and

(iii) There shall be no filling, refilling or adding water to swimming pools, hot tubs or spas.

c. Procedure for Declaring a Stage III Water Shortage Extreme. In the event the Board of Directors of the DISTRICT determines to declare a Stage III water shortage extreme the declaration shall be made, pursuant to Water Code Section 351 and 352, after a public hearing at which DISTRICT consumers shall have an opportunity to be heard to protest against the proposed declaration and to present their respective needs to the Board of Directors.

Notice of the time and place of the hearing shall be published in the local newspaper at least seven days prior to the date of the hearing. At the conclusion of the public hearing, the Board of Directors may, at its discretion and in light of the evidence and testimony presented at the public hearing, declare a Stage III water shortage extreme to be effective on the date specified by the Board of Directors.

The regulations and restrictions on the delivery and consumption of water within the DISTRICT shall be those specified in this Section, and such additional regulations and restrictions as the Board of Directors deems appropriate in order to ensure that water will be available in sufficient quantities to provide for human consumption, sanitation and fire protection during the expected period of the water emergency. The declaration and the applicable regulations and restrictions shall thereafter be and remain in full force and effect during the period of emergency and until the supply of water available for distribution within the DISTRICT has been replenished or augmented.

The declaration of a Stage I and/or Stage II shall not be a condition precedent to the declaration of a Stage III Emergency.

Section 6. Relief From Compliance. A customer of the DISTRICT may file a request for relief from any provision of this Ordinance, which request shall include all information necessary for the resolution of the request. The General Manager shall review all requests for relief and may grant relief from the provisions of this Ordinance if he determines that the requested relief is necessary to protect public health, sanitation, safety or welfare of the customers or inhabitants of the DISTRICT. Any request for relief from compliance must be submitted in writing to the General Manager.

The General Manager may grant, deny or modify the request for relief, or impose any conditions he deems proper. The General Manager shall make his determination within a reasonable period of time following receipt of the request for relief and shall inform the applicant of the decision in writing. The General Manager may delegate his duties and responsibilities under the Section as appropriate.

An applicant shall have the right to appeal the General Manager's decision to the Board of Directors. The appeal must be in writing and received by the DISTRICT within 10 days of the date of mailing or delivery of the General Manager's written decision. The appeal shall be heard by the Board of Directors within a reasonable period of time from the date the timely appeal is filed. The DISTRICT shall provide written notice of the time and date of the appeal hearing to the applicant.

The Board may, in its discretion provide the applicant with an opportunity to be heard, in addition to the written information provided by the applicant. The Board of Directors, at its discretion may affirm, reverse or modify the General Manager's decision and impose any conditions it deems proper. The decision of the Board shall be final.

No relief shall be granted where it appears that the applicant can reasonably implement self-help water conservation measures including, without limitation, the installation of water conservation appliances.

Section 7. Failure to Comply. Violation of the water use restrictions and prohibitions of Sections 4 and 5 of this Ordinance shall be penalized as follows:

a. First Violation - Notice of Non-Compliance. The General Manager is authorized and directed to issue a written warning notice of non-compliance to any DISTRICT customer or inhabitant who, in the judgement of the General Manager, has failed or refused in a significant way to comply with the water use restriction provisions of Sections 4 and 5 of this Ordinance. Any such warning notice shall specify a reasonable period of time to achieve compliance. Any warning notice of non-compliance shall be directed to the customer of record for the premises where the non-compliance was observed. Delivery may be by regular mail or by personal delivery.

b. Second Violation - Disincentive Surcharge.

1. For a second violation by any customer of the water use reduction provisions of Sections 4 and 5 of this Ordinance, and excessive water use surcharge shall be imposed.

2. If the actual usage is greater in the then current month (including the applicable mandatory reduction in consumption factor of 15% or 25%), a disincentive surcharge of two times the amount of the billing for the month following the month in which the excess use occurred, and shall be due and payable. Failure to make payment of the entire amount due (the

basic water billing plus the surcharge) shall subject the customer to the same penalties as imposed by the DISTRICT rules and regulations and by state law for failing to timely pay the customer's water bill.

c. Third Violation-Flow Restriction or Water Service Shutoff. For a third violation of the water use restriction provisions of Sections 4 and 5 of this Ordinance, the General Manager has discretionary authority (i) to impose a disincentive surcharge of three times the customer's monthly billing or (ii) pursuant to Water Code Section 375 to cause a flow-restricting device to be installed at the water meter located at the customer's service address, or (iii) if the installation of a flow restructure is not feasible or it is unlikely to assure compliance with this Ordinance, the General Manager may authorize a shutoff of service to the premises involved.

d. Referral of Misdemeanor Charge. The General Manager may, at his discretion, refer evidence on non-compliance to the Riverside County District Attorney with a request for misdemeanor prosecution as authorized by Water Code Section 377. Upon conviction thereof, such person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$1,000.000, or both.

Section 8. Hearing Regarding Violations.

a. Any customer receiving notice of a second or subsequent violation under Section 7 shall, upon the written request of the customer, have a right to a hearing by the General Manager provided that such written request is received by the DISTRICT within 5 business days of the mailing or other delivery of the notice of violation;

b. Receipt by the DISTRICT of the customer's written request for a hearing within a 5-day period:

(i) Shall automatically stay installation of a flow-restricting device or termination of water service until the General Manager renders his decision after the hearing;

(ii) Shall stay the imposition of a disincentive surcharge if the customer deposits with the DISTRICT money in the amount of any unpaid surcharge within such 10-day period. If it is subsequently determined that the surcharge was wrongly assessed, the DISTRICT shall refund all money deposited.

c. The decision of the General manager may be appealed to the Board of Directors, provided that written notice of such appeal is received by the DISTRICT within 5 business days of the date the General Manager's decision is mailed or personally delivered.

The appeal shall be heard by the Board of Directors within a reasonable period of time from the date the appeal is timely filed. The Board's decision shall be final.

Section 9. Additional Water Shortage Measures-Price Incentives, Disincentives, and Alternative Use Restrictions.

The Board of Directors may order, at the time the emergency is declared as provided in Section 5 above, the implementation of additional or alternative water conservation measures, including additional water rate incentive or disincentive pricing if the Board determines that the water conservation measures as set forth in this Ordinance may be insufficient to achieve a sufficient reduction in water consumption to protect public health, safety and general welfare and to provide the minimum amount of water necessary for human consumption, sanitation and fire protection purposes.

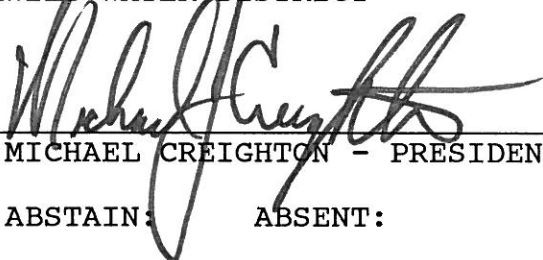
Section 10. Incompatible Provisions. To the extent any provision of this Ordinance is incompatible or at variance with any prior adopted Ordinance or Resolution, the provisions of this Ordinance shall take precedence, and all prior Ordinance shall be interpreted to harmonize with and not change the provisions of this Ordinance.

Section 11. Severability. If any section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance is declared by a court of competent jurisdiction, adjudicated to a final determination to be void, the Board of Directors hereby finds that the said voided part, and that the remainder of this Ordinance shall remain in full force and effect.

Section 12. Public Health and Safety Not to be Affected. Nothing in this Ordinance shall be construed to require the District to restrict the supply of water to any customer when such water is required by the customer to maintain an adequate level of health and safety.

Approved, adopted and effective this 9th day of July, 1991

IDYLLWILD WATER DISTRICT

By: 
MICHAEL CREIGHTON - PRESIDENT

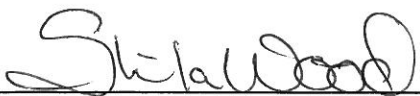
AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:


SHEILA WOOD - ACTING SECRETARY
IDYLLWILD WATER DISTRICT