

RESOLUTION 2002-12-11-01

**A resolution by the Board of Directors of the Muir Beach Community Services District
Proposing an Enforcement Policy for the Conservation of Water During Officially Noticed
Water Conservation Periods.**

WHEREAS, the District was issued a Water Rights Permit by the California State Water Resources Control Board on or about 16 January 2001 (hereinafter "Water Rights Permit"), and

WHEREAS, the District's Water Rights Permit requires the District to establish a Technical Advisory Committee (hereinafter "T. A. C.") to assist in developing an Adoptive Management Plan that includes provisions for water conservation, and

WHEREAS, the District's Water Rights Permit requires the District to establish a policy for enforcing water conservation during Drought Conditions, and

WHEREAS, the District acknowledges the limited water resources and the public values of protecting the essential and natural environmental conditions of the District area; and

WHEREAS, it is the determination of the Board of Directors that it is to the benefit of the District, its residents, and the general public to have a reasonable and uniform policy for enforcing water conservation during the drought season.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Muir Beach Community Services District as follows:

Section 1: The purpose of this Resolution is to adopt a water conservation program as required by the District's Water Rights Permit and in accordance with Water Code Section 375. Conservation is necessary to reduce the quantity of water used by the District consumers during Drought Conditions (as defined in the Board's Findings of Necessity below) for purposes of conserving the District's water and complying with the District's Water Rights Permit.

Section 2: That during Drought Conditions, when the District must reduce its daily water production from an average maximum production of 45,000 gallons per day to no more than 35,000 gallons per day, it shall issue a Notice of Water Conservation to its customers.

Section 3: That no less than 3 days after the issuance of the Official Notice of Water Conservation, the District will record the meter readings of its customers.

Section 4: That the penalties, incentives and provisions as contained in Exhibit A, attached hereto and made a part of this resolution, shall be applied to the water billings occurring thereafter until the District issues a Notice That the Drought Conditions have ended. The Drought Conditions are considered as ending when sufficient rainfall occurs to increase the water flow in Redwood Creek adequately to eliminate the disconnected pond conditions.

Section 5: Findings of Necessity: The Board of Directors finds as follows:

- a. Water is a finite and precious resource.

- b. The District's water supply is limited, by the terms of the Water Rights Permit, to an average of 45,000 gallons per day during normal conditions and no more than 35,000 gallons per day during Drought Conditions.
- c. The Water Rights Permit provides that during Drought Conditions the District must reduce its daily water production. Specifically, under the Water Rights Permit "Drought Conditions" are deemed to exist when conditions specified by T. A. C. recommendations are reached. The T. A. C. has specified that when the water flow in Redwood Creek declines to a point where disconnected ponds of water occur in Redwood Creek and the oxygen levels in the disconnected ponds decline to a level unable to sustain aquatic life, a Drought Condition exists. Once Drought Conditions exist, the District must reduce its water production as specified above and implement the water conservation enforcement procedures.
- d. Moreover, the Water Rights Permit requires the District to establish a policy for enforcing water conservation during Drought Conditions. The enforcement policy has been developed in cooperation with recommendations from the T. A. C. and includes the customer notification, meter readings, and the penalties provisions contained in Attachment "A".
- e. During Drought Conditions, residential customers will be assessed a penalty for using more than 2,000 cubic feet of water per month, as contained in the provisions of Attachment "A". The penalty conditions have been developed from a three (3) year historical analysis of consumer consumption, consumption per capita applicable to the District consumers, analysis of District population distribution, and analysis of voluntary consumer conservation efforts resulting from District conservation requests. The threshold level of 2,000 cubic feet per month (cfm) to activate the excessive consumption penalties has been determined as the consumption adequate for the reasonable use for a family of six (6) persons or twice the average family size within the District. It has been determined that the elimination of residential consumption in excess of 2,000 cfm, combined with the cooperative consumption of the smaller family use and the commercial conservation requirements is adequate to reduce the overall District residential consumption to comply with the reduced production rates required by the Water Rights Permit. The tiered penalty structure, which is tied to residential consumer's use of water, encourages water conservation and is reasonable.
- f. During Drought Conditions, commercial customers will be assessed a penalty for using more than 90% of the commercial customer's average water usage for the previous billing periods ending in December, January and February prior to the issuance of the Notice of Water Conservation (rounded to the nearest 100 cubic feet). The threshold for commercial users is separate from the residential consumers due to the different commercial versus residential needs and has also been established from the historical use and voluntary conservation levels from the previous three (3) year period. Further, improvements in the water facilities have recently been installed by the commercial consumers. The tiered penalty structure, which is tied to commercial consumer's use of water, encourages water conservation and is reasonable.

- g. California Constitution, Article X Section 2 provides "It is hereby declared that because of the conditions prevailing in this State the general welfare requires the water resources of the State to be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use of or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare."
- h. The conservation program proposed by this resolution is consistent with Water Code Section 375 and in furtherance of the conservation mandate contained in California Constitution Article X Section 2, as well as the conservation mandate contained in the District's Water Rights Permit.
- i. This conservation program is exercised with a view to the reasonable and beneficial use of water, a limited resource, and in the interest of the District consumers and the public welfare.

Section 6: If any section, subsection, sentence, clause, phrase, portion or part of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, portion or part thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, portion or part be declared invalid or unconstitutional.

Section 7: This resolution shall take effect immediately following passage by a majority vote of the Board of Directors Of the Muir Beach Community Services District, posting on the Community bulletin boards, and mailing to the District water customers.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Directors of the Muir Beach Community Services District on May 28, 2003

Ayes: Hills, Kamradt, Ostroff, Rudnick, Shaffer

Noes: None

Absent: None

/s/ Steven S. Shaffer
Steven Shaffer, President of the Board

/s/ Donovan Macfarlane
Donovan Macfarlane, Secretary

EXHIBIT A

Penalty for Residential Water Usage of More than 2,000¹ Cubic Feet per Month

Cubic feet of use	Penalty Charge ²	
	Per 100 cubic feet	Total
2,000 to 2,100	\$100	\$100
2,101 to 2,200	\$400	\$500
2,201 to 2,300	\$500	\$1,000
2,301 to 2,400	\$100	\$1,100
2,401 and above	\$100 for each additional 100 cubic feet increment	

¹ **Family Size:** The penalty threshold (2,000 cubic feet per household) is provided for households having 1 to 6 occupants. If a household has more than 6 occupants, a proportional threshold adjustment for the additional occupants can be obtained by contacting the District General Manager.

In the event the 2,000 cubic feet threshold does not reduce the total District water consumption adequately to meet the required reduced water production, the District may change the threshold, by resolution and notice to its customers, as necessary.

² **Reduced Initial Penalty:** The penalty will be reduced by 50% the first time the penalty is incurred. However, if the penalty-level consumption continues unabated, the reduction will be cancelled and the full penalty amount reinstated for the prior and future billing periods.

Water Conservation for Commercial Customers

1. Commercial customers will not have an allowance for family size.
2. The penalty threshold for commercial customers will be set as : 90% of the commercial customer's average recorded water usage for the previous billing periods ending in December, January, and February prior to the issuance of the Notice of Water Conservation (rounded to the nearest 100 cubic feet). The penalty for failing to conserve, as required, will be in accord with the above Table for residential customers.