



**FINANCE & INFORMATION TECHNOLOGY
BOARD OF DIRECTORS' MEETING
MOULTON NIGUEL WATER DISTRICT
27500 La Paz Road, Laguna Niguel
January 20, 2016
8:30 AM
Approximate Meeting Time: 3 Hours**

1. CALL MEETING TO ORDER
2. APPROVE THE MINUTES OF THE DECEMBER 16, 2015 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING
3. PUBLIC COMMENTS
Persons wishing to address the Board of Directors on matters not listed on the Agenda may do so at this time. "Request To Be Heard" forms are available at the entrance to the Board Room. Comments are limited to five minutes unless further time is granted by the Presiding Officer. Submit form to the Recording Secretary prior to the beginning of the meeting.

Those wishing to address the Board of Directors on any item listed on the Agenda should submit a "Request To Be Heard" form to the Recording Secretary before the Presiding Officer announces that agenda item. Your name will be called to speak at that time.

PRESENTATION ITEMS

4. University of California, Riverside Rebate Program Water Savings Analysis
5. Water Supply Update (Presentation by MWDOC)
6. Water Usage Update
7. Drought Emergency Regulations Update

DISCUSSION ITEMS

8. Water Shortage Contingency Plan Continued Implementation
9. Rebate Application for Turf Removal

INFORMATION ITEMS

10. Outreach Update
11. Monthly Financial Report
 - a. Summary of Financial Results

- b. Budget Comparison Report
 - c. Financial Statements
 - d. Restricted Cash and Investments with Fiscal Agent
 - e. Unrestricted and Restricted Fund Balances
 - f. Summary of Disbursements December 2015
12. Future Agenda Items (Any items added under this section are for discussion at future meetings only)
13. Late Items (Appropriate Findings to be Made)
- a. Need to take immediate action; and
 - b. Need for action came to District's attention after Agenda Posting. [Requires 2/3 vote (5 members) or unanimous vote if less than 2/3 are present]

ADJOURNMENT

The Board of Directors' Meeting Room is wheelchair accessible. If you require any special disability related accommodations (i.e., access to an amplified sound system, etc.), please contact the Moulton Niguel Water District Secretary's office at (949) 831-2500 at least forty-eight (48) hours prior to the scheduled meeting. This agenda can be obtained in alternate format upon written request to the Moulton Niguel Water District Secretary at least forty-eight (48) hours prior to the scheduled meeting.

Agenda exhibits and other writings that are disclosable public records distributed to all, or a majority of, the members of the Moulton Niguel Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Board of Directors are available for public inspection at the District Office, 27500 La Paz Road, Laguna Niguel, CA ("District Office"). If such writings are distributed to members of the Board less than seventy-two (72) hours prior to the meeting, they will be available in the reception area of the District Office at the same time as they are distributed except that, if such writings are distributed immediately prior to, or during the meeting, they will be available in the Board meeting room and on the District website at www.mnwd.com.



DRAFT
MINUTES OF THE REGULAR MEETING OF THE
FINANCE & INFORMATION TECHNOLOGY BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT

December 16, 2015

A Regular Meeting of the Finance & Information Technology Board of Directors of the Moulton Niguel Water District was held at the District offices, 27500 La Paz Road, Laguna Niguel, California, at 8:30 AM on December 16, 2015. There were present and participating:

DIRECTORS

Duane Cave	Director
Scott Colton	Vice President
Richard Fiore	Director
Donald Froelich	President
Gary Kurtz	Director
Larry Lizotte	Director
Brian Probolsky	Vice President/Chair (arrived at 8:43 a.m.)

Also present and participating were:

STAFF MEMBERS, LEGAL COUNSEL, AND MEMBERS OF THE PUBLIC

Joone Lopez	General Manager
Matt Collings	Assistant General Manager
Marc Serna	Director of Engineering & Operations
Gina Hillary	Director of Human Resources
Paige Gulck	Board Secretary
Tim Bonita	Recording Secretary
Trevor Agrelius	MNWD
Drew Atwater	MNWD
Johnathan Cruz	MNWD
Tracy Ingebrigtsen	MNWD
Eva Plajzer	MNWD
Megan Schneider	MNWD
Carole Wayman-Piasecik	MNWD
Andrew Zelinko	MNWD
Ken Baerenklau	University of California, Riverside
Michael Bell	Michael Bell Consulting, Inc.
Rochelle Reiter	Orange Label

Michelle Torr

Orange Label

1. CALL MEETING TO ORDER

The meeting was called to order by Richard Fiore at 8:30 a.m.

2. APPROVE THE MINUTES OF THE NOVEMBER 18, 2015 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING

MOTION DULY MADE BY GARY KURTZ AND SECONDED BY SCOTT COLTON, MINUTES OF THE NOVEMBER 18, 2015 FINANCE AND INFORMATION TECHNOLOGY BOARD OF DIRECTORS' MEETING WERE APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ, AND LARRY LIZOTTE ALL VOTING 'AYE'. DIRECTOR BRIAN PROBOLSKY WAS ABSENT.

3. PUBLIC COMMENTS

None.

DISCUSSION/ACTION ITEMS

5. **COMPREHENSIVE ANNUAL FINANCIAL REPORT**

It is recommended that the Board of Directors receive and file the CAFR.

This item was taken first on the agenda. Trevor Agrelius gave a brief update on the Comprehensive Annual Financial Report.

MOTION DULY MADE BY DUANE CAVE AND SECONDED BY DONALD FROELICH, ITEM 5 WAS APPROVED AS PRESENTED. THE VOTE WAS UNANIMOUS WITH DIRECTORS DUANE CAVE, SCOTT COLTON, RICHARD FIORE, DONALD FROELICH, GARY KURTZ AND LARRY LIZOTTE ALL VOTING 'AYE'. DIRECTOR BRIAN PROBOLSKY WAS ABSENT.

INFORMATION ITEMS

6. Evapotranspiration Background

Drew Atwater presented background information on Evapotranspiration and how it relates to customer's outdoor water budgets.

Brian Probolsky arrived at 8:43 a.m.

PRESENTATION ITEMS

- 4. Update on University of California, Riverside Study

Joone Lopez briefly introduced the item. Professor Ken Baerenklau, from the University of California, Riverside, provided a presentation on the impact of water budget based rates on District’s conservation efforts.

Larry Lizotte left at 10:18 a.m.

INFORMATION ITEMS CONTINUED

- 8. Outreach Update

Joone introduced Michelle Torr from Orange Label, who presented Orange Label's research findings & insights on the Moulton Niguel Water District’s Customer Base.

- 7. Water Usage Update

Joone Lopez gave a brief update on water usage and drought emergency regulations.

- 9. Monthly Financial Report

Joone Lopez and Trevor Agrelius gave a brief overview of the monthly financial report.

- 10. Future Agenda Items (Any items added under this section are for discussion at future meetings only)

None.

- 11. Late Items (Appropriate Findings to be Made)

Staff has none.

ADJOURNMENT

The meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Tim Bonita
Recording Secretary



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** January 20, 2016

FROM: Joone Lopez, General Manager
Drew Atwater, Water Resources Manager

SUBJECT: Water Shortage Contingency Plan Continued Implementation

DIVISION: District-wide

SUMMARY:

Issue: Prolonged drought conditions and State regulations require the District to continue implementation of its Water Shortage Contingency Plan.

Recommendation: It is recommended that the Board of Directors approve the resolution entitled, "Declaring Water Shortage Stages 1 and 2".

Fiscal Impact: Conservation penalties will be assessed on customers in violation of the Water Shortage Contingency Plan Ordinance under Stage 2 implementation.

BACKGROUND:

On April 1, 2015, Governor Jerry Brown issued an Executive Order to address prolonged drought conditions and restricted water supplies. The State Water Resources Control Board has issued mandatory regulations to effect the Executive Order and aims to reduce statewide water usage by 25% through February 2016. The result of the mandatory regulations require that Moulton Niguel Water District reduce District-wide water consumption by 20%. In November of 2015, Governor Jerry Brown declared a continuation of the drought state of emergency through the end of October 2016. The State Water Resources Control Board released a framework for adjustments and credits in December of 2015 to provide greater equity by modifying the mandatory regulations and is expected to be passed the first week of February 2016. The three main areas are credits for growth since 2013, credits for differences in climate throughout the State and credits for investments in drought sustainable supplies.

In February of 2015, in compliance with the Proposition 218 process, the Board of Directors adopted Ordinance No. 15-01, "Water Conservation Rules and Regulations" ("Ordinance"). The Ordinance prescribes incremental stages of water

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Water Shortage Contingency Plan Continued Implementation

January 20, 2016

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reductions based on varying water shortage conditions by utilizing the water budget rate structure and other conservation tools. A summary of the various stages and the impacts to the different customer classes has been provided in attachment 2.

On May 1, 2015 the Board of Directors adopted Resolution 15-16 which implemented Stage 2 of the Water Shortage Contingency Plan commencing July 1, 2015. Under that Resolution, Stage 2 remains in effect until October 29, 2015. Per the Water Shortage Contingency Plan, every 120 days after implementation of a Stage the Board of Directors needs to determine if a different Stage should be implemented. On September 17, the Board of Directors adopted Resolution 15-26 which continued the implementation of Stage 2 of the Water Shortage Contingency Plan through the end of February 2016.

DISCUSSION:

To ensure timely response to the mandatory regulations and progress towards meeting the 20% water usage reduction goal by October 2016, staff recommends that the Board of Directors continue the implementation of Stage 2 of the District's Water Shortage Contingency Plan.

Currently, the District has seen a remarkable response by customers reducing their water consumption. However, if customers revert back to last year's behavior, the District will miss the mandated target. To maintain reduced water usage throughout the District, it is recommended that the Board approve the continued implementation of Stage 2 of the Water Shortage Contingency Plan, effective March 1, 2015. While in Stage 2, customers who exceed their water budget must pay a penalty. Potable water customers using water in excess of their water budget will pay conservation penalties equal to \$9.04 for each billing unit over their budget and recycled water customers will pay \$8.21 for each billing unit over their budget.

Any stage implemented shall be in effect for up to 120 days, at which point the Board will review and determine whether to continue a water shortage stage. The SWRCB is anticipated to reduce conservation targets in April based should hydrologic conditions improve; hence, staff recommends adopting the attached resolution, in effect through the end of April 2016, and to revisit the issue at the April Board meeting.

Attachments:

1. Resolution entitled, "Continuing Water Shortage Stages 1 and 2"
2. Water Shortage Contingency Plan Stages
3. State Water Resources Control Board Resolution No. 2015-0032
4. State Water Resources Control Board Framework
5. Ordinance 15-01; "Water Conservation Rules and Regulations"

RESOLUTION NO. 16-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF
MOULTON NIGUEL WATER DISTRICT
CONTINUING WATER SHORTAGE STAGES 1 AND 2**

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 375, the Moulton Niguel Water District (the "District") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

WHEREAS, Governor Brown proclaimed a condition of statewide drought and called upon local agencies to take aggressive, immediate action to reduce water consumption locally and regionally; and

WHEREAS, pursuant to Ordinance No. 15-01 the District is authorized to declare water shortage stages; and

WHEREAS, on May 1, 2015, the Board adopted Resolution No. 15-16, which declared Water Shortage Stages 1 and 2 as said stages are set forth in Ordinance No. 15-01. As a result, beginning June 1, 2015, the voluntary water shortage response measures in Water Shortage Stage 1 and the mandatory water shortage response measures, reductions in water use, and penalties during a Water Shortage Stage 2 went into effect within the District; and

WHEREAS, on September 17, 2015, the Board adopted Resolution No. 15-26, which declared that continuing October 30, 2015, Water Shortage Stage 2 shall remain in effect within the District through February 28, 2016. As a result, along with the voluntary measures, the mandatory water shortage response measures, reductions in water use, and penalties during a Water Shortage Stage 2 continued to be in effect.

WHEREAS, because of the prevailing conditions in the State, the current statewide drought, and the declared policy of the State, the District hereby finds and determines that it is necessary and appropriate for the District to continue, along with the voluntary measures, the mandatory water shortage response measures, reductions in water use, and penalties that are currently in effect during a Water Shortage Stage 2. Continuation of Water Shortage Stages 1 and 2 is necessary in order to adopt, implement, and enforce water shortage response measures to reduce the quantity of water used by

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consumers within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection all in conformance with Ordinance No. 15-01; and

NOW, THEREFORE, the Board of Directors of the Moulton Niguel Water District does hereby **RESOLVE, DETERMINE, AND ORDER** as follows:

Section 1. Water Shortage Stages 1 and 2. Pursuant to Ordinance No. 15-01, the Board hereby declares and finds that continuing March 1, 2016, Water Shortage Stages 1 and 2 shall remain in effect within the District through June 30, 2016. Such voluntary and mandatory water shortage response measures, reductions in water use, and penalties during Water Shortage Stages 1 and 2 as are set forth in Ordinance No. 15-01 are necessary for the following reasons:

- (1) District water supply conditions and storage levels;
- (2) statewide water supply conditions;
- (3) local water supply and demand conditions; and
- (4) actions by surrounding wholesale and retail water agencies.

Section 3. Severability. If any provision, section, subsection, sentence, clause or phrase or sections of this Resolution, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Resolution shall not be affected, it being the intent of the Board of Directors in adopting this Resolution that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Resolution are declared to be severable for that purpose.

Section 4. Effective. This Resolution shall be effective immediately upon adoption.

APPROVED, ADOPTED, and SIGNED this 21st day of January, 2016.

President
MOULTON NIGUEL WATER DISTRICT
And of the Board of Directors thereof

Secretary
MOULTON NIGUEL WATER DISTRICT
And of the Board of Directors thereof

Moulton Niguel Water District Water Shortage Contingency Plan

Account Type	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Residential (Single and Multi-Family)	- Stay within budget - No adjustments to bills for pool fills	- Stay within budget or pay penalty - No adjustments to bills	- Reduce outdoor water usage by 40% or pay penalty - No adjustments to bills	- Reduce outdoor water usage by 70% or pay penalty - No adjustments to bills	- Reduce indoor water use to 40 gallons per person per day - No outdoor water usage - No adjustments to bills
Commercial	- Stay within budget - No adjustments to bills for pool fills	- Stay within budget or pay penalty - No adjustments to bills	- Stay within budget or pay penalty - No adjustments to bills	- Stay within budget or pay penalty - No adjustments to bills	- Stay within budget or pay penalty - No adjustments to bills
Outdoor Irrigation φ	- Stay within budget	- Stay within budget or pay penalty - No adjustments to bills	- Reduce outdoor water usage by 40% or pay penalty - No adjustments to bills	- Reduce water usage by 70% or pay penalty - No adjustments to bills	- No water use - No adjustments to bills
Recycled Water	- Stay within budget - No potable water for outdoor irrigation (i.e. golf courses)	- Stay within budget or pay penalty - No adjustments to bills	- Reduce water usage by 10% or pay penalty - No adjustments to bills	- Reduce water usage by 20% or pay penalty - No adjustments to bills	- Reduce water usage by 30% or pay penalty - No adjustments to bills

THERE ARE PENALTIES FOR EXCEEDING WATER BUDGETS IN STAGES 2-5

Order of Targeted Reductions:

1. Target inefficient users first
2. Outdoor water budget reduced in Stages 3 and 4
3. Indoor water budget reduced in Stage 5

Note: The District's Water Shortage Contingency Plan was adopted in the form of an ordinance and included in a public Proposition 218 notice. This ordinance is the legal structure by which penalties may be imposed if violated.



Moulton Niguel Water District **Water Conservation Best Management Practices**

Conservation through Best Management Practices (BMP's). Water is our most vital resource, the following water conservation BMPs have been established to conserve water, prevent waste or unreasonable use or unreasonable method of use of water, and preserve the District's water supplies. The BMPs shall be in effect at all times. The BMPs shall not apply to the use of recycled water. This is an excerpt from the Water Shortage Contingency Plan, Water Conservation BMP's.

- | | |
|---|---|
| <ol style="list-style-type: none">1. Installation of Water Conservation Devices2. Standards for Water Conservation Devices3. Limits on Watering Hours between the hours of 9:00 a.m. and 5:00 p.m. on any day4. Limits on Water Duration5. No Watering During Rain6. Plant Low-Water Demand Plants and Trees7. No Excessive Water Flow or Runoff8. No Washing Down Hard or Paved Surfaces9. Obligation to Fix Leaks, Breaks or Malfunctions10. Re-circulating Water Required for Water Fountains and Decorative Water Features | <ol style="list-style-type: none">11. Limits on Washing Vehicles12. Drinking Water Served Upon Request Only13. Commercial Lodging Establishments Must Provide Option to Not Launder Linens Daily14. No Installation of Single Pass Cooling Systems.15. No Installation of Non-re-circulating Water Systems in Commercial Car Washes and Laundry Systems16. Restaurants Required to Use Water Conserving Dish Wash Spray Valves17. Swimming Pools and Spa Covers18. Water Waste and Unreasonable Water Use Prohibited |
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For a more information about MNWD's Water Shortage Contingency Plan and Best Management Practices, please visit our website at www.MNWD.com

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0032**

**TO ADOPT AN EMERGENCY REGULATION FOR
STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order (April 2014 Proclamation) to strengthen the State's ability to manage water and habitat effectively in drought conditions, and called on all Californians to redouble their efforts to conserve water. The April 2014 Proclamation finds that the continuous severe drought conditions present urgent challenges across the State, including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity, if drought conditions continue into 2015. The April 2014 Proclamation also suspends the environmental review required by the California Environmental Quality Act to allow the emergency regulation and other actions to take place as quickly as possible;
2. The April 2014 Proclamation refers to the [Governor's Proclamation No. 1-17-2014](#), issued on January 17, 2014, declaring a drought State of Emergency to exist in California due to severe drought conditions (January 2014 Proclamation). The January 2014 Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmers' long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January 2014 Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. On December 22, 2014, in light of the continued lack of rain, Governor Brown issued [Executive Order B-28-14](#), which extends the California Environmental Quality Act suspension through May 31, 2016 for Water Code section 13247 and certain activities identified in the January 2014 and April 2014 proclamations;
4. On April 1, 2015, Governor Brown issued a new Executive Order that directs the State Water Board to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems; along with other directives;
5. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";

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6. On July 15, 2014, the State Water Board adopted an emergency regulation to support water conservation ([Resolution No. 2014-0038](#)), and that regulation became effective July 28, 2014 upon approval by the Office of Administrative Law (OAL);
7. On March 17, 2015, the State Water Board amended and readopted the emergency regulation to support water conservation ([Resolution No. 2015-0013](#)), which became effective March 27, 2015 upon approval by OAL;
8. The current emergency regulation has supported Californians' water conservation efforts, with over 125 billion gallons saved from August 2014 through March 2015; however, statewide water use is only nine percent less than the same months in 2013. Achieving a 25 percent reduction in use will require even greater conservation efforts across the state. In particular, many communities must dramatically reduce their outdoor water use;
9. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes will survive while receiving a decreased amount of water;
10. Although urban water suppliers have placed restrictions on outdoor watering, the State Water Board continues to receive reports of excessive outdoor water use;
11. Water conservation is the easiest, most efficient and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available later in the season or next year, reducing the likelihood of even more severe water shortages should the drought continue;
12. Education and enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
13. Public information and awareness is critical to achieving conservation goals, and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>);
14. Many California communities are facing social and economic hardship due to this drought. The rest of us can make adjustments to our water use, including landscape choices that conserve even more water;
15. The California Constitution declares, at article X, section 2, that the water resources of the state must be put to beneficial use in a manner that is reasonable and not wasteful. Relevant to the current drought conditions, the California Supreme Court has clarified that "what may be a reasonable beneficial use, where water is present in excess of all needs, would not be a reasonable beneficial use in an area of great scarcity and great need. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time." (*Tulare Dist. v. Lindsay Strathmore Dist.* (1935) 3 Cal.2d 489, 567.) In support of water conservation, the legislature has, through Water Code section 1011, deemed reductions in water use due to conservation as equivalent

to reasonable beneficial use of that water. Accordingly, this regulation is in furtherance of article X, section 2 during this drought emergency. This temporary emergency regulation is not to be used in any future administrative or judicial proceedings as evidence or finding of waste and unreasonable use of any individual water user or water supplier subject to this regulation, and are not to affect or otherwise limit any rights to water conserved under applicable law, including without limitation, water conserved consistent with Water Code section 1011;

16. Directive two of the Governor's April 1, 2015 Executive Order directs the State Water Board to consider the relative per capita usage of each urban water supplier's service area and require that areas with high per capita use achieve proportionally greater reductions than areas with low per capita use;
17. On April 7, 2015, the State Water Board issued a draft framework proposing increasing levels of required water reduction based upon residential per capita per day use (R-GPCD) for the proposed regulation, and solicited public comments. The Board received over 300 comments on the framework, primarily relating to the levels of required water reduction;
18. On April 18, the State Water Board issued draft regulatory language for public comment based on the April 7 framework and the comments received. The draft regulatory language reflected careful consideration of all comments including those directed at the levels of required reduction. Again, the Board received close to 300 comments;
19. On April 28, 2015, the State Water Board issued a final version of draft regulatory language for comment, followed on April 29 by a formal public notice that it would consider the adoption of the emergency regulation at the Board's regularly-scheduled May 5 and 6, 2015 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
20. As discussed above, the State Water Board is adopting the emergency regulation because of the continuing emergency drought conditions, the need for prompt action to prevent the waste and unreasonable use of water and to promote conservation, and the specific actions called for in the Governor's April 1, 2015 Executive Order; and
21. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain the enforcement discretion in enforcing the regulation to the extent authorized. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 866 and re-adopts sections 863, 864, and 865, as appended to this resolution as an emergency regulation;

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2. State Water Board staff will submit the regulation to OAL for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or the Executive Director's designee may make such changes;
4. This regulation shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulation due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulation and its effect. These updates shall include information regarding the progress of the Building Standards Commission, Department of Housing and Community Development, and other state agencies in the adoption and implementation of emergency regulations or other requirements that implement increased outdoor irrigation efficiency for new construction. These regulations and other requirements will extend existing efficiency standards for new construction to the outdoor environment and ensure that California's new homes are constructed to meet the growing demand with the most efficient standards;
6. The State Water Board directs staff to condition funding upon compliance with the emergency regulation, to the extent feasible;
7. The State Water Board directs staff to work with DWR and the Save Our Water campaign to disseminate information regarding the emergency regulation; and
8. The State Water Board directs staff to update the electronic reporting portal to include data fields for the new reporting required by the emergency regulation.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board shall work with DWR, the Public Utilities Commission, and other agencies to support urban water suppliers' actions to implement rates and pricing structures to incent additional conservation, as required by directive eight in the Governor's April 1, 2015 Executive Order. The Fourth District Court of Appeal's recent Decision in *Capistrano Taxpayer Association Inc. v. City of San Juan Capistrano* (G048969) does not foreclose the use of conservation-oriented rate structures;
10. The State Water Board calls upon water suppliers to:
 - a. ensure that adequate personnel and financial resources exist to implement conservation requirements not only for 2015, but also for another year of drought should it occur. Water suppliers that face budget shortfalls due to reduced sales should take immediate steps to raise necessary revenues in a way that actively promotes continued conservation;
 - b. expedite implementation of new conservation programs by minimizing internal review periods and utilizing emergency authorities, as appropriate;

- c. consider the relative water use and conservation practices of their customers and target those with higher water use to achieve proportionally greater reductions than those with low use;
 - d. minimize financial impacts to low-income customers;
 - e. preserve safe indoor water supplies in areas with very low R-GPCD and where necessary to protect public health and safety;
 - f. promote low-water use methods of preserving appropriate defensible space in fire-prone areas, consistent with local fire district requirements;
 - g. educate customers on the preservation of trees;
 - h. promote on-site reuse of water; and
 - i. promptly notify staff of the supplier's need for an alternate method of compliance pursuant to resolved paragraph 16.
11. The State Water Board calls upon all businesses within California's travel and tourism sectors to inform visitors of California's dire drought situation and actions visitors should take to conserve water;
12. The State Water Board commends wholesale water agencies that have set aggressive conservation targets for their retail water suppliers;
13. The State Water Board commends water suppliers that have made investments to boost drought-resistant supplies, such as advanced treated recycled water and desalination. Those investments help to make communities more resilient in the face of drought;
14. The State Water Board commends the many water suppliers that have already surpassed their 20x2020 conservation targets. Long-term conservation efforts are critical to maintaining economic and social well-being, especially in light of the impacts of climate change on California's hydrology;
15. During this drought emergency, heightened conservation that extends urban resilience is necessary. The State Water Board's focus is primarily on immediate reductions in outdoor water use. Some short-term conservation efforts, such as landscape conversions and installation of efficient appliances, will also support long-term conservation objectives, and are encouraged wherever possible;
16. The State Water Board recognizes that some commercial and industrial customers, while accounting for a significant portion of total use in a service area, have already taken steps to significantly reduce their water consumption and cannot further reduce their use without substantial impacts. However, the Board also recognizes that in many areas there are significant opportunities for reductions in water use by industries and commercial enterprises that have yet to take action, especially those with large areas of non-functional turf. The Board directs staff to respond promptly upon receipt of any request for alternate enforceable methods of compliance. If the supplier believes the conservation standard is unachievable due to firm commercial and industrial water use

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and residential use reductions that would affect public health and safety, it should provide any supporting information or documentation for an alternate method of compliance; and

17. Some water suppliers have called for further refinement of the tiers to reflect a range of factors that contribute to water use, including but not limited to temperature, lot size, and income. Others have called for an approach that provides greater recognition for early investments in conservation, the development of local, drought resistant water supplies, and health and safety needs. These suggestions and many others are important considerations in the development of a more comprehensive, and long term, conservation framework. The State Water Board directs staff to work with stakeholders on a thoughtful process to devise options for extended and expanded emergency regulations should the drought continue into 2016.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 5, 2015.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Article 22.5. Drought Emergency Water Conservation.

Sec. 863. Findings of Drought Emergency.

(a) The State Water Resources Control Board finds as follows:

- (1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;
- (2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;
- (3) On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems;
- (4) The drought conditions that formed the basis of the Governor’s emergency proclamations continue to exist;
- (5) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and
- (6) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to prevent waste and unreasonable use of water and to further promote conservation.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, and 275, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 864. End-User Requirements in Promotion of Water Conservation.

(a) To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

- (1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- (2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
- (3) The application of potable water to driveways and sidewalks; and
- (4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;

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(5) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;

(6) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;

(7) The irrigation with potable water of ornamental turf on public street medians; and

(8) The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

(b) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

(c) Immediately upon this subdivision taking effect, all commercial, industrial and institutional properties that use a water supply, any portion of which is from a source other than a water supplier subject to section 865, shall either:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or

(2) Reduce potable water usage supplied by sources other than a water supplier by 25 percent for the months of June 2015 through February 2016 as compared to the amount used from those sources for the same months in 2013.

(d) The taking of any action prohibited in subdivision (a) or the failure to take any action required in subdivisions (b) or (c), is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, and 10617, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 865. Mandatory Actions by Water Suppliers.

(a) As used in this section:

(1) “Distributor of a public water supply” has the same meaning as under section 350 of the Water Code, except it does not refer to such distributors when they are functioning solely in a wholesale capacity, but does apply to distributors when they are functioning in a retail capacity.

(2) “R-GPCD” means residential gallons per capita per day.

- (3) “Total potable water production” means all potable water that enters into a water supplier’s distribution system, excluding water placed into storage and not withdrawn for use during the reporting period, or water exported outside the supplier’s service area.
- (4) “Urban water supplier” means a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b) In furtherance of the promotion of water conservation each urban water supplier shall:

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-user’s exclusive control.

(2) Prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, and the number of days that outdoor irrigation is allowed, and monthly commercial, industrial and institutional sector use. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.

(c)(1) To prevent the waste and unreasonable use of water and to meet the requirements of the Governor’s April 1, 2015 Executive Order, each urban water supplier shall reduce its total potable water production by the percentage identified as its conservation standard in this subdivision. Each urban water supplier’s conservation standard considers its service area’s relative per capita water usage.

(2) Each urban water supplier whose source of supply does not include groundwater or water imported from outside the hydrologic region in which the water supplier is located, and that has a minimum of four years’ reserved supply available may, submit to the Executive Director for approval a request that, in lieu of the reduction that would otherwise be required under paragraphs (3) through (10), the urban water supplier shall reduce its total potable water production by 4 percent for each month as compared to the amount used in the same month in 2013. Any such request shall be accompanied by information showing that the supplier’s sources of supply do not include groundwater or water imported from outside the hydrologic region and that the supplier has a minimum of four years’ reserved supply available.

(3) Each urban water supplier whose average July-September 2014 R-GPCD was less than 65 shall reduce its total potable water production by 8 percent for each month as compared to the amount used in the same month in 2013.

(4) Each urban water supplier whose average July-September 2014 R-GPCD was 65 or more but less than 80 shall reduce its total potable water production by 12 percent for each month as compared to the amount used in the same month in 2013.

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(5) Each urban water supplier whose average July-September 2014 R-GPCD was 80 or more but less than 95 shall reduce its total potable water production by 16 percent for each month as compared to the amount used in the same month in 2013.

(6) Each urban water supplier whose average July-September 2014 R-GPCD was 95 or more but less than 110 shall reduce its total potable water production by 20 percent for each month as compared to the amount used in the same month in 2013.

(7) Each urban water supplier whose average July-September 2014 R-GPCD was 110 or more but less than 130 shall reduce its total potable water production by 24 percent for each month as compared to the amount used in the same month in 2013.

(8) Each urban water supplier whose average July-September 2014 R-GPCD was 130 or more but less than 170 shall reduce its total potable water production by 28 percent for each month as compared to the amount used in the same month in 2013.

(9) Each urban water supplier whose average July-September 2014 R-GPCD was 170 or more but less than 215 shall reduce its total potable water production by 32 percent for each month as compared to the amount used in the same month in 2013.

(10) Each urban water supplier whose average July-September 2014 R-GPCD was 215 or more shall reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013.

(d)(1) Beginning June 1, 2015, each urban water supplier shall comply with the conservation standard specified in subdivision (c).

(2) Compliance with the requirements of this subdivision shall be measured monthly and assessed on a cumulative basis.

(e)(1) Each urban water supplier that provides potable water for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b), may subtract the amount of water provided for commercial agricultural use from its potable water production total, provided that any urban water supplier that subtracts any water provided for commercial agricultural use from its total potable water production shall:

(A) Impose reductions determined locally appropriate by the urban water supplier, after considering the applicable urban water supplier conservation standard specified in subdivision (c), for commercial agricultural users meeting the definition of Government Code section 51201, subdivision (b) served by the supplier;

(B) Report its total potable water production pursuant to subdivision (b)(2) of this section, the total amount of water supplied for commercial agricultural use, and shall identify the reduction imposed on its commercial agricultural users and each recipient of potable water for commercial agricultural use;

(C) Certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (b); and

(D) Comply with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order for all commercial agricultural water served by the supplier that is subtracted from its total potable water production.

(2) Submitting any information pursuant to subdivision (e)(1)(B) or (C) of this section that is found to be materially false by the board is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f)(1) To prevent waste and unreasonable use of water and to promote water conservation, each distributor of a public water supply that is not an urban water supplier shall take one or more of the following actions:

(A) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(B) Reduce by 25 percent reduction its total potable water production relative to the amount produced in 2013.

(2) Each distributor of a public water supply that is not an urban water supplier shall submit a report by December 15, 2015, on a form provided by the Board, that either confirms compliance with subdivision (f)(1)(A) or identifies total potable water production, by month, from June through November, 2015, and total potable water production, by month, for June through November 2013.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 866. Additional Conservation Tools.

(a)(1) To prevent the waste and unreasonable use of water and to promote conservation, when a water supplier does not meet its conservation standard required by section 865 the Executive Director, or the Executive Director’s designee, may issue conservation orders requiring additional actions by the supplier to come into compliance with its conservation standard.

(2) A decision or order issued under this article by the board or an officer or employee of the board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the California Water Code.

(b) The Executive Director, or his designee, may issue an informational order requiring water suppliers, or commercial, industrial or institutional properties that receive any portion of their supply from a source other than a water supplier subject to section 865, to submit additional information relating to water production, water use or water conservation. The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1846.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 100, 102, 104, 105, 174, 186, 187, 275, 350, 1051, 1122, 1123, 1825, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation

Background:

On April 1, 2015, Governor Brown issued the fourth in a series of executive orders on actions necessary to address California's drought. On May 5, 2015, the State Water Resources Control Board (State Water Board) adopted an Emergency Regulation to address specific provisions of the April 1 Executive Order, including a mandatory 25 percent statewide reduction in potable urban water use between June 2015 and February 2016. To reach the statewide 25 percent reduction mandate, the Emergency Regulation assigns each urban water supplier a conservation tier that ranges between 4 and 36 percent based residential per capita water use for the months of July – September 2014.

At the time the State Water Board adopted the current Emergency Regulation some urban water suppliers had proposed further refinement to the conservation tiers to reflect a range of factors that contribute to water use. State Water Board Resolution No. 2015-0032 directed staff to work with stakeholders to further develop and consider these factors, including but not limited to temperature, growth, use of drought resilient supplies, and others for adjustment to the Emergency Regulation should it need to be extended into 2016.

On November 13, 2015, Governor Brown issued Executive Order B-36-15 (EO B-36-15) calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist through January 2016. Between August and November 2015 State Water Board staff convened a small group of individuals representing a variety of water interests to further explore potential modification of the Emergency Regulation. The State Water Board also held a public workshop on December 7, 2015, to solicit input on elements of the existing Emergency Regulation, if any, that should be modified. The stakeholder process and workshop led to development of several proposals for modification of the Emergency Regulation, which are discussed below, along with staff recommendations.

Staff recommendations are based on the criteria that modifications to the Emergency Regulation be transparent, intelligible, equitable, reasonable, provide sufficient water savings statewide, and be feasible to implement and enforce. As directed by the Governor in EO B-36-15, this proposal would extend until October 31, 2016 restrictions to achieve a statewide reduction in urban potable water usage.

Climate adjustment:

Stakeholder Proposal: Water suppliers in warmer climates would be granted a reduced conservation standard based on their service area evapotranspiration (ET) relative to statewide average ET. The adjustments would be calculated by multiplying the deviation from average ET by the water supplier's conservation standard and would range from a 0-15 percentage point decrease to suppliers existing conservation requirement. As proposed, no supplier would have their standard increased.

Staff Recommendation: **Incorporate a climate adjustment in the Emergency Regulation that reduces the conservation requirement by up to 4 percentage points for water suppliers located in**

the warmest regions of the State. The climate adjustment would be based on each urban water supplier's approximate service area ET for the months of July through September as compared to statewide average ET for the same months. The adjustment would range from a 2-4 percentage point decrease in an urban water supplier's conservation requirement depending on service area ET as follows:

Deviation from Average ET	Reduction in Conservation Standard
>20%	4%
10 to 20%	3%
5 to <10%	2%

Default service area ET will be based on the California Irrigation Management Information System (CIMIS) [Mapped ET Zone](#) for which the supplier's service area has the greatest overlap. Each Urban Water Supplier will have the opportunity to refine its service area ET using specific data from CIMIS stations within its service area, provided each station used has a continuous period of record of at least 5 years.

Staff estimates that this adjustment will result in 1.4 percentage point reduction in statewide water savings from that currently required.

Example Calculation of Climate Adjustment

Original Conservation Requirement	32%	
Statewide Average ET Jul-Sep	6.13	inches
Service Area Average ET Jul-Sep (Zone 17)	8.4	inches
Service Area % Deviation from Average ET = $(8.4-6.13)/6.13$	0.37 or 37%	
Climate Adjustment	-4%	
Adjusted Conservation Requirement	28%	

Growth adjustment:

Stakeholder Proposal: Each urban water supplier's 2013 baseline water use would be increased to account for growth in new service connections since 2013. The volume of water per connection in 2013 would be calculated (based on total use divided by number of connections) and multiplied by the number of connections added since 2013. This volume of water could be added to the 2013 baseline to account for new growth, resulting in a decrease to the supplier's conservation volume requirement but not its conservation standard.

Staff Recommendation: **Provide a mechanism to adjust urban water supplier conservation standards to account for water efficient growth since 2013.** The adjustment will be equal to the ratio of the additional volume of water used since 2013 to the baseline water use for 2013, multiplied by the water supplier's conservation standard. The volume of water added due to growth will be calculated as the sum of:

December 21, 2015

1. Number of new residential connections since 2013 multiplied by 165 gallons (55 gallons per person per day multiplied by three people) multiplied by 270 days.
2. Area of new residential landscaped area (square feet) served by connections since 2013 multiplied by 55% of total service area ET (inches) for the months of February through October multiplied by a conversion factor of 0.623 (converting inches to gallons).
3. Number of new commercial, industrial, and institutional (CII) connections since 2013 multiplied by the average commercial industrial, and institutional water use per connection during February through October 2015.

Staff estimates that this adjustment will result in about a one percentage point reduction in statewide water savings compared to the current requirements, assuming that growth has increased by 4% since 2013 for every urban water supplier.

Example Calculation of Growth Adjustment

# of new residential connections since 2013	4,000	
Residential landscaped area served by connections since 2013	10,000,000	sq. feet
Total ET February through October	44	inches
Volume of water attributable to new residential connections = [4000*165*270] + [10,000,000 * 44 *0.55*0.623]	328,966,000	gallons
# of new commercial, industrial, and institutional connections since 2013	700	
Average use per CII connection Feb-Oct 2015	900,000	gallons
Volume of water attributable to new CII connections = 700 * 900,000	630,000,000	gallons
Total volume of water attributable to growth since 2013	958,966,000	gallons
Baseline 2013 total water production Feb-Oct	16,000,000,000	gallons
Gallons of water attributable to growth	958,966,000	gallons
Percentage change in potable water production due to growth	6%	
Original Conservation Requirement	36%	
Adjusted Conservation Requirement = .36 * [1-0.06]	34%	

Drought Resilient Sources of Supply Credit:

Stakeholder Proposal Suppliers would receive a credit for desalinated seawater or indirect potable re-use (IPR) water. The credit would come in the form of a one-to-one reduction from the calculated amount of water that needs to be saved under the Emergency Regulation. A supplier could deduct all water derived from desalination or IPR from their total savings requirement. San

Diego County Water Authority proposes a similar credit for Colorado River water received through long-term transfers of conserved water. No supplier would be allowed to have an effective conservation rate below 8%.

Staff Recommendation: Provide a one-tier (four percentage point) reduction to the conservation standard of urban water suppliers using new drought resilient water supplies. The credit would apply to urban water suppliers that certify, and provide documentation upon request, that at least 4 percent of its potable supply is comprised of indirect potable reuse of coastal wastewater (the creation and use of which does not injure another legal user of water or the environment) or desalinated seawater developed since 2013. Staff does not recommend extending this credit to Colorado River water received through long-term transfer of conserved water.

Staff estimates that this credit will result in about a 0.6 percentage point decrease in statewide water savings.

Non-potable Recycled Water Use Credit:

Stakeholder Proposal: This proposal would apply to suppliers that meet a large portion of irrigation demand with non-potable recycled water. These suppliers would be able to reduce their 2016 monthly potable water production by the ratio of non-potable recycled water use to total potable water production multiplied by their total water production and their conservation. Reducing 2016 total potable water production would have the effect of reducing the required volume of water saved.

Staff Recommendation: Staff does not recommend providing additional credit for non-potable recycled water use. Under the current Emergency Regulation, non-potable recycled water is not counted in total potable water production. Suppliers' conservation standards are based on residential use of potable water, and while suppliers have been generally expected to target outdoor irrigation as a means of achieving savings, high use of recycled water should not, by itself, prevent a supplier from meeting those standards with reductions from residential and non-residential customers. These suppliers have already realized the benefit of providing recycled water by not having that water counted as part of their total production and not having to reduce use of that water. Urban water suppliers that cannot meet their conservation standard due to a disproportionate share of recycled water use may pursue relief through the existing alternate compliance process on case by case basis.

Groundwater Credits:

Stakeholder Proposal: This set of proposals would provide credit for "sustainable" groundwater management and groundwater augmentation. Suppliers would provide verification that the groundwater supply is formally certified to meet certain eligibility requirements and then would be eligible to deduct certain groundwater use from their total potable production. In effect, the use of eligible groundwater would be counted the same as conserved water. There are four proposed credit scenarios: 1) Groundwater Banking; (2) Conjunctive Use; (3) "Sustainable" Groundwater Management; and (4) Adjudicated Basins. The proposals include requirements that would govern the use of the credits under each scenario.

December 21, 2015

Staff Recommendation: **Staff does not recommend providing credits for groundwater use or management since the effect of such credits are not well-defined and are generally inconsistent with goal of conserving the state’s remaining surface and groundwater supplies during the drought.** While groundwater augmentation with surface water is a critical element of drought resilience, it is materially different than creation of new drought-resilient sources of supply, such as through indirect potable reuse of wastewater or seawater desalination. Using seawater and wastewater that, for example, would otherwise have been discharged to the ocean to create supply adds to existing surface and groundwater supplies, whereas groundwater augmentation uses water that was already part of existing freshwater resources. Moreover, the proposed groundwater management credits do not adequately demonstrate how other users of a groundwater basin, whether adjudicated or not, would be impacted from pumping by the supplier receiving a credit. Suppliers whose basins are replenished with imported water would place additional strain on those supplies by using more water under a credit system. Suppliers whose basins fill without imports may impact others by increasing pumping under a credit system. Even self-sufficient, adjudicated basins are not guaranteed to maintain all uses during an extended severe drought, where the next opportunity for recharge is unknown. Additionally, there is no credible estimate of how much credit would accrue for groundwater management and how that credit would impact statewide savings. Credit for sustainable groundwater management may be appropriate for a permanent regulation, and certainly will be addressed by the Sustainable Groundwater Management Act as that legislation is implemented, but it is not adequately transparent, intelligible, implementable, or reasonable for an Emergency Regulation of limited duration, the chief aim of which is to preserve existing surface and groundwater supplies through conservation while extreme drought conditions persist.

Regional Compliance Approach:

Stakeholder Proposal: This proposal would allow suppliers to jointly comply with their aggregated conservation standards as a single entity. Regions would be allowed to form, on a voluntary basis, based on the criteria for forming a SBx7-7 regional alliance, per Water Code Section 10608.28. A lead agency for the region would report the Regional Conservation Standard monthly to the State Water Board on behalf of the region. Each urban retail water supplier would also continue to report their individual monthly water use data. If a group as whole did not meet its regional conservation target, the suppliers would revert back to their individual requirements.

Staff Recommendation: **Staff does not recommend providing an option for regional compliance because it will impede timely compliance and enforcement action by the Board and has the potential to reduce individual water supplier accountability.** While a regional approach could help water suppliers provide a consistent message about a regional target to their customers, residents and businesses need to conserve differing amounts to achieve a supplier’s reduction target, so the benefits of this approach are not well substantiated. There is no reason that suppliers (and their regional or wholesale partners) cannot develop consistent messaging under the current Emergency Regulation, such as limits on outdoor watering, nor does the current emergency regulation inhibit regionally-grouped suppliers or wholesalers from working together on messaging to encourage conservation. In addition, there are multiple drawbacks to the proposed regional approach. First, it would impede the Board’s enforcement and compliance efforts, by disallowing the Board from using its enforcement tools to timely address the shortcomings of an individual supplier if that supplier’s region was meeting its target. In the case where a region dropped out of compliance late

in the 270 day life of the regulation, the Board would have little time to institute corrective actions for the individual suppliers. Second, it could encourage regional agencies to focus efforts on additional conservation savings in high-performing communities rather than on steps to change the conservation behaviors of poorer performing communities in order to meet the regional target. Finally, the regional approach would undermine the direct accountability for water supply managers established through the existing regulation. Staff encourages suppliers to work together on messaging and outreach, but believes the drawbacks of a regional approach outweigh any potential benefits.

Elimination of Commercial Agriculture Exclusion:

Stakeholder Proposal: The current Emergency Regulation allows water supplied for commercial agricultural use to be excluded from total potable production, if certain conditions are met. The proposal is to eliminate the exclusion or to change the definition of what constitutes commercial agricultural use to prevent exclusion of water attributable to noncommercial agricultural use or non-agricultural use that may be excluded improperly.

Staff Recommendation: **Staff recommends modifying the Commercial Agriculture Exclusion to require certification that customers whose water use is subtracted under the exclusion produce a minimum of \$1,000 per year in revenue from agricultural sales and are not subtracting water used on ornamental landscapes.** This change would limit use of the exclusion for properties with minimal agricultural sales or mixed commercial agricultural and ornamental landscape use. The \$1,000 threshold is consistent with the US Department of Agriculture's definition of a farm.¹

Staff estimates the existing agricultural exclusion has resulted in about an 11,000 acre feet reduction in conserved water since June 2015. Modifying the commercial agriculture exclusion as proposed could result in a slight increase of conserved water.

Exemption for regions without drought conditions and no exports/imports:

Stakeholder Proposal: This proposal would allow isolated hydrogeological regions that do not have drought conditions and do not import or export water to be excluded from the conservation standard element of the Emergency Regulation. Suppliers would apply to the State Water Board for an exemption from the conservation standard and provide verification that water resources in these regions are not available to benefit other regions.

Staff Recommendation: **Staff does not recommend exempting or relaxing conservation requirements for isolated hydrogeologic regions.** The current Emergency Regulation contains a reserved four percent tier for suppliers that can demonstrate multiple years of supply and no use of imported water and groundwater. Staff continues to believe the four percent tier is adequate and appropriate for an extended Emergency Regulation given the uncertainty of the state's surface and groundwater suppliers during the drought.

Revisions for suppliers with significant seasonal or transient populations:

¹ See <http://www.ers.usda.gov/topics/farm-economy/farm-household-well-being/glossary.aspx>, accessed December 11, 2015.

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Stakeholder Proposal: The Emergency Regulation assigned conservation tiers based on R-GPCD during the months of July, August, and September 2014. The proposal is to re-assign tiers based on 12 months of R-GPCD data, because some areas, mainly the desert regions, have the highest population during the winter months.

Staff Recommendation: **Staff does not recommend changing the process for assigning conservation tiers to account for year round residential per capita water use because it would reduce the regulation's current emphasis on saving water where outdoor use is highest.** In addition, this proposal would in effect provide allowances for properties that are unoccupied for part of the year but irrigated year-round. However, staff proposes to update each water suppliers R-GPCD values using the most up to date July-September 2014 data that had been provided as of January 1, 2016. Water suppliers have also been encouraged and allowed to correct any inaccurate data and provide modified population information to account for monthly changes in population.

A Cap on Credits and Adjustments:

Staff recommends that all credits and adjustments be capped to allow up to a maximum of a four percentage point decrease to any individual water supplier's conservation standard (tier).

Staff Recommendations on Other Elements of an Extended Emergency Regulation:

Staff recommends maintaining other elements of the current Emergency Regulation in the extended Emergency Regulation. These elements include the alternate compliance approach, the statewide prohibited end-uses, the monthly reporting requirements for urban water suppliers, and the conservation and reporting requirements for small suppliers. Staff proposes that small suppliers again be required to report after six months of conservation under a readopted emergency regulation.

Staff also recommends, based on feedback from both suppliers and the general public, adding a prohibition against homeowners' associations interfering with certain conservation actions of their association members in violation of existing law.

Next Steps:

- Comments are due on this proposed regulatory framework by January 6, 2016
- A draft Emergency Regulation will be released for public comment in mid-January 2016
- State Water Board consideration of an extended emergency regulation is anticipated in early February 2016.

Input Requested: The State Water Board is interested in receiving feedback on this proposed regulatory framework. Please submit comments with the subject line: "Comments on Proposed Regulatory Framework" by email to: Kathy Frevert at Kathy.Frevert@waterboards.ca.gov **by January 6, 2016.**

ORDINANCE NO. 15- 01

AN ORDINANCE OF THE MOULTON NIGUEL WATER DISTRICT PRESCRIBING WATER CONSERVATION RULES AND REGULATIONS

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 375, the Moulton Niguel Water District (the "District") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the District; and

WHEREAS, on January 17, 2014, the Governor Brown proclaimed a condition of statewide drought and called upon local agencies to take aggressive, immediate action to reduce water consumption locally and regionally by 20%; and

WHEREAS, because of the prevailing conditions in the State, the current statewide drought, and the declared policy of the State, the District hereby finds and determines that it is necessary and appropriate for the District to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by consumers within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, pursuant to California Water Code section 350 the Board of Directors is authorized to declare a water shortage emergency to prevail within its jurisdiction when it finds and determines that the District will not be able to or cannot satisfy the ordinary demands and requirements of water consumers without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and as more fully set forth in this chapter; and

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WHEREAS, in the event the District determines that it is necessary to declare that a water shortage emergency exists, the District will be authorized, pursuant to the Water Shortage Contingency Plan adopted pursuant to this Ordinance, to implement certain shortage response measures and a water conservation and regulatory program to regulate water consumption activities within the District and ensure that the water delivered in the District is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

WHEREAS, the District is authorized to prescribe and define by ordinance restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce a water conservation and regulatory program to: (i) prohibit the waste of District water or the use of District water during such period; (ii) prohibit use of water during such periods for specific uses that the District may from time to time find nonessential; and (iii) reduce and restrict the quantity of water used by those persons within the District for the purpose of conserving the water supplies of the District; and

WHEREAS, the District hereby finds and determines that as hereby amended, the District shall: (i) implement water conservation and water shortage response measures; (i) regulate the water consumption activities of persons within the District for the purposes of conserving and protecting the District's water supplies, reducing the quantity of water consumed, and deterring and preventing the waste or unreasonable use or unreasonable method of use of valuable water resources; and (ii) establish and collect regulatory fees and impose administrative penalties as set forth herein to accomplish these purposes and/or recover the costs of the District's water conservation and regulatory program; and

WHEREAS, the District hereby finds and determines that it is desirable to codify the rules and regulations governing its actions, and the actions of persons using and consuming water within the District, particularly during declared water shortages and water shortage emergencies, to protect the general welfare and the District's water supplies, and to reduce water consumption in accordance with the declared policies and laws of the State.

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Moulton Niguel Water District as follows:

Section 1. Findings and Determinations

The District hereby finds and determines that the above recitals are true and correct and incorporated herein.

Section 2. Amendments to District Rules and Regulations.

Moulton Niguel Water District's Article IV Rules and Regulations, Section 5.N., and Exhibit G, amendments to Section 5.N., are hereby amended in their entirety and replaced with the following rules and regulations governing water conservation:

N. Water Conservation

1. Findings and Intent

(A) **Findings.** The Board of Directors finds and determines that because of the prevailing conditions in the State, and the declared policy of the State, it is necessary and appropriate for the District to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by persons within the District to ensure that there is sufficient water for human consumption, sanitation, and fire protection. The District further finds and determines that during periods of drought, water shortages, and water shortage emergencies the general welfare requires that the District maximize the beneficial use of its available water resources to the extent that it is capable, and that the waste or unreasonable use, or unreasonable method of use of water shall be prevented and the conservation of water is to be extended with the view to the reasonable and beneficial use thereof in the interests of the people of the District and for the public health, safety, and welfare.

(B) **Intent.** This Section 5.N. is intended to establish:

(1) permanent water conservation BMPs and response measures;

(2) rules, regulations, and restrictions on water use (the "Rules") to be implemented during declared water shortage stages, with increasing restrictions on water use in response to decreasing water supplies and worsening water shortage conditions.

(C) **Demand Management Through Rate Structure Design.** The District's water budget-based rate structure is designed and intended to be a water demand management tool and to proportionately recover the costs of providing water service within the District. The District's efforts in managing its water supply are best achieved through its water budget-based rate structure and the calculated water budgets provided to the District's customers.

(D) **Use of Property.** This Section 5.N. is not intended to repeal, abrogate, annul, impair or in any way interfere with the free use of property by covenant, deed, or other

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private agreement or with restrictive covenants running with the land to which the District provides water services.

2. Purposes and Scope

(A) **Purposes.** The purposes of this Section 5.N. are to:

- (1) protect the health, safety and welfare of the citizens and property owners of the District;
- (2) assure the maximum beneficial use of available water supplies;
- (3) attempt to provide sufficient water supplies to meet, at a minimum, the basic needs of human consumption, sanitation, and fire protection; and
- (4) authorize restrictions in water use during declared water shortages to maximize the beneficial use of water, and the imposition of penalties for violations of the Rules.

(B) **Scope.** The provisions of this Section 5.N. shall apply to all persons within the District and all property served by the District wherever situated. Nothing in this Section 5.N. is intended to affect or limit the ability of the District to respond to an emergency, including an emergency that affects the ability of the District to supply water.

3. Definitions

For the purposes of this Section 5.N., the following words, terms, and phrases shall have the following meanings:

(A) "Appellant" means the person appealing the imposition of a penalty imposed by the District for a violation of the Rules pursuant to this Section 5.N.

(B) "BMPs" mean best management practices.

(C) "Calculated water budget" means the water budget calculated by the District for each customer in accordance with the District's water rate structures.

(D) "Calculated recycled water budget" means the recycled water budget calculated by the District for each customer in accordance with the District's recycled water rate structure.

(E) "Ccf" means one hundred cubic feet.

(F) "District" means the Moulton Niguel Water District.

(G) "General Manager" means the General Manager of the District or her or his authorized designee.

(H) "Immediate emergency" shall have the meaning set forth in Section 5.N.6.(D).

(I) "19 Account customers" shall have the meaning set forth in Section 5.N.9.(A).

(J) "Person" means any natural person, firm, joint venture, joint stock company, partnership, public or private association, club, company, corporation, business trust, organization, public or private agency, government agency or institution, school district, college, university, any other user of water provided by the District, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

(K) "Plant factor" means the water needs of specific types of plants as established through guidelines provided by state law and the State Department of Water Resources' Model Water Efficient Landscape Ordinance established under Assembly Bill 1881.

(L) "Potable Water" means that water furnished to the customer which complies with federal and State drinking water regulations and standards, or any other applicable standards, for human consumption.

(M) "Property owner" or "owner" means the record owner of real property as shown on the most recently issued equalized assessment roll.

(N) "Recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

(O) "Rules" shall have the meaning set forth in in Section 5.N.1.(B)(2).

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(P) "RC9 Account customers" shall have the meaning set forth in Section 5.N.14(A)(1).

(Q) "State" means the state of California, including any department or regulatory agency thereof.

(R) "Water customer" or "customer" means a person who, according to the District's records, has an account with the District and receives water service or recycled water service to a parcel of property.

(S) "Water shortage emergency" means a condition existing within the District in which the ordinary water demands and requirements of persons within the District 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. A water shortage emergency includes both an immediate emergency, in which the District is unable to meet current water needs of persons within the District, as well as a threatened water shortage, in which the District determines that its future supply of water may not meet an anticipated future demand.

(T) "WUCOLS" shall have the meaning set forth in Section 5.N.8.(D).

4. Water Conservation Best Management Practices

(A) **Conservation through BMP's.** Recognizing that water is our most vital resource, the following water conservation BMPs have been established to conserve water, prevent the waste or unreasonable use or unreasonable method of use of water, and preserve the District's water supplies. The BMPs shall be in effect at all times. Except as otherwise provided in this Section 5.N.4., the BMPs shall not apply to the use of recycled water.

(B) **Installation of Water Conservation Devices.** No water shall be provided by the District for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or altered and in which either internal or external irrigation or domestic water piping or water fixtures are to be installed, extended, or altered in any way, including, but not limited to, any plumbing, water piping, or water fixtures for which a construction permit is required to be obtained from the County of Orange or its successor, or for which District approval of plans and service applications are required, unless the new, extended, or altered plumbing, water piping, or other water using facilities conform to the requirements and standards of this Section 5.N.4.(C) of the Rules and Regulations.

(C) **Standards for Water Conservation Devices.** The required water conservation devices and standards of the District are those set forth on Exhibit "F" to these Rules and Regulations. Nothing herein provided shall be deemed to relieve any person from compliance with the plumbing code of the County of Orange or any other state or local plumbing or building requirements.

(D) **Limits on Watering Hours.** Watering or irrigating any lawn, landscape or other vegetated area with potable water should be avoided between the hours of 9:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.

(E) **Limits on Water Duration.** Watering or irrigating any lawn, landscape or other vegetated area with potable water using a landscape irrigation system or watering device that is not continuously attended should be limited to no more than eight minutes of watering per station every other day during the summer and less than six minutes during the spring, fall and winter. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow irrigation systems where no emitter produces more than two gallons of water per hour.

(F) **No Watering During Rain.** Watering or irrigating any lawn, landscape or other vegetated area with potable water should be avoided when it is raining.

(G) **Plant Low-Water Demand Plants and Trees.** When installing new landscaping, plant only low-water demand trees and plants. New turf should only be installed for functional purposes. Functional turf is defined as turf used for athletic or high traffic areas.

(H) **No Excessive Water Flow or Runoff.** Watering or irrigating any lawn, landscape or other vegetated area in a manner that causes or allows excessive flow or runoff of potable or recycled water onto an adjoining sidewalk, driveway, street, alley, gutter or ditch should be avoided.

(I) **No Washing Down Hard or Paved Surfaces.** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, should be avoided except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic shut-off device or a low-volume, high-pressure cleaning machine equipped to recycle any water used.

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(J) **Obligation to Fix Leaks, Breaks or Malfunctions.** Excessive use, loss or escape of potable or recycled water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system should be avoided for any period of time after such escape of water should have reasonably been discovered and corrected. It is unlawful for any person to permit for the forgoing for more than five days after receiving notice from the District of any such break, leak, or other malfunction.

(K) **Re-circulating Water Required for Water Fountains and Decorative Water Features.** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.

(L) **Limits on Washing Vehicles.** Using potable water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, should be avoided, except by use of a hand-held bucket or similar container, a hand-held hose equipped with an automatic water shut-off nozzle or a low volume power washer with an automatic water shut-off nozzle. This paragraph does not apply to commercial car washes or the washing of vehicles regulations where the health, safety, and welfare of the public is contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.

(M) **Drinking Water Served Upon Request Only.** Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar, club or other public place where food or drinks are sold, served, or offered for sale, should only provide drinking water to persons when expressly requested.

(N) **Commercial Lodging Establishments Must Provide Option to Not Launder Linens Daily.** Hotels, motels and other commercial lodging establishments should provide customers the option of not having towels and linens laundered daily. Commercial lodging establishments should prominently display notice of this option in each bathroom using clear and easily understood language.

(O) **Installation of Single Pass Cooling Systems.** Single pass cooling systems shall not be installed in buildings requesting new potable water service.

(P) **Installation of Non-re-circulating Water Systems in Commercial Car Washes and Laundry Systems.** Non-recirculating water systems in commercial car washes and laundry systems shall not be installed.

(Q) **Restaurants Required to Use Water Conserving Dish Wash Spray Valves.** Food preparation establishments, such as restaurants or cafés, shall not use non-water conserving dish wash spray valves.

(R) **Swimming Pools and Spa Covers.** Property owners who have a swimming pool or a spa are encouraged to cover the facilities to minimize water loss due to evaporation.

(S) **Water Waste and Unreasonable Water Use Prohibited.** The waste or unreasonable use or unreasonable method of use of water by any person shall be prohibited at all times.

5. Water Shortages

(A) **Reductions in Water Supply.** Should the BMPs be inadequate to protect the District's potable water supply, the District Board of Directors reserves the right to implement further mandatory Rules to reduce the amount of water used within the District. The Rules are necessary to respond to any significant reductions to the District's water supply as a result of drought, natural disasters, regulatory action, and planned or unplanned potable water shortages, including but not limited to, shortages arising from the following circumstances or events that are or may impact the District's water supply:

(1) the District's wholesale water supplier has determined that a drought, water shortage, or water shortage emergency exists or has implemented or taken other actions requiring a reduction in water demand;

(2) Metropolitan Water District of Southern California ("MWD") Water Supply Allocation Plan implementation or other actions requiring a reduction in water demand;

(3) regional or statewide importation or local distribution systems or facility(ies) have failed or have been shut down (e.g., a main break, reservoir, pipeline, canal, or other distribution or conveyance system failure);

(4) alternative water supplies are limited or unavailable;

(5) the State has determined that a drought, water shortage or water shortage emergency exists;

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(6) the State has implemented restrictions on the use of water or reduced or restricted the delivery of wholesale water to the District; and

(7) any other natural disaster that impacts the availability of water to the District.

(B) **Application.** The provisions of this Section 5.N. shall apply to all persons using potable water within the District, regardless of whether any person using potable water or recycled water has a contract or account for water service.

6. Declaration of Water Shortages

(A) **District Water Supply.** The General Manager shall monitor the projected supply and demand for water by the District's customers on a frequent basis during periods of a water shortage or drought and shall recommend to the Board of Directors the extent of the conservation measures required through the implementation and/or termination of particular water shortage stages to prudently plan and supply water to its customers. The General Manager will recommend the appropriate stage of response to a water shortage based on the best information available at the time. In addition to the circumstance and events set forth in Section 5.N.5(A), conditions that may be considered include, but are not limited to:

(1) District water supply conditions and storage levels;

(2) statewide water supply conditions;

(3) local water supply and demand conditions; and

(4) actions by surrounding wholesale and retail water agencies; and

(5) any other conditions the General Manager believes will adversely affect the District's available water supply.

(B) **Declaration of Water Shortage Stages.** The declaration of any water shortage stage declared pursuant to Section 5.N.7 shall be made by the recommendation of the General Manager and the adoption of a resolution of the Board of Directors. The water shortage stage designated shall become effective immediately upon adoption of the resolution by the Board of Directors.

(C) **Notice and Publication.** Within ten (10) days of the adoption of the resolution declaring the applicable water shortage stage, the District shall make a public announcement of the applicable water shortage stage, which shall be published a minimum of three (3) times in a daily newspaper of general circulation and posted on the District's website.

(1) Such declaration and notice shall provide the extent, terms, and conditions respecting the use and consumption of water in accordance with the applicable water shortage stage as provided in this Section 5.N.

(2) The District will periodically provide the public with information about the Rules, including conditions under which each water shortage stage is to be initiated or terminated and the conservation response measures to be implemented in each stage.

(3) Upon such declaration and publication of the notice required herein, due and proper notice shall be deemed to have been given each and every person supplied water within the District of the Rules governing the applicable water shortage stage.

(D) **Declaration of Water Shortage Emergency.** Excepting in event of a breakage or failure of a dam, pump, pipe line or conduit causing an immediate emergency (an "immediate emergency"), the declaration of a water shortage emergency during any water shortage stage shall be made in accordance with California Water Code sections 350 *et seq.*

(1) The declaration of a water shortage emergency other than an immediate emergency shall be made only after a public hearing at which consumers have an opportunity to be heard to protest the declaration and to present their respective needs to the Board of Directors.

(2) Notice of the time and place of the public hearing shall be published pursuant to Section 6061 of the Government Code at least seven days prior to the date of the public hearing in a newspaper printed, published, and circulated within the area in which the water supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the Orange County.

(3) After the close of the public hearing, the Board of Directors shall be authorized to adopt a resolution declaring a water shortage emergency. The resolution shall take effect immediately upon adoption.

(4) After adopting the resolution, the declaration of the Board of Directors of the water shortage emergency shall be made by public announcement on the

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District's website and shall be published a minimum of one time in a newspaper of general circulation.

(5) The Rules on water use during the water shortage emergency shall remain in full force and effect during the period of the emergency and until the supply of water available for distribution within the District's service area has been replenished or augmented. After adopting the resolution, the declaration of the Board of Directors of the appropriate water shortage stage shall be made by public announcement on the District's website and shall be published a minimum of one time in a newspaper of general circulation.

(E) **Determination of Immediate Emergency.** Notwithstanding the forgoing, if an immediate emergency occurs and the Board of Directors cannot meet in time to act to protect the public interest pursuant to this Section 5.N., the General Manager is hereby authorized and directed to implement such provisions of this Section 5.N. upon his or her written determination that the District cannot supply adequate water to meet the ordinary demands of water consumers, and that such implementation is necessary to protect the public health and safety.

(1) The implementation of any such provisions shall take effect immediately upon making a public announcement of the immediate emergency and publication of such immediate emergency on the District's website.

(2) Such written determination shall be delivered to the Board of Directors and considered at a general or special meeting for review, revocation, or ratification. Such meeting shall be held upon the earliest date that a quorum of the Board of Directors is available.

(3) At the Board of Directors meeting, the General Manager shall update the Board of Directors on the severity and length of the immediate emergency.

(4) During an immediate emergency, the District may specify temporary restrictions on the use of potable and recycled water. Any person who willfully fails to comply with those temporary restrictions may be subject to an administrative penalty of \$500 per offense and have his or her water meter locked by the District.

(F) **Implementation of Water Shortage Stages.** As water supply conditions either deteriorate or improve, the General Manager will return to the Board of Directors to recommend, as appropriate, revising the appropriate water shortage stage of response.

(1) It shall not be necessary to implement any water shortage stage prior to another; the water shortage stages may be implemented in any reasonable order. Except for a water shortage emergency or immediate emergency, any stage implemented shall be in effect for up to 120 days, at which point the Board shall determine whether to continue a water shortage stage.

(2) The District will implement an appropriate stage based on current water conditions. Higher stages will be implemented as shortages continue and/or if customers' responses to the water shortage measures in effect do not bring about desired water savings.

(3) Restrictions, penalties and enforcement will build on each other as higher stages are implemented. All prior tier reductions and variance procedure modifications in lower stages are cumulative into the higher stages.

(G) **Actions or Restrictions by the State or Other Agencies.** In the event the State or other agencies, through executive action, emergency legislation or other actions, impose conditions, requirements, or procedures that are not included in this Section 5.N., the General Manager is authorized to implement such measures as are reasonably required to bring the District's actions in each stage into functional conformity with such conditions, requirements, or procedures.

(H) **Public Outreach.** When the Board of Directors determines that a water shortage condition exists, any or all of the following notification procedures may be implemented:

(1) Notify the general public stakeholders, elected officials and other key decision-makers regarding the water shortage condition, actions to be taken, goals customers are intended to achieve, and how these actions and goals will be implemented.

(2) The public at large will be informed of the situation and actions the District will be taking. Communications may occur through any of the following: billing inserts, special mailings, telephone contact, e-mail, social media, roadway signage, water conservation booths, and other booths in the community, community association meetings, newsletters, and education programs, etc. Literature appropriate to the drought circumstance will be provided regarding the water shortage condition, conservation methods, and water-savings devices.

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(3) Use of all forms of media may be employed. This would include public service announcements on radio and cable television, social media as well as earned media, and advertisements in local newspapers.

(4) The District's web site, www.MNWD.com, will be the central location for messaging and customer communications

7. Water Shortage Stage 1 – Potable Water Reductions

(A) **Voluntary Reductions.** During a Water Shortage Stage 1 ("Stage 1"), the District's conservation efforts will be focused on voluntary reductions in potable water use. Potable water customers may reduce demand by following the District's BMPs.

(B) **Refills of Swimming Pools.** Any customer who refills a swimming pool shall not receive a variance to his or her calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

8. Water Shortage Stage 2 – Mandatory Potable Water Use Rules

(A) **Mandatory Rules Governing Potable Water Budgets.** During a Water Shortage Stage 2 ("Stage 2"), all potable water customers shall be prohibited from using potable water in excess of their calculated water budget.

(B) **Penalties.** During a Stage 2, any potable water customer who willfully uses water in excess of his or her calculated potable water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of potable water used in excess of his or her calculated potable water budget.

(1) Such penalty shall be in addition to the water service fees the District imposes for the potable water delivered to the customer.

(C) **Refills of Swimming Pools.** During a Stage 2, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(D) **Plant Variances.** During a Stage 2, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

defined by the Water Use Classifications of Landscape Species (“WUCOLS”) to have low or very low watering needs for the South Coastal Region. The classifications can be found at http://ucanr.edu/sites/WUCOLS/Plant_Search/.

9. Water Shortage Stage 3 – Mandatory Potable Water Use Rules

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 3 (“Stage 3”), potable water customers’ water budgets shall be recalculated as follows:

(1) all single-family residential, multi-family residential, and potable irrigation customers, except for irrigation customers in high traffic areas (“I9 Account customers”), shall have their outdoor water budgets reduced by 40%, resulting in outdoor water budgets being recalculated using a plant factor of 0.42.

(2) I9 Account customers shall have their outdoor water budgets reduced by 40%, resulting in outdoor water budgets recalculated using a plant factor of 0.6.

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 3, all potable water customers shall be prohibited from using water in excess of their recalculated water budgets.

(C) **Penalties.** During a Stage 3, any potable water customer who willfully uses water in excess of his or her recalculated water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her recalculated water budget.

(1) The penalty shall be in addition to the water service fees the District imposes for the water delivered to the customer.

(2) The penalty corresponds to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** During a Stage 3, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(E) **Plant Variances.** During a Stage 3, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

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defined by the WUCOLS to have low or very low watering needs for the South Coastal Region. The classifications can be found at http://ucanr.edu/sites/WUCOLS/Plant_Search/.

10. Water Shortage Stage 4 – Mandatory Potable Water Use Rules

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 4 (“Stage 4”), potable water customers’ water budgets shall be recalculated as follows:

(1) single-family residential, multi-family residential, and potable irrigation customers, except for I9 Account customers, shall have their outdoor water budgets reduced by 70%, resulting in outdoor water budgets being recalculated using a plant factor of 0.21; and

(2) I9 Account customers shall have their outdoor water budgets recalculated using a plant factor of 0.30.

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 4, all potable water customers shall be prohibited from using water in excess of their recalculated water budgets.

(C) **Penalties.** During a Stage 4, any potable water customer who willfully uses water in excess of his or her recalculated water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her recalculated or assigned water budget.

(1) Such penalty shall be in addition to the water service fees the District imposes for the water delivered.

(2) The penalty corresponds to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** During a Stage 4, any customer who refills a swimming pool shall not receive a variance to their calculated water budget and shall be billed for water used according to the applicable tier for the corresponding use. No bill variance adjustments shall be granted.

(E) **Plant Variances.** During a Stage 4, any person installing new landscaping, a new plant variance will only be granted for California friendly vegetation as

defined by the WUCOLS to have low or very low watering needs for the South Coastal Region. The classifications can be found at http://ucanr.edu/sites/WUCOLS/Plant_Search/.

11. Water Shortage Stage 5 – Mandatory Potable Water Use Rules

(A) **Recalculation of Potable Water Budgets.** During a Water Shortage Stage 5 (“Stage 5”), potable customers’ water budgets shall be recalculated as follows:

(1) all single-family residential and multi-family residential customers shall have their indoor water budgets reduced from 60 gallons per capita per day to 40 gallons per capita per day;

(2) all Commercial potable water customers shall be prohibited from using potable water in excess of their calculated water budgets;

(B) **Mandatory Rules Governing Potable Water Budgets.** During a Stage 5, all single-family residential and multi-family residential customers shall be prohibited from using water in excess of their recalculated indoor water budgets. Outdoor budgets will be reduced to zero.

(C) **Mandatory Rules Governing Potable Water Use.** During a Stage 5, all potable water irrigation customers shall be prohibited from using potable water. All outdoor irrigation with potable water shall be prohibited within the District’s service area.

(D) **Penalties.** The following penalties shall be imposed for any violation of the Rules set forth in this Section 5.N.11:

(1) Any single-family residential and multi-family residential customer who willfully uses potable water in excess of his or her recalculated indoor water budget shall be in violation of these Rules and shall pay an administrative penalty of \$7.63 for each ccf, or portion thereof, of water used in excess of his or her recalculated indoor water budget.

(2) Any commercial customer who uses potable water in excess of his or her calculated water budget shall be subject to an administrative penalty of \$7.43 for each ccf, or portion thereof, of water used in excess of his or her calculated water budget.

(3) Any potable irrigation customer who uses potable water shall be subject to an administrative penalty of \$9.04 for each ccf, or portion thereof of potable water used and shall have its water meter locked off.

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(4) All penalties imposed pursuant to this Section 5.N.11. shall be in addition to the water service fees the District imposes for the water delivered to the forgoing customers.

(5) The penalties correspond to water usage above the modifications to tier widths.

(D) **Refills of Swimming Pools.** No customer shall refill a swimming pool during a Stage 5.

(E) **Plant Variances.** During a Stage 5, no customer shall install new landscaping.

12. Water Shortage Stage 1 – Voluntary and Mandatory Recycled Water Use Rules

(A) **Voluntary Reductions.** During a Stage 1, the District's conservation efforts will be focused on voluntary reductions in recycled water use. Recycled water customers may reduce demand by following the District's BMPs.

(B) **Mandatory Rules Governing Potable Water Use.** During a Stage 1, recycled water customers shall be prohibited from using potable water for outdoor irrigation.

13. Water Shortage Stage 2 – Mandatory Recycled Water Use Rules

(A) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 2, all recycled water customers shall be prohibited from using recycled water in excess of their calculated recycled water budget.

(B) **Penalties.** During a Stage 2, any recycled water customer who willfully uses recycled water in excess of his or her calculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her assigned recycled water budget. Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered to the customer.

14. Water Shortage Stage 3 – Mandatory Recycled Water Use Rules

(A) **Recalculation of Recycled Water Budgets.** During a Stage 3, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All recycled water customers, except recycled water customers in high traffic areas ("RC9 Account customers"), shall have their outdoor recycled water budget reduced by 10%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.72.

(2) All RC9 Account customers shall have their outdoor recycled water budget reduced by 10%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.90.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 3, all Recycled Water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 3, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered to the customer.

(2) The penalty corresponds to recycled water used above the modifications to tier widths. By way of example, recycled water used in excess 90% of Tier 1 for recycled water customers (except RC9 Account customers) shall be charged an additional penalty of \$7.04 for each ccf or portion thereof.

15. Water Shortage Stage 4 – Mandatory Recycled Water Use Rules

(A) **Recalculation of Recycled Water Budgets.** During a Stage 4, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All Recycled Water customers, except for RC9 Account customers, shall have their recycled water budgets reduced by 20%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.64.

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(2) RC9 Account customers shall have their outdoor recycled water budgets reduced by 20%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.80.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 4, all recycled water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 4, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered.

(2) The penalty corresponds to recycled water use above the modifications to tier widths. By way of example, recycled water use above 80% of Tier 1 for recycled water customers (except for RC9 Account customers) is charged a penalty of \$7.04.

16. Water Shortage Stage 5 – Mandatory Recycled Water Use Rules

(A) **Recalculation of Recycled Water Budgets.** During a Stage 5, all recycled water customers' recycled water budgets shall be recalculated as follows:

(1) All recycled water customers, except for RC9 Account customers, shall have their outdoor recycled water budget reduced by 30%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.56.

(2) All RC9 Account customers shall have their outdoor recycled water budget reduced by 30%, resulting in outdoor recycled water budgets recalculated using a plant factor of 0.70.

(B) **Mandatory Rules Governing Recycled Water Budgets.** During a Stage 5, all recycled water customers shall be prohibited from using recycled water in excess of their recalculated recycled water budget.

(C) **Penalties.** During a Stage 5, any recycled water customer who uses recycled water in excess of his or her recalculated recycled water budget shall be subject to

an administrative penalty of \$7.04 for each ccf, or portion thereof, of recycled water used in excess of his or her recalculated recycled water budget.

(1) Such penalties shall be in addition to the recycled water service fees the District imposes for the recycled water delivered.

(2) The penalty corresponds to recycled water use above the modifications to tier widths. By way of example, recycled water use above 70% of Tier 1 for recycled water customers (except for RC9 Account customers) shall be charged a penalty of \$7.04.

17. Violations and Remedies

(A) **Misdemeanor Violations.** It shall be unlawful for any person to willfully violate the provisions of this Section 5.N.. A violation of any of these provisions is a misdemeanor in accordance with California Water Code section 377.

(B) **Other Remedies.** In addition to any other remedies provided in this Section 5.N or available under applicable law, the District may alternatively seek injunctive relief in the Superior Court or take enforcement action, including discontinuing or appropriately limiting water service to any customer, for violations of this Section 5.N. All remedies provided herein shall be cumulative and not exclusive.

18. Notice and Collection of Penalties

(A) **Notice and Due Process.** As set forth in Section 5.N.6(C), upon the declaration of a water shortage stage and publication of the notice required herein, due and proper notice shall be deemed to have been given each and every person supplied water within the District of the Rules governing the applicable water shortage stage.

(B) **Collection of Penalties.** Any penalty imposed pursuant to the Rules of any applicable water shortage stage set forth in this Section 5.N. may be collected on a customer's water bill. Any penalty shall be applicable to water used in violation of the Rules during the first complete billing cycle after the declaration of the applicable water shortage stage.

(C) **Notice of Violation.** The receipt of a water bill with any applicable penalties shall serve as notice of violation of the District's Rules.

19. Appeal Procedures

Any person (an "Appellant") who wishes to appeal the imposition of an administrative penalty imposed by the District pursuant to this Section 5.N. shall comply with the following procedures:

(A) **Appeal Request Form.** An Appeal Request form shall be submitted to the Conservation Department.

(1) Appeal Request forms may be obtained at the District's Main Office or downloaded from the District's website at www.MNWD.com.

(2) An Appeal Request form shall be received by the District no later than thirty calendar days from the date that the Appellant's water bill for the four-week period in which the penalty or penalties were imposed is due.

(B) **Additional Documentation.** Additional documentation may be requested at the discretion of the District. Such documentation may include, but is not limited to, school records, driver's licenses, business licenses, lease agreements.

(C) **Site Survey.** After an Appeal Request form has been received, a site survey may be required by District staff to verify the irrigated square footage of the property where the water was delivered. The site survey will be at no charge to the person and will require the person who submitted the Appeal Request form to be present.

(D) **District Response.** A response to an Appeal Request shall be provided by the District within thirty calendar days from receipt of the Appeal Request form.

(E) **Review of Denial of Appeal Request.** If an Appeal Request is denied, the Appeal Request form may be resubmitted by the Appellant for review by the District's Assistant General Manager. The Decision by the District's Assistant General Manager shall be final.

Section 3. Conflicting Provisions

If provisions of Section 5.N. are in conflict with each other, other provisions of the Article IV, any other resolution or ordinance of the District, or any State law or regulation, the more restrictive provisions shall apply.

Section 4. Severability

If any provision, section, subsection, sentence, clause or phrase or sections of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of this Ordinance shall not be affected, it being the intent of the Board of Directors in adopting this Ordinance that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. Effective

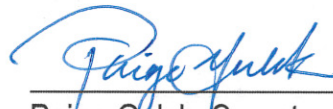
This Ordinance shall be effective immediately upon adoption.

#8.

APPROVED, ADOPTED and SIGNED this 19th day of February, 2015.



Donald Froelich, President
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof



Paige Gulck, Secretary
MOULTON NIGUEL WATER DISTRICT
and the Board of Directors thereof



Moulton Niguel Water District

STAFF REPORT

TO: Board of Directors **MEETING DATE:** January 20, 2016

FROM: Matt Collings, Assistant General Manager
Drew Atwater, Water Resources Manager

SUBJECT: Rebate Applications for Turf Removal

DIVISION: District-wide

SUMMARY:

Issue: The District has received an exemption request for a rebate application that exceeded the maximum allowable acreage for turf removal as defined in the approved Board policy.

Recommendation: It is recommended that the Board of Directors consider the rebate applications for the identified projects without a limitation on the maximum allowable acreage for the projects and direct staff accordingly.

Fiscal Impact: Sufficient funds are available within the Water Use Efficiency Fund to fund the identified rebate application. Additional information is provided within the staff report.

BACKGROUND:

More than half of the water used at the District is for outdoor landscapes. Water efficient landscapes can decrease water use up to 70 percent through a combination of proper plant selection and irrigation technology. However, the cost of installing climate-applicable plants is sometimes an obstacle to turning traditional grass landscapes into more water-efficient environments. The District's turf replacement program is designed to help residents, businesses, and public agencies make that conversion.

The proposed projects are eligible to receive \$2 per square foot from the District for turf removal and \$1.50 for synthetic turf installation. The program provides limitations on the amount of turf removal and/or synthetic turf installation that qualifies for the rebate. The relevant cap for the applicants are 10,000 square feet for District funding per meter for the commercial project and 3,000 square feet for the residential project.

#9.

Rebate Applications for Turf Removal

January 20, 2016

Page 2 of 2

All rebates from the District are funded through the Water Efficiency Fund using the incremental revenue generated from the higher consumption tiers (Tiers 3, 4 and 5) in the water budget-based rate structure.

DISCUSSION:

In recent months, the District has expanded its outreach efforts to promote water use efficiency in response to the drought emergency. Customers have responded with requests for nearly 5 million square feet of turf removal and more than 600,000 square feet of synthetic turf installation. The District has received two additional requests from customers to remove 14,194 square feet of turf for two accounts. Table 1 identifies the customers and the rebate requests for each of the programs by account.

Table 1 – Rebate Requests

Customer	Division	Proposed Turf Removal (Sq. Feet)	Proposed Synthetic Turf Installation (Sq. Feet)	Proposed Rebate Value (\$)
Glenwood Maintenance Corp. – Acct #96-51956	6	10,877	0	\$21,754
Resident – Acct #3-06832	1	3,317	3,317	\$11,610
Total		14,194	3,317	\$33,364

The values provided above are based on estimates from each of the project proponents and may vary as each project becomes more defined. The proposed rebate incentives for the identified project would be funded from the Water Efficiency Fund.

Staff is recommending the Board remove the maximum allowable acreage to allow the General Manager or her designee to consider each application based on the overall project objectives, various funding sources, and current available budget for rebate funding. Removal of the maximum acreage by the Board of Directors does not constitute an approval of the rebate application, but allows each application to be considered for the full amount of turf removal or synthetic turf installation.

MOULTON NIGUEL WATER DISTRICT
Summary of Financial Results

Results of operations for the five months ended November 30, 2015, are summarized below.

Summary Budget Comparison Report

The Summary Budget Comparison Report is a high-level statement of the operating activities of the District over the past five months compared to the budget. The report includes total revenues and expenses, as well as line item revenues and expenses for the General Fund and the Water Efficiency Fund. As shown in the summary report, operating revenues were approximately \$23.6 million, or 45% of the annual \$52.6 million budget, while operating expenses were \$25.9 million, or 37% of the annual \$70.2 million budget.

Non-operating revenues are approximately at 19% of budget for the Fiscal Year due to the timing of receipt of property tax revenue.

Summary Budget Comparison Report – General Fund

Operating revenues were approximately \$21.7 million, or 44% of the annual \$49.2 million budget, while operating expenses were \$24.3 million, or 38% of the annual \$63.3 million budget.

Non-operating revenues are approximately at 19% of budget for the Fiscal Year due to the timing of receipt of property tax revenue.

Summary Budget Comparison Report – Water Efficiency Fund

Operating revenues were approximately \$1.9 million, or 55% of the annual \$3.4 million budget, while operating expenses were \$1.6 million, or 23% of the annual \$6.9 million budget.

Non-operating revenues are approximately at 58% of budget for the Fiscal Year due to gains on District investments.

Statement of Net Position

The Statement of Net Position shows the District's assets, deferred outflows of resources, liabilities and deferred inflows of resources as of November 30, 2015, compared to the balances at fiscal year ended June 30, 2015. Overall, assets and deferred outflows of resources were approximately \$19.2 million lower than at June 30, 2015, primarily due to the planned reduction in current cash and investments as a result of recent debt service payments and to fund ongoing capital projects.

Liabilities and deferred inflows have decreased by approximately \$13.6 million since June 30, 2015, also due to debt service payments and a reduction in accounts payable. As a result, the District's Net Position decreased by approximately \$5.6 million for the month ending November 30, 2015, compared to fiscal year ending June 30, 2015.

#11.a.

MOULTON NIGUEL WATER DISTRICT Summary of Financial Results

Revenues

Total revenues for the five months ended November 30, 2015 were \$29.4 million, approximately \$5.0 million less than November 30, 2014. Total Operating Revenues for the month ended November 30, 2015 were \$23.6 million, a decrease of \$1.9 million compared to November 30, 2014. Due to positive responses from the District's drought and outreach efforts, water sales and Water Efficiency Fund revenues are down by \$1.4 million and \$0.9 million, respectively, as compared to last year. Total Non-operating Revenues were \$5.8 million for the month ended November 30, 2015, representing a \$3.1 million decrease when compared to November 30, 2014. The decrease is due to a \$3.5 million refund from MWDOC in October 2014 for meter inaccuracies at the South County Pump Station.

Expenses

Total expenses for the five months ended November 30, 2015 were \$35.2 million, a decrease of \$1.5 million or 4.2% as compared to \$36.7 million for November 30, 2014. Total operating expenses were \$24.9 million, a decrease of \$1.6 million from last year. Other operating expenses for the five months ended November 30, 2015 were \$8.0 million, representing an increase of \$0.3 million when compared to \$7.7 million on November 30, 2014. Other non-operating expenses for the five months ended November 30, 2015 totaled \$2.2 million, a decrease of approximately \$0.3 million compared to \$2.5 million on November 30, 2014.

Restricted Cash and Investments with Fiscal Agent

Restricted cash includes funds held by the trustee. The use of these funds is restricted by law or bond covenants. Funds in these accounts were \$8.1 million at November 30, 2015, representing a decrease of \$0.6 million when compared to June 30, 2015.

Net Position

Total Net Position for the District as of November 30, 2015, was \$402.2 million, representing a decrease of \$5.6 million when compared to June 30, 2015. The unrestricted Net Position is further broken down by designated and undesignated Net Position. The District has seven funds that are designated by District policy for specific purposes, including Self Insurance, Water Efficiency, Replacement and Refurbishment, Water Supply Reliability, Planning and Construction, Rate Stabilization, and Emergency Reserve. Total unrestricted Net Position decreased by approximately \$21.3 million since June 30, 2015, due to spending on budgeted capital projects funded from unrestricted, undesignated Net Position. Restricted Net Position is \$1.8 million, an increase of \$0.3 million compared to June 30, 2015. Total Net Investment in Capital assets increased by \$15.5 million compared to June 30, 2015. The report gives a summary of how this amount is calculated in Note 4.

Moulton Niguel Water District
Summary - Budget Comparison Report
Five Months Ended November 30, 2015

Description	Approved Budget	Fiscal Year to Date Actuals	Budget Balance	% of Actuals to Budget
<u>GENERAL FUND & WATER EFFICIENCY FUND:</u>				
Operating Revenues	\$ 52,634,952	\$ 23,582,643	\$ 29,052,309	45%
Operating Expenses	70,171,744	25,866,434	44,305,310	37%
Operating Income (Loss)	(17,536,792)	(2,283,790)	(15,253,002)	13%
Non-Operating Revenues (Expenses)	30,256,991	5,775,551	24,481,440	19%
Total Change in Funds	\$ 12,720,199	\$ 3,491,760	\$ 9,228,439	
<u>GENERAL FUND:</u>				
Operating Revenues	\$ 49,236,079	\$ 21,702,057	\$ 27,534,022	44%
Operating Expenses	63,290,013	24,263,663	39,026,350	38%
Operating Income (Loss)	(14,053,934)	(2,561,606)	(11,492,328)	18%
Non-Operating Revenues (Expenses)	30,097,199	5,682,230	24,414,969	19%
Change in General Fund	\$ 16,043,265	\$ 3,120,624	\$ 12,922,641	
<u>WATER EFFICIENCY FUND:</u>				
Operating Revenues	\$ 3,398,873	\$ 1,880,586	\$ 1,518,287	55%
Operating Expenses	6,881,731	1,602,770	5,278,960	23%
Operating Income (Loss)	(3,482,858)	277,816	(3,760,673)	-8%
Non-Operating Revenues (Expenses)	159,792	93,321	66,471	58%
Change in Water Efficiency Fund	\$ (3,323,066)	\$ 371,136	\$ (3,694,202)	

Note: Totals may not sum due to rounding.

#11.b.

Moulton Niguel Water District
General Fund - Budget Comparison Report
Five Months Ended November 30, 2015

Description	Approved Budget	Fiscal Year to Date Actuals	Budget Balance	% of Actuals to Budget
GENERAL FUND				
Operating Revenues				
Water Sales	\$ 25,449,137	\$ 11,082,289	\$ 14,366,848	44%
Recycled Water Sales	5,249,795	2,405,819	2,843,976	46%
Sewer Sales	18,053,647	7,575,368	10,478,279	42%
Other Operating Income ¹	483,500	638,580	(155,080)	132%
Total Operating Revenue	49,236,079	21,702,057	27,534,022	44%
Operating Expenses				
Salaries	10,307,516	3,993,706	6,313,810	39%
PERs Employer Contributions	1,364,819	510,816	854,003	37%
PERs Employee Contributions	147,341	45,426	101,915	31%
Defined Contribution 401A	192,000	65,552	126,447	34%
Educational Courses	44,270	6,937	37,333	16%
Travel & Meetings	238,644	75,472	163,172	32%
Employee Relations	15,000	11,104	3,896	74%
General Services	458,095	88,164	369,931	19%
Annual Audit	48,080	35,560	12,520	74%
Member Agencies O&M	1,542,495	385,339	1,157,156	25%
Dues & Memberships	96,510	41,206	55,304	43%
Consulting Services	2,248,900	269,565	1,979,335	12%
Equipment Rental	65,000	25,589	39,411	39%
District Fuel	340,000	83,461	256,539	25%
Insurance - District	561,275	173,991	387,284	31%
Insurance - Personnel	438,275	147,193	291,082	34%
Insurance - Benefits	2,587,061	956,871	1,630,190	37%
Legal Services - Personnel	50,000	98	49,903	0%
Legal Services - General ²	200,000	48,092	151,908	24%
District Office Supplies	475,400	146,504	328,896	31%
District Operating Supplies	392,967	152,222	240,745	39%
Repairs & Maintenance - Equipment	738,469	282,155	456,314	38%
Repairs & Maintenance - Facilities	4,135,970	851,728	3,284,242	21%
Safety Program & Compliance Requirements	309,450	86,117	223,333	28%
SOCWA	9,204,735	4,008,267	5,196,468	44%
Special Outside Assessments	225,000	23,190	201,810	10%
Utilities	2,258,900	832,341	1,426,559	37%
Water Purchases	23,697,842	10,769,740	12,928,102	45%
Meter / Vault Purchases	906,000	147,257	758,743	16%
Total Operating Expenses	63,290,013	24,263,663	39,026,350	38%
Operating Income (Loss)	(14,053,934)	(2,561,606)	(11,492,328)	18%
Non-Operating Revenues (Expenses)				
Property Tax Revenue	26,501,190	3,084,647	23,416,543	12%
Investment Income	1,867,913	694,397	1,173,516	37%
Property Lease Income	1,660,096	728,979	931,117	44%
Misc. Non-Operating Income ³	68,000	1,174,208	(1,106,208)	1727%
Total Non-Operating Revenue (Expenses)	30,097,199	5,682,230	24,414,969	19%
Change in General Fund	\$ 16,043,265	\$ 3,120,624	\$ 12,922,641	

Note: Totals may not sum due to rounding.

1. The District received \$530,000 in plan, check and inspection fees in September related to the Bridgestone apartments renovation project.
2. Detail of Legal Services - General can be found on the next page.
3. The District received \$664,000 for the 2009 COP (Build America Bonds) Federal Interest subsidy and \$474,000 for the Special Assessment District taxes. The District has historically not budgeted for these items but will re-evaluate for next year's Budget.

Moulton Niguel Water District
General Fund - Budget Comparison Report
Five Months Ended November 30, 2015

Legal Services - General

Firm	General	Water Use Efficiency	Capital	Total
Bowie, Arneson, Wiles & Giannone	\$ 38,885	\$ -	\$ 10,022	\$ 48,907
Best Best & Krieger LLP	8,613	1,207	2,628	12,448
Downey Brand, Attorneys	594	-	3,064	3,658
Total	\$ 48,092	\$ 1,207	\$ 15,714	\$ 65,013

Note: Totals may not sum due to rounding.

#11.b.

**Moulton Niguel Water District
Water Efficiency Fund - Budget Comparison Report
Five Months Ended November 30, 2015**

Description	Approved Budget	Fiscal Year to Date Actuals	Budget Balance	% of Actuals to Budget
WATER EFFICIENCY FUND				
<u>Operating Revenue</u>				
Water Efficiency	\$ 3,398,873	\$ 1,880,586	\$ 1,518,287	55%
Total Operating Revenue	3,398,873	1,880,586	1,518,287	55%
<u>Operating Expenses</u>				
Labor	668,156	296,411	371,745	44%
Educational Courses	500	-	500	0%
Travel & Meetings	14,700	732	13,968	5%
General Services	5,000	-	5,000	0%
Dues & Memberships	500	-	500	0%
Consulting Services	850,000	197,829	652,171	23%
Legal Services	-	1,207	(1,207)	n/a
Conservation supplies	489,751	159,050	330,700	32%
Repairs and Maintenance - Equipment	3,500	-	3,500	0%
Water Efficiency	4,849,624	947,541	3,902,083	20%
Total Operating Expenses	6,881,731	1,602,770	5,278,960	23%
Operating Income (Loss)	(3,482,858)	277,816	(3,760,673)	-8%
<u>Non-Operating Revenue</u>				
Investment Income	159,792	93,321	66,471	58%
Total Non-Operating Revenue	159,792	93,321	66,471	58%
Change in Water Efficiency Fund	\$ (3,323,066)	\$ 371,136	\$ (3,694,202)	

Note: Totals may not sum due to rounding.

MOULTON NIGUEL WATER DISTRICT
STATEMENT OF NET POSITION

	(Unaudited) November 30, 2015	Audited June 30, 2015
CURRENT ASSETS:		
Cash and investments	\$ 24,461,456	\$ 33,849,087
Restricted cash and investments with fiscal agent	8,139,105	8,777,679
Accounts receivables:		
Water and sanitation charges	3,501,220	3,392,611
Taxes and acreage assessments	-	300,842
Grant Reimbursements	405,068	405,068
Other accounts receivable	197,337	222,169
Interest receivable	560,891	620,930
Current portion of AMP receivable	656	1,302
Inventory	1,702,891	1,703,635
Prepaid expenses	685,219	480,124
	<hr/>	<hr/>
TOTAL CURRENT ASSETS	39,653,843	49,753,446
	<hr/>	<hr/>
NONCURRENT ASSETS:		
Investments	101,469,503	116,281,296
Retrofit loans receivable	571,065	597,037
AMP Receivable	-	-
Capital assets, net of accumulated depreciation	336,304,998	343,111,410
Capital assets not being depreciated:		
Land	1,091,910	1,091,910
Construction in progress	44,411,652	31,642,242
	<hr/>	<hr/>
TOTAL NONCURRENT ASSETS	483,849,127	492,723,895
	<hr/>	<hr/>
TOTAL ASSETS	523,502,970	542,477,341
	<hr/>	<hr/>
DEFERRED OUTFLOW OF RESOURCES:		
Deferred Charges on Refunding	1,259,007	1,488,900
Deferred Items related to Pension	1,431,577	1,431,577
	<hr/>	<hr/>
TOTAL DEFERRED OUTFLOW OF RESOURCES	2,690,584	2,920,477
	<hr/>	<hr/>
TOTAL ASSETS AND DEFERRED OUTFLOW OF RESOURCES	\$ 526,193,554	\$ 545,397,818
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MOULTON NIGUEL WATER DISTRICT
STATEMENT OF NET POSITION

	(Unaudited)	Audited
	November 30, 2015	June 30, 2015
CURRENT LIABILITIES:		
Accounts payable	\$ 5,199,037	\$ 8,162,699
Interest payable	1,277,565	1,830,740
Compensated absences	82,995	373,162
Current portion of long-term debt:		
Bonds payable	6,060,000	5,685,000
Loans Payable	219,727	2,110,606
Certificates of participation	1,855,000	1,780,000
TOTAL CURRENT LIABILITIES	14,694,323	19,942,207
LONG-TERM LIABILITIES		
Compensated absences	27,665	124,386
Long-term debt:		
Bonds payable	4,105,000	10,165,000
Loans payable	10,688,012	10,688,012
Certificates of participation	74,190,000	76,045,000
Net Pension Liability	12,251,838	12,251,838
TOTAL LONG-TERM LIABILITIES	101,262,515	109,274,236
Bond Discount/Premium	3,121,656	3,483,309
TOTAL LIABILITIES	119,078,493	132,699,752
DEFERRED INFLOW OF RESOURCES:		
Deferred Items related to Pension	4,936,619	4,936,619
TOTAL DEFERRED INFLOW OF RESOURCES	4,936,619	4,936,619
NET POSITION:		
Net investment in capital assets	282,844,087	267,393,560
Restricted for capital projects	1,773,258	1,508,109
Unrestricted	117,561,097	138,859,778
TOTAL NET POSITION	402,178,442	407,761,447
TOTAL LIABILITIES, DEFERRED INFLOW OF RESOURCES, AND NET POSITION	\$ 526,193,554	\$ 545,397,818

Note: Totals may not sum due to rounding.

MOULTON NIGUEL WATER DISTRICT
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

	(Unaudited)	
	Five Months Ended November 30,	
	2015	2014
Operating Revenues:		
Water Sales	\$ 11,082,289	\$ 12,434,394
Recycled Water Sales	2,405,819	2,693,188
Sewer Sales	7,575,368	7,454,835
WBBRS Efficiency Funds	1,880,586	2,775,472
Other Operating Income	638,580	170,896
Total Operating Revenues	23,582,643	25,528,785
Non-Operating Revenues:		
Investment Income ¹	787,717	1,478,197
Property Tax Revenue	3,084,647	2,082,489
GOB Assessment	474,864	343,723
Other Non-Operating Revenues	1,434,690	4,945,930
Total Non-Operating Revenues	5,781,918	8,850,339
TOTAL REVENUES	29,364,561	34,379,124
Operating Expenses:		
Water Purchases	10,769,740	12,436,762
Meter Purchases	147,257	241,154
Operating Supply and Maintenance	1,481,272	1,525,290
Salaries and Benefits	4,857,041	4,614,609
Election Expenses	-	-
Professional Services	552,351	456,308
Member Agencies O&M	385,339	595,595
Insurance	1,332,925	1,326,054
SOCWA	4,008,267	3,878,813
Utilities	832,341	937,684
General, Administrative, and Other	552,360	483,712
Total Operating Expenses	\$ 24,918,892	\$ 26,495,980

#11.c.

MOULTON NIGUEL WATER DISTRICT
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

	(Unaudited)	
	Five Months Ended November 30,	
	2015	2014
Other Operating Expenses:		
Depreciation and Misc. Operating Revenue	\$ 7,093,796	\$ 6,925,908
Water Efficiency	947,541	812,776
Total Other Operating Expenses	8,041,337	7,738,684
Non Operating Expenses:		
Interest Expense	2,361,982	2,542,658
Amortization and Misc. Non-Operating Expense	(131,351)	(54,476)
Total Non Operating Expenses	2,230,631	2,488,181
TOTAL EXPENSES	35,190,860	36,722,846
Capital Contributions:		
Connection Fees	243,294	542,879
Donated Facilities	-	-
Contributed Revenue ²	-	-
Total Capital Contributions	243,294	542,879
CHANGE IN NET POSITION	(5,583,005)	(1,800,837)
Net Position, Beginning	407,761,447	418,278,857
Restatements³	-	(18,795,984)
Restated Net Position	407,761,447	399,482,873
Change in Net Position	(5,583,005)	(1,800,837)
Net Position, Ending	\$ 402,178,442	\$ 397,682,036

Note: Totals may not sum due to rounding.

1. Investment income is comprised of realized income of \$1,104,126 and unrealized income loss of (\$316,409).
2. Contributed Revenue consists of grant revenues received for previously completed capital projects.
3. Net Position in fiscal year 2014-2015 was restated due to GASB 68 implementation.

**MOULTON NIGUEL WATER DISTRICT
RESTRICTED CASH AND INVESTMENTS WITH FISCAL AGENT
AS OF NOVEMBER 30, 2015**

	(Unaudited) Balance 11/30/2015	Net Change	Audited Balance 6/30/2015
<u>Restricted Cash and Investments:</u>			
DWR Trust Reserves	\$ -	\$ (615,739)	\$ 615,739
2009 COPS Trust Reserve	6,000,512	(22,852)	6,023,364
2010 COPS Trust Reserves	896,082	(97)	896,180
2014 Refunding Bonds	16	16	-
2015 (03) COPS Trust Reserve	1,226,597	97	1,226,500
2015 (03) COPS Issuance Fund	15,898	2	15,896
	<hr/>		
Total Restricted Trust Accounts	\$ 8,139,105	\$ (638,573)	\$ 8,777,679
	<hr/>		

Note: Totals may not sum due to rounding.

MOULTON NIGUEL WATER DISTRICT
NET POSITION
AS OF NOVEMBER 30, 2015

	Reserve Policy Target	(Unaudited) Balance		Audited Balance
		11/30/2015	Net Change	6/30/2015
Unrestricted Net Position:				
Designated for Self Insurance Reserves	\$ 250,000	252,556	\$ 2,701	\$ 249,855
Designated for Water Efficiency (WBBRS) ¹	n/a	7,556,115	375,924	7,180,191
Designated for Replacement and Refurbishment	17,061,912	17,229,159	140,344	17,088,815
Designated for Water Supply Reliability	n/a	-	(801,631)	801,631
Designated for Planning and Construction	n/a	29,221,719	92,836	29,128,883
Designated for Rate Stabilization	13,250,595	13,415,625	2,415,344	11,000,281
Designated for Emergency Reserve	6,884,925	6,884,925	-	6,884,925
Unrestricted, undesignated ²	20,262,901	43,000,998	(23,524,199)	66,525,197
Total Unrestricted Net Position	57,710,333 ³	117,561,097	(21,298,681)	138,859,778
Restricted for Capital Facilities (Projects)		1,773,258	265,149	1,508,109
Net Investment in Capital Assets ⁴		282,844,087	15,450,527	267,393,560
Total Net Position		\$ 402,178,442	\$ (5,583,005)	\$ 407,761,447

Note: Totals may not sum due to rounding.

1. In addition to realized expenditures, there is approximately \$3,880,884 in project commitments, reducing the available fund balance to \$3,675,231.

2. Unrestricted, undesignated funds include the General Operating Reserve as well as the regular District cash flows.

3. All funds in excess of reserve policy targets will be used to fund capital projects and operations.

4. Net Investment in Capital Assets calculated as follows:

Total capital assets	381,808,560
Less capital related debt	(100,239,394)
Add deferred charges related to debt	1,259,007
Add unspent proceeds	15,914
Total Net Investment in Capital Assets	282,844,087

**MOULTON NIGUEL WATER DISTRICT
SUMMARY OF DISBURSEMENTS
FOR THE MONTH OF DECEMBER 2015**

Summary of Disbursements in December 2015:

General Fund Disbursements		5,329,209
<u>Restricted Fund Disbursements:</u>		
Water Efficiency Fund	949,725	
Replacement & Refurbishment Fund	968,444	
Water Supply Reliability Fund	1,631	
Planning & Construction Fund	111,144	2,030,943
Total Disbursements for all Funds	\$	7,360,152

Detail of Major Expenditures in December 2015:

1. Municipal Water District of Orange County (MWDOC)		
October Water Purchases 2102.1 AF	1,940,238	
FY 2015/16 Choice Programs	239,888	
October Turf, Nozzles, and Smart Timer Rebates	179,144	
October Readiness to Serve	146,965	
October SoCal WaterSmart Residential Rebate Program	54,910	
October Capacity Charge	40,196	
May thru November 2015 Spray to Drip Residential and Commercial Rebate Program	12,589	
October SCP Operation Surcharge	9,903	
September Reclaimed Rebate 753.7 AF	(116,070)	2,507,763
2. Paulus Engineering, Inc.		
C# 2013.010 Gallup Circle Sewer Replacement, progress payments #1, 2, & 3	194,437	
C# 2015.007 La Paz Trail Cross WW Siphon	146,475	
C# 2010.018 Mathis/Oso By Pass, progress payments #6 & 7	115,347	
C# 2014.008 Valve Replacement, progress payment #5	29,334	485,593
3. Santa Margarita Water District (SMWD)		
FY 2015/16 Plant 3A Quarterly O&M Charges		390,636
4. J. Colon Coatings, Inc.		
C# 2013.002 Mathis RW Res Recoat, progress payment #1	261,212	
C# 2013.001 E Aliso Creek Recoat, progress payment #13	95,805	357,017
5. City of Laguna Niguel		
Commercial Turf Removal and Recycled Water Retrofits Landscape Rebate		276,420
6. South Coast Water District (SCWD)		
FY 2015/16 1st Installment for LAFCO's agreement RO#96-05		159,610
7. San Juan Basin Authority (SJBA)		
FY 2015/16 Annual Budget Deposit		138,160

