

APPENDIX G

MNWD RESOLUTION NO. 96-8

**MANDATORY AND RELATED RECLAIMED WATER USE
RULES AND REGULATIONS**

RESOLUTION NO. 96- 8

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MOULTON NIGUEL WATER DISTRICT ESTABLISHING
MANDATORY AND RELATED RECLAIMED WATER USE
RULES AND REGULATIONS**

I. FINDINGS

1. The people of the State of California have a primary interest in the development of facilities to reclaim water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state (California Water Code, Section 13510).
2. Conservation of all available water resources requires the maximum reuse of reclaimed water for beneficial uses of water (California Water Code, Section 461).
3. Continued use of potable water for irrigation of greenbelt areas, including golf courses, parks, and highway landscaped areas, and certain other non-domestic water uses may be an unreasonable use of such water where reclaimed water is available (California Water Code, Section 13550).
4. The state policies described above are in the best interest of the Moulton Niguel Water District (the "District" or "MNWD"). The District is dependent on imported potable water for domestic and non-domestic uses. The supply and the reliability of the supply of imported water is uncertain. By developing and utilizing reclaimed water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water in the District's service area may be considered unreasonable or to constitute a nuisance where reclaimed water is available.

II. RECITALS

A. The District's Board of Directors adopted Resolution No. 88-8 on March 17, 1988, which set forth the District's policy for the usage of non-domestic water. The District adopted its current Rules and Regulations for Users of Reclaimed Water on July 21, 1994 by adoption of Resolution No. 94-23 (the "Reclaimed Water Rules and Regulations"). The Reclaimed Water Rules and Regulations establish standard procedures, specifications and limitations for the safe and orderly development and operation of reclaimed water facilities and systems in the District's service area, and include enforcement procedures and penalties for user violations.

B. The District is a founding member agency of the South Orange County Reclamation Authority (SOCRA), a joint powers authority organized by various Southern Orange County public water agencies and existing pursuant to Government Code Section 6500 et seq. and that certain joint powers agreement entitled "Joint Exercise of Powers Agreement Creating

South Orange County Reclamation Authority, Orange County, California (SOCRA)", dated September 5, 1991. The District, as a member of SOCRA, acquired on September 21, 1992, waste discharge permit and water reclamation requirements in Order No. 92-67 (SOCRA Discharge Permit), of the Regional Water Quality Control Board, San Diego Region, for its production and use of reclaimed water.

C. The District previously prepared its Master Plan for District-Wide Facilities (including reclamation facilities), the most current update in 1996, as well as Plans of Works for reclamation facilities within its Improvement District Nos. 6, 7 and 8 in order to define, encourage, and develop the use of reclaimed water within its service area. The Master Plan and Plans of Works are referred to herein as the "Reclamation Plan of Works".

D. The District adopted its Urban Water Management Plan pursuant to Water Code Section 10610 *et seq.*, on December 19, 1985, as thereafter amended and updated on December 20, 1990, and February 22, 1992, and most recently on December 15, 1995, by adoption of, respectively, its Resolution Nos. 85-86, 90-45, 92-2 and 95-30. The Urban Water Management Plan includes in its terms the District's current and planned reclamation measures and alternatives.

E. The District has adopted its Standard Specifications for Construction of Domestic Water, Sewer and Reclaimed Water Facilities (the "Standard Specifications"), which it updates from time to time, the most current version dated 1993.

F. The District previously adopted its Ordinance No. 1994-1, An Ordinance of Regulations for the Discharge of Wastewater to Facilities of the Moulton Niguel Water District pursuant to federal and State requirements for the implementation of a waste discharge pretreatment and source control program ("Pretreatment Program").

G. Together, the District's Reclaimed Water Rules and Regulations, "Reclamation Plan of Works", Standard Specifications, Urban Water Management Plan and Pretreatment Program, constitute what can commonly be referred to as a "Master Reclamation Plan".

H. Section 35423 of the California Water Code empowers the District to establish, print and distribute equitable rules and regulations for the sale and distribution of water, inclusive of reclaimed water.

I. The Board of Directors of MNWD, pursuant to the authority set forth in Recital H, desires to establish a specific policy and also procedures for the mandatory use of reclaimed water within its service area as well as certain other related uses, which shall be included as additional terms of the District's Reclaimed Water Rules And Regulations.

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

Section 1. Findings. Sections 1 through 4 set forth above are incorporated herein as findings of the Board of Directors of MNWD.

Section 2. Mandatory and Related Reclaimed Water User Terms. Section 1.5 POLICY of the Reclaimed Water Rules and Regulations is hereby replaced as follows:

“1.5 POLICY

It is the mission of the District to provide reliable and energy-efficient water services in a customer-oriented and environmentally responsible manner. In light of this mission, it is the policy of the District that reclaimed water shall be used within its jurisdiction and where it can reasonably supply neighboring jurisdictions wherever such use is economically justified, financially and technically feasible, consistent with the District’s Master Reclamation Plan and legal requirements including water rights, and not detrimental to public health, safety and welfare, and the environment.

1.5.1 Reclaimed Water Use

(a) **Mandatory Use:** The following types of authorized use from Section 1.4.1 shall generally require reclaimed water: agricultural irrigation, construction use, landscape irrigation, landscape and/or recreation impoundments, and wildlife habitat, these being called "mandatory" types of use.

In order for the District to successfully plan and provide for a District-wide reclaimed water system, the user base must be firmly established. Where available in offsite facilities, reclaimed water shall be used under the following conditions: for mandatory types of use being serviced reclaimed or potable water by the District (at the time of this regulation’s adoption), and for mandatory types of use associated with future development that would otherwise be served potable water by the District. The only exceptions to use under these conditions shall be based on the judgment of the District in light of special public health concerns or established through the adopted appeals process set forth in Section 1.5.4 below whereby a waiver for reclaimed water service is obtained by the prospective user.

(b) **Non-Mandatory Use:** The following types of authorized use from Section 1.4.1 may require reclaimed water: commercial use (including nurseries), groundwater recharge, and industrial process (including cooling water), these being called “non-mandatory” types of use.

Where available in offsite facilities, reclaimed water may be used under the following conditions: for non-mandatory types of use being served potable water by the District at the time of this regulation’s adoption, for non-mandatory types of use associated with future development that would otherwise be served potable water by the District, for mandatory types of use within the District’s water service

area not being served reclaimed or potable water by the District (having some other alternative source of supply), and for mandatory and non-mandatory types of use not within the District's regular water service area and for which there are not legally conflicting service arrangements. Confirmation of this condition of use shall be established through the process set forth in Section 1.5.4 below whereby a letter of intent is obtained from the prospective user.

(c) Permitting: Regardless of type of condition or use, all prospective users shall successfully complete the use permit application process detailed in these regulations (see Section 3, Use Administrative Requirements) prior to receiving reclaimed water.

1.5.2 Funding Requirements

The various offsite and onsite reclaimed water facilities require capital and operating expenditures. The District shall seek the most advantageous financing for offsite facilities construction and, in its discretion, develop fiscally responsible programs to assist users with their financing efforts for requisite onsite facilities construction or conversion. The District shall seek the most economical operation and maintenance of the offsite facilities and encourage users in conservative operating practices.

1.5.3 Reclaimed Water System Implementation

(a) General: The Master Reclamation Plan is implemented through several actions, including those listed below. Implementation shall include one-time actions as well as ongoing and repetitive actions.

(b) Rules and Regulations: The District shall maintain these regulations governing the distribution and use of reclaimed water, including specifications for the construction of on-site reclaimed water facilities.

(c) Standard Specifications: The District shall maintain the Standard Specifications for the construction of off-site facilities. These shall include narrative and drawings that may be referenced for incorporation by project-specific construction documents.

(d) Public Awareness Program: The District shall maintain a comprehensive water reclamation public awareness program.

(e) Coordination Among Agencies: The District shall continue to examine the potential for a coordinated effort between the District and other regional agencies, including SOCRA, to share in the production and utilization of reclaimed water.

1.5.4. Procedures for Determining Mandated and Related Reclaimed Water Service

- (a) Existing Potable Water Service: The District shall make preliminary determinations as to which existing potable water customers shall be converted to the use of reclaimed water; shall provide notice regarding that determination; shall receive objections to proposed service, entertain appeals, and provide a waiver if circumstances warrant; and shall complete the application process where waivers have not been granted in accordance with these regulations.
- (b) Alternative Water Supply: The District may approach or be approached by prospective user(s) within the District's regular service area who currently utilize an alternative to the District's reclaimed or potable water supply and who desire reclaimed water service. The District shall then make a preliminary determination whether the existing service(s) can be converted to the use of reclaimed water and shall provide notice regarding that determination along with a request for a letter of intent from the prospective user(s). The letter of intent shall substantially comply with the model format and content to be provided by the District. The District shall complete the application process where letters of intent have been received.
- (c) Outside Regular Service Area: The District may approach or be approached by prospective user(s) outside the District's regular service area who currently utilize an alternative to the District's water supply and who desire reclaimed water service. The District shall then make a preliminary determination whether the existing service(s) can be converted to the use of reclaimed water and whether any legally conflicting service arrangements, express or implied, exist, and shall provide notice regarding that determination along with a request for a letter of intent from the prospective user(s). The balance of the process shall be the same as for Section 1.5.4(b).
- (d) Notice: All the foregoing procedures for obtaining reclaimed water service require written notice by the District to the prospective user(s), which represents the District's preliminary determination. Such notice shall include as a minimum: descriptive information about the planned reclaimed water system, user responsibilities under these regulations, current reclaimed water pricing, descriptive information about onsite facilities requirements necessitated by conversion to reclaimed water, and the opportunity for objection.
- (e) Objections; Appeals; Waivers: The prospective user(s) may file a notice of objection with the District within thirty (30) days after any notice of determination to comply is delivered or mailed to the prospective user(s), and may request reconsideration of the determination or modification of the proposed conditions or schedule for conversion. The objection must be in writing and specify the reasons

for the objection. The preliminary determination shall be final if the prospective user(s) does not file a timely objection. Staff shall review the objection and shall confirm, modify or abandon the preliminary determination. Upon issuance of a final determination by staff, the prospective user(s) may appeal the determination to the General Manager of the District. The District shall issue a waiver to the prospective user(s) where its objection or appeal is successful.

(f) Reclaimed Water Use Permit Process: Upon a final determination by the District that a property shall be served with reclaimed water, the prospective user(s), owner or applicant shall obtain a reclaimed water use permit in accordance with the application process detailed in these regulations.

(g) Temporary Use of Potable Water: At the discretion of the District, potable water may be made available on a temporary basis until reclaimed water is available. Before the applicant receives temporary potable water, a reclaimed water use permit, as required in Section 1.5.4(f), must be obtained for the onsite reclaimed water distribution facilities. Prior to commencement of reclaimed water service, an inspection of the onsite facilities will be conducted to verify that the facilities have been maintained and are in compliance with the reclaimed water use permit and current requirements for service. Upon verification of compliance, reclaimed water shall be served to the parcel for the intended use. If the facilities are not in compliance, the applicant shall be notified of the corrective actions necessary and shall have thirty (30) days to take such actions prior to initiation of enforcement proceedings.

1.5.5. Costs of Conversion to Reclaimed Water Service

(a) For an existing potable water use site, the cost for those modified or additional facilities necessitated by conversion from potable to reclaimed water use shall be borne by the potential user(s).

(b) For an existing water use site, the cost for those modified or additional facilities not necessitated by conversion from potable to reclaimed water shall be borne entirely by the potential user(s). For a site with new water use, regardless of whether the site was previously developed or is a newly developed site, the cost of those facilities required to accommodate reclaimed water use shall be borne by the potential user(s).

1.5.6. Sanctions

(a) The District may implement all enforcement methods and penalties otherwise provided in these regulations to any violator of the terms of this Section 1.5.

(b) Where reclaimed water is available in offsite facilities, if after one hundred and eighty (180) calendar days from the date of the District's final determination under Section 1.5.4, the prospective user has not completed required onsite conversion work, then, in addition to those penalties set forth in subsection (a) above, the District shall impose a surcharge equal to fifty percent (50%) of its potable water rate in effect at the time of violation, such surcharge to be included in the customer's monthly billing."

Section 3. Validity.

If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, the remainder of the Resolution and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 4. Separability.

If any portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. Conflicts.

All District resolutions, or parts of District resolutions, and District Reclaimed Water Rules and Regulations, in conflict herewith, are hereby repealed.

Section 6. Incorporation. The terms of Section 2 of this Resolution are hereby incorporated as Section 1.5 et seq. in the Reclaimed Water Rules and Regulations and such terms are effective as of the date of adoption of this Resolution.

///

///

///

///

///

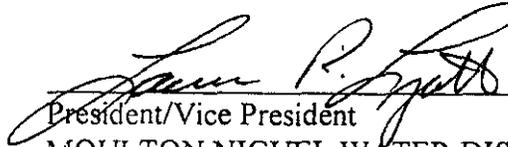
///

///

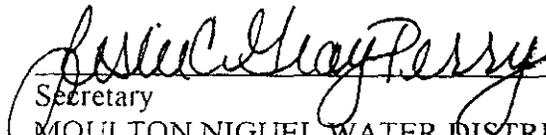
///

Section 7. Publication. New Section 1.5. of the Reclaimed Water Rules and Regulations shall be certified by the Secretary of MNWD and the Secretary is hereby ordered and directed to publish Section 1.5. as set forth within once a week for two weeks in the *Orange County Register*, a newspaper of general circulation published in Orange County, California, pursuant to the provisions of Section 35424 of the California Water Code.

ADOPTED, SIGNED AND APPROVED this 17th day of May, 1996.



President/Vice President
MOULTON NIGUEL WATER DISTRICT and of
the Board of Directors thereof



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

APPROVED AS TO FORM:

BOWIE, ARNESON, KADI,
WILES & GIANNONE
Legal Counsel - Moulton Niguel Water District

By 

Patricia B. Giannone

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

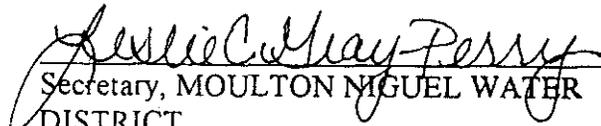
I, Leslie Gray-Perry, Secretary of the Board of Directors of the Moulton Niguel Water District do hereby certify that the foregoing Resolution was adopted by the Board of Directors of the Moulton Niguel Water District at the annual meeting of said Board held on the 16th day of May 1996, and that it was so adopted by the following vote:

AYES: LIZOTTE, ELLSWORTH, FIORE, BUCK, KURTZ, GROSS, PEQUET

NOES:

ABSTAIN:

ABSENT:


Secretary, MOULTON NIGUEL WATER
DISTRICT

(SEAL)