ORDINANCE NO. 162

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT REPEALING ORDINACE NO.159 AND ADOPTING A DROUGHT RESPONSE CONSERVATION PROGRAM

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District as follows:

SECTION 1: DECLARATION OF NECESSITY AND INTENT OF DROUGHT MANAGEMENT PLAN

This ordinance, patterned after the San Diego County Water Authority model Ordinance, establishes regulations to be implemented during times of declared water shortages or emergencies to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, and prevent unreasonable use of water within the Vallecitos Water District. Such actions are to ensure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management. This ordinance establishes four levels of drought response actions to be implemented in times of shortage or emergency with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing available supplies.

SECTION 2: APPLICATION

(a) The provisions of this ordinance apply to any customer using water provided by the Vallecitos Water District ("District").

(b) This ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of Federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any storm water ordinances and storm water management plans.

(c) Nothing in this ordinance is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this ordinance do not apply to use of the water from private wells or to recycled water.

(e) Nothing in this ordinance shall apply to use of water that is subject to a special supply program, such as the Metropolitan Water District of Southern California Interim Agricultural Water Program (IAWP) or the San Diego County Water Authority Special Agricultural Rate Programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this ordinance in the use of the District provided other water only.

SECTION 3: DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH

This is a "Drought Watch" condition, and applies when the San Diego County Water Authority notifies the District that, due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a voluntary consumer demand reduction of up to 10 percent is required in order to meet anticipated demands. The District General Manager shall declare the existence of a Drought Response Level 1 and implement the Level 1 voluntary conservation practices. With this alert, the District will increase public outreach and awareness and take action to encourage the Level 1 conservation practices:

(a) LEVEL 1 VOLUNTARY CONSERVATION PRACTICES

(1) Washing pavements, including sidewalks, driveways, parking lots, tennis courts, or patios (except to alleviate sanitation hazards) is prohibited.

(2) Water waste that is the direct result of inefficient landscape irrigation (runoff, low head drainage, or overspray, etc.) as well as water flows onto non-targeted areas such as adjacent properties, hardscapes, and roadways is prohibited.

(3) Only irrigate residential and commercial landscapes before10 a.m. and after 6 p.m.

(4) Use a hand-held hose equipped with a positive shut-off nozzle or bucket to irrigate landscaped areas, including trees and shrubs located on residential and commercial properties that are not watered by an automatic system.

(5) Nursery and commercial grower products may be irrigated before 10 a.m. and after 6 p.m. only. Watering with a hand-held hose equipped with a positive shutoff nozzle, bucket, or by drip/micro-irrigation system/equipment is permitted anytime. Irrigation of nursery propagation beds and the watering of livestock are also permitted anytime.

(6) Use re-circulated water to operate ornamental fountains.

(7) Wash vehicles using a bucket and hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates water on site. Avoid washing during hot conditions when additional water is required due to evaporation.

(8) Serve and refill water in restaurants and other food establishments only upon request.

(9) Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

(10) All water leaks shall be repaired within five days of notification by the District unless other arrangements are made with the General Manager.

(11) Use recycled or non-potable water for construction purposes when available and permitted for use in accordance with all local, State and Federal regulations.

SECTION 4: DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT

This is an official "Drought Alert" condition, and applies when the San Diego County Water Authority notifies the District that, due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is necessary to have sufficient supplies to meet anticipated demand. The District Board of Directors shall declare the existence of Drought Response Level 2 condition, the allocation reduction, and implement Level 2 mandatory conservation practices. If the mandatory reduction is 10% or less, the District General Manager shall have the authority and discretion to determine the administration of the conservation practices. All District customers shall comply with conservation practices required during Level 1 Drought Watch, and shall also comply with the applicable Level 2 Drought Alert mandatory conservation practices:

(a) LEVEL 2 MANDATORY CONSERVATION PRACTICES

(1) Residential and commercial landscape irrigation is limited to no more than three assigned days per week on a schedule established by the General Manager of the District. Landscape irrigation is limited to no more than once per week, from November through May, on a schedule established by the General Manager and posted by the District. This shall not apply to commercial growers or nurseries.

(2) Irrigation, using sprinklers, is limited to no more than 10 minutes per watering station per assigned day. Systems using water-efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotors are excluded.

(3) Water landscaped areas, including trees and shrubs located on residential and commercial properties, not irrigated by a landscape irrigation system governed by Section 4 (a) (1), on the same schedule set forth in Section 4 (a) (1) by using a bucket, a hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

(4) All water leaks shall be repaired within 72 hours of notification by the District unless other arrangements are made with the District General Manager.

(5) Operation of ornamental fountains or similar decorative water features is prohibited unless re-circulated water is used.

SECTION 5: DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL

This is an official "Drought Critical" condition, and applies when the San Diego Water Authority notifies the District that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors shall declare the existence of a Drought Response Level 3 condition, the allocation reduction, and implement mandatory Level 3 conservation practices. All District customers shall comply with the conservation practices required during Level 1 Drought Watch, Level 2 Drought Alert, and shall also comply with Level 3 Drought Critical mandatory conservation practices:

(a) LEVEL 3 MANDATORY CONSERVATION PRACTICES

(1) Residential and commercial landscape irrigation will be limited to two assigned days per week on a schedule established by the General Manager and posted by the District. Landscape irrigation will be limited to no more than once per week, from November through May, on a schedule established by the General Manager and posted by the District. Nurseries and commercial growers shall remain exempt.

(2) Irrigation, using sprinklers, will be limited to no more than 8 minutes per watering station per assigned day. Systems using water-efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotors are excluded

(3) Water landscaped areas, including trees and shrubs located on residential and commercial property, not irrigated by a landscape system, governed by Section 5 (a) (1), on the same schedule set forth in Section 5 (a) (1) by bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

(4) Ornamental lakes or ponds shall not be refilled, except to the extent needed to sustain aquatic life, provided that such aquatic life are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance.

(5) The filling or refilling of pools or spas is prohibited.

(6) Washing vehicles except at commercial carwashes that re-circulate water by high pressure/low volume wash systems is prohibited.

(7) All leaks shall be repaired within forty-eight hours of notification by the District unless other arrangements are made with the District General Manager.

(b) **NEW POTABLE WATER SERVICE ALLOWANCE**

Upon the declaration of a Drought Response Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided or installed, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates or letters of availability) shall be issued, except under the following circumstances:

(1) A valid, unexpired building permit has been issued for the property as of the date of adoption of a Drought Response Level 3 and meter capacity fees have been paid; or

(2) The project is necessary to protect the public's health, safety and welfare; or

(3) The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

(c) **WATER RESETTING/METER TURN ON**

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

(d) **MISCELLANEOUS PROVISIONS**

(1) Upon the declaration of a Drought Response Level 3 condition, the District will suspend consideration of water service annexations to its service area.

(2) The District may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the District establishes water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount as adopted by the District Board of Directors from time to time for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation for this ordinance.

SECTION 6: DROUGHT RESPONSE LEVEL 4 - DROUGHT EMERGENCY CONDITION

This is an official "Drought Emergency" condition, and applies when the San Diego County Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code Section 350 and notifies the District that Level 4 requires a mandatory demand reduction of more than 40 percent in order for the District to have adequate supplies available to meet anticipated demands. The District shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code Section 350. All District customers shall comply with conservation practices required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the Level 4 Drought Emergency mandatory conservation practices:

(a) LEVEL 4 MANDATORY CONSERVATION PRACTICES

(1) All landscape irrigation and other outdoor watering for residential and commercial customers, not including commercial growers and nurseries, is prohibited, except the minimum use necessary for:

(i) Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

(ii) Maintenance of existing landscaping for erosion control;

(iii) Maintenance of plant materials identified to be rare or essential to the well being of rare animals.

(iv) Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf

course greens, provided that such irrigation does not exceed two days per week according to the schedule established in Section 5 (a) (1).

(v) Watering of livestock; and

(vi) Public Works projects and actively irrigated environmental mitigation projects.

(2) All water leaks shall be repaired within twenty-four (24) hours of notification by the District unless other arrangements are made with the General Manager.

(b) The District may establish a water allocation for property served by the District. If the District establishes water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty in the amount as adopted by the Board of Directors from time to time for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

SECTION 7: HARDSHIP VARIANCE

If, due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a customer using District water or to property upon which District water is used, that is disproportionate to the impacts to District water users generally or to a similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this Section.

(a) The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a customer using District water or to property upon which District water is used, that is disproportionate to the impacts to District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.

(1) An application for a Hardship Variance shall be in writing and may be accompanied by photographs, maps, drawings, and other information in support of the application.

(2) An application for a Hardship Variance shall be denied unless the General Manager finds, based on the information provided in the application, supporting documents or such additional information as may be requested, and on the water use information for the property as shown by the records of the District, all of the following:

(i) That the variance does not constitute a grant of special privilege inconsistent with the limitation upon other District customers.

(ii) That because of special circumstances applicable to the property or its use, the strict application of this ordinance would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.

(iii) That authorization of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the District to effectuate the purpose of this Ordinance and will not be detrimental to the public interest.

(iv) The condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.

(b) The General Manager shall exercise approval authority and set a hearing within 10 days upon receipt of a completed application for a Hardship Variance. The General Manager shall notify the applicant of the decision to approve, conditionally approve, or deny the variance within 5 days of the hearing.

(c) A customer may appeal the decision of the General Manager by filing a request for a hearing before the District Board of Directors, at a regularly scheduled Board meeting, within 10 days of the decision. The District will provide written notice of the hearing day to the customer. At the hearing before the Board the customer may present testimony and written documentation demonstrating that the Hardship Variance is warranted in accordance with the requirements of this section. The decision of the Board of Directors shall be final.

SECTION 8: VIOLATIONS AND PENALTIES

In addition to any other remedies which the District may have for the enforcement of this Ordinance pursuant to Water Code Section 31029, any person who uses, causes to be used, or permits the use of water in violation of this ordinance is guilty of an offense punishable as provided herein. Each day that a violation of this ordinance occurs is a separate offense. Administrative fines may be levied for each violation of a provision of this ordinance as follows:

(a) **FINES**

(i) One hundred dollars ($100.00) for a first violation.

(ii) Two hundred dollars ($200.00) for a second violation of any provision of this ordinance within one year of the prior violation.

(iii) Five hundred dollars ($500.00) for each additional violation of this ordinance within one year of the prior violation.

(iv) Violation of a provision of this ordinance is subject to enforcement through installation of a flow-restricting device in the meter.

(b) Each violation of this ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than 30 days or by a fine not exceeding $1,000, or by both as provided in Water Code Section 377.

(c) Willful violations of the mandatory conservation measures and water use restrictions as set forth during Stage 4 Drought Emergency condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code Section 346.

(d) All remedies provided for herein shall be cumulative and not exclusive.

SECTION 9: EFFECTIVE DATE

This ordinance is effective immediately upon adoption or as otherwise established by State law for the Vallecitos Water District.

PASSED, APPROVED AND ADOPTED this 6th date of May, 2009, by the following vote:

AYES: FERGUSON, GENTRY, POLTL, SHELL, HANNAN
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Trish Hannan, President
Board of Directors
Vallecitos Water District

William W. Rucker, Secretary
Board of Directors
Vallecitos Water District