



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Thursday, July 22, 2021

6:15 PM

Televised Special Meeting Open Session (6:15), Non-Televised Closed Session (7:00)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the open session meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast**

Members of the public wishing comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments for closed or open session by 4:30 p.m. on Thursday, July 22 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.**

- 2) E-mail comments for closed or open session during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

To address the City Council, click on the links below to access the closed and open session meetings:

OPEN SESSION

Members of the public may provide oral public comments during the open session teleconference meeting as follows:

Oral public comments will be accepted during the open session teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online Link for Open Session

Register in advance for this webinar:
https://cityofcupertino.zoom.us/webinar/register/WN_s8VyJEMITlySMif--L6zTQ

Phone

Dial: 669-900-6833 and enter Webinar ID: 950 8623 2504 (Type *9 to raise hand to speak, *6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

Meeting ID: 950 8623 2504

SIP: 95086232504@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

CLOSED SESSION

Members of the public may provide oral public comments in open session prior to the closed session teleconference meeting as follows:

To address the City Council, click on the link below to register in advance and access the meeting:

Online Link for Closed Session

<https://cityofcupertino.zoom.us/j/92569655711>

Phone

Dial: 669-900-6833 and enter Meeting ID: 925 6965 5711 (Type *9 to raise hand to speak).

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press *9. Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 6 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Thursday, July 22, 2021, commencing at 6:15 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 6:15 PM

OPEN SESSION

ORDINANCES AND ACTION ITEMS

1. Subject: Receive 2021 Drought Condition Information and Update on the City's Ongoing Water Conservation Measures for City Operations; Provide Input to Staff on Potential Further Water Conservation Measures.
Recommended Action: Receive the Staff Presentation on the County's Drought Conditions and Provide Any Input.
Staff Report
[A - City of Cupertino Water Conservation Restriction Measures for City Operations](#)
[B - City Council Resolution Nos. 15-056 & 15-057](#)
[C - Valley Water Resolution 21-68](#)
[D - California Water Service Rule 14.1 Restrictions](#)
[E - San Jose Water Advice Letter 563](#)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS**RECESS****ROLL CALL - 7:00 PM****CLOSED SESSION**

2. Subject: Public Employee Performance Evaluation. (Government Code Section 54957(b)). Title: City Manager

OPEN SESSION REPORT REGARDING CLOSED SESSION**ADJOURNMENT**

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

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in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, during normal business hours and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agendized item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.



CITY OF CUPERTINO

Agenda Item

21-9679

Agenda Date: 7/22/2021

Agenda #: 1.

Subject: Receive 2021 Drought Condition Information and Update on the City's Ongoing Water Conservation Measures for City Operations; Provide Input to Staff on Potential Further Water Conservation Measures.

Receive the Staff Presentation on the County's Drought Conditions and Provide Any Input.



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: July 22, 2021

Subject

Receive 2021 Drought Condition Information and Update on the City's Ongoing Water Conservation Measures for City Operations; Provide Input to Staff on Potential Further Water Conservation Measures.

Recommended Action

Receive the Staff Presentation on the County's Drought Conditions and Provide Any Input.

Background

The State of California, including Santa Clara County (County) is in its second consecutive year of a drought. The June 2021 U.S. Drought Monitor reports that most of the County is now in a situation of "Extreme" drought. The year 2021 is the third driest year on record and the driest since 1977. In addition, the combination of 2020 and 2021 were the second driest back-to-back years on record. Local watershed runoff in the County has been substantially limited since 2020 due to extremely dry conditions. As a result, Santa Clara Valley Water District's (Valley Water) current local surface water storage is at 26 percent of the 20-year average as of June 2021.

In addition to the low reservoir storage and imported water allocations, Valley Water is impacted by the unavailability of Anderson Reservoir as a surface water storage facility for the duration of the Anderson Dam Seismic Retrofit Project, which is expected to last 10 years. Anderson Reservoir was drained in 2020 for public health and safety reasons, as ordered by the Federal Energy Regulatory Commission. Anderson Reservoir is Valley Water's largest surface water reservoir and holds more than all of Valley Water's other nine surface water reservoirs combined.

The availability of Coyote Reservoir, Valley Water's second largest reservoir, is also limited because of the California Department of Water Resources, Division of Safety of Dams storage limits. The unavailability of Anderson Reservoir and limited availability of Coyote Reservoir significantly limits Valley Water's ability to store water locally for groundwater recharge and use at Valley Water's three water treatment plants.

Half of the County's water supply comes from outside the County, and with Sierra Nevada snowpack at a zero percent, a significant reduction in the amount of imported water will be received this year. Valley Water is addressing this by working to withdraw previously banked supplies and by purchasing emergency water from partners outside the County.

Groundwater storage is currently within normal levels but may drop rapidly due to limited recharge and increased pumping due to drought conditions. Using groundwater as a majority supply is an option, however, it would greatly increase the risk of land subsidence in northern Santa Clara County and could cause salt-water intrusion into the aquifer.

On June 9, 2021, Valley Water held a special meeting to discuss the drought condition. They considered a resolution declaring a water shortage emergency condition within the County and a call for retailers to achieve a water use reduction target equal to 15 percent of 2019 water use (33 percent of 2013 water use). The resolution passed unanimously.

Some agencies within the County operate their own water system and others do not and instead rely on water retailers via the California Public Utility Commission (CPUC) to provide the services. Therefore, water retailers serving the agencies impose water conservation measures and enforcement actions to their water customers if the customers do not comply with the restrictions. With this recommended action in place, water retailers providing service in Cupertino, San Jose Water and California Water Services, have submitted filings to the CPUC outlining how they propose to meet this 15 percent reduction. City staff is continuously coordinating with the water retailers to obtain information on how they propose to meet the reduction goal and to encourage San Jose Water and California Water Services to coordinate their water usage tiers, surcharges and enforcement for all water users in the City.

Discussion

City Operations

The City has a long history of conserving water across its operations, leading by example through its practices, and encouraging businesses, residents and schools to do the same. During the 2015 drought, to achieve the 30 percent of 2013 water use reduction target set by the Valley Water and the targets placed by the California Regional Water Quality Control Board upon the City's two water retailers, staff developed and implemented water conservation restriction measures for City operations and made amendments to the Municipal Code Chapter 15.32 to allow Council to adopt water use restrictions and to allow Public Works to implement water conservation measures at City facilities. Through City's actions, the City was able to achieve a cumulative savings that is 31 percent below the 2013 consumption baseline, thereby achieving conservation targets.

The City will take similar steps during this drought to achieve the 15 percent savings goal. Based on the current restrictions imposed by Valley Water, City Municipal Operations are currently at Stage 4 of water conservation measures (Attachment A), which means the City will follow the guidelines such as:

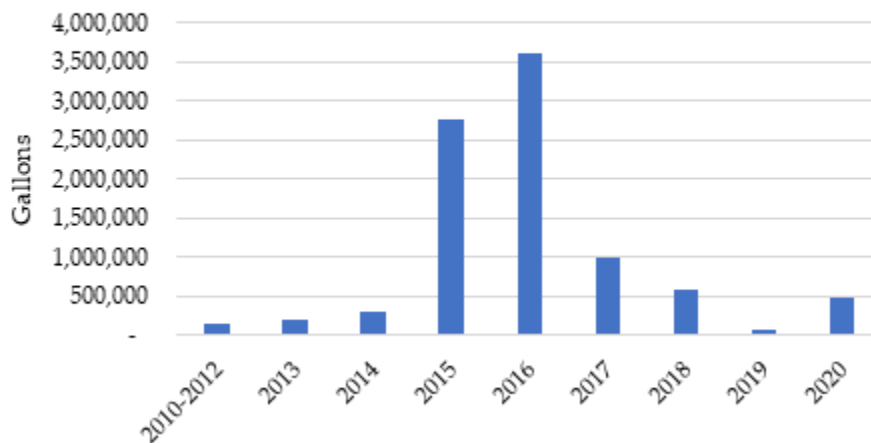
- Reduce water programming for all outside irrigation for trees/shrubs, having them be at a minimum according to the conservation amount.
- No watering of turf used passively.
- Limited watering (consistent with two days/week watering or similar) of turf areas used intermittently at City permitted events.
- A minimum of 20 percent reduced watering of turf areas by City or school recreation events.
- No filling of ponds at Memorial Park.
- No operation of the interactive fountain at Community Hall.
- No water used to clean asphalt areas/sidewalks/plaza areas.
- Water used for street sweeping to be minimized while complying with Santa Clara Valley Air Board requirements.

Community Water Conservation

In addition to the implementation of water conservation measures during the 2015 drought, the City also provided additional incentives to residents that participated in the landscape rebate program. Valley Water offered a \$1 per square foot of landscape that is converted to be drought tolerant through the program. Starting from 2015, the City offered an additional \$1 to the rebate for Cupertino residents and businesses. From 2010 through 2020, there were a total of 339 rebates processed with 457,569 square feet of landscape converted to drought-tolerant plantings. These projects resulted in permanent conservation of approximately 9.2 million gallons of water every year. As shown in the following table, the number of residents and businesses participating in the landscape conversion program increased during 2015 and 2016.

Currently, the City partners with Valley Water to offer residents water conservation incentives, such as the Graywater Laundry to Landscape Rebate, the Rainwater Capture Rebate, and the Landscape Rebate Program as described above which also includes incentives for efficient irrigation. Beginning July 1st, Valley Water increased the maximum rebate to \$3,000 for residential sites and Landscape Conversion Rebates have been raised to \$2.00 per sq ft, increasing the total incentive to \$3.00 per sq ft in Cupertino. The rebate cap for Commercial and large multi-Family sites (5 or more units) was also recently increased from \$20,000 to \$50,000. Just as promotions and increasing the value of incentives drove more participation in water conservation projects during the 2015-2017 time frame, the City expects that these recent changes by Valley Water will drive additional interest and activity in this space.

Estimated Annual Water Savings from Landscape Rebate Program in Cupertino



Cupertino Participation in SCVWD Landscape Rebate Program			
Year	# Rebates	Sq. Feet Converted	Est. Annual Savings (gallons)*
2010-2012	5	7,196	143,920
2013	8	9,933	198,660
2014	16	15,585	311,700
2015	106	138,121	2,762,420
2016	114	180,400	3,608,000
2017	37	49,525	990,500
2018	27	28,834	576,680
2019	6	3,800	76,000
2020	20	24,075	481,500

*Based on an estimate of 20 gallons per square foot of lawn conversion

The City has been innovating new ways to increase participation in water conservation throughout the community. The Climate Victory Gardens¹ is one such innovation which is unique in Cupertino that was initiated by Council in the FY 2019-2020 City Work Program to reduce barriers for residents to elect water-wise turf conversions and access incentive funds. The pilot program offers a concierge service for Cupertino residents to receive technical support to convert their front lawns to drought tolerant options, including support for landscape design, installation, and rebate processing. The program was funded at \$100,000 to support 40 sites assessments and 20 designed projects. So far, the program has successfully converted 8 sites and has another 15 sites in the pipeline. If all sites in the pilot are completed as planned, the program will result in 33,295 square feet of converted landscapes, three new laundry greywater systems, and an estimated 665,900 gallons saved annually, for a total program cost of approximately \$3/square foot served. The program currently has a waitlist of 44 sites that will not be served under the current pilot program due to limited funding.

The City is also launching an education campaign to help residents and businesses conserve water throughout Cupertino. This campaign will consist of actively promoting short-term conservation measures through the City website, a social media campaign, and live data dashboards.

Water Retailers

City staff has been in discussion with both water retailers, San Jose Water and California Water Services, regarding the drought restrictions in their perspective agency. Currently, San Jose Water and California Water Service has implemented Stage 3 and State 1, respectively, of their water shortage contingency plan. Like the drought in 2015, the current restrictions center on outdoor water usage which typically accounts for majority of the residential customer's consumption. However, the restriction measures can escalate over time such as drought surcharges and enforcement actions if the drought worsens.

The water retailers and Valley Water are emphasizing quick and effective ways to reduce water in the short term, providing conservation tips and promoting rebates/incentive to residents which can be accessed through the retailer's websites. All residents/businesses shall be conscientious about the drought and are encouraged to always conserve and use water wisely. More permanent measures such as landscape conversions are also encouraged to conserve water to meet future water demands for consumption and fire protection.

Online Resources

Water conservation information can be found through the following websites:

City of Cupertino

<https://www.cupertino.org/our-city/departments/environment-sustainability/water/water-conservation>

Valley Water

<https://www.valleywater.org/water-conservation-programs>

San Jose Water Company

<https://www.sjwater.com/drought>

<https://www.sjwater.com/conservation>

<https://www.sjwater.com/customer-care/help-information/rebates-incentives>

California Water Service

<https://www.calwater.com/conservation/drought/>

<https://www.calwater.com/conservation/resources/>
<https://www.calwater.com/conservation-rebates/>

Next Steps

The following items will be undertaken by the City:

- Outreach to the community regarding the call to reduce water consumption and to advise on what drought restrictions are likely to occur.
- Continue to coordinate with San Jose Water and California Water Service and obtain information on how they propose to meet the current 15 percent of 2019 water use (33 percent of 2013 water use) reduction target and any future water restrictions.
- Determine how the new drought restrictions affect water use at different City facilities and parks as they emerge.

Sustainability Impact

Actions taken to conserve water across the City's municipal portfolio directly implement Cupertino's Climate Action Plan Measure M-F-7: Conserve Water through Efficient Landscaping and enable the City to advance its emissions reduction goals arising from onsite water use. Further, these visible actions showcase the City's commitment to protecting this diminishing limited resource with the goal of spurring similar water conservation action across the community, above and beyond minimum requirements.

Fiscal Impact

Staff will monitor water use and expenses and will provide a report in future drought updates. During the 2015 drought, the City browned out several landscaped areas to conserve water. Those areas have remained through the present and no additional damage to our facilities is anticipated.

Prepared by: Jimmy Tan, Assistant Director of Public Works

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Acting City Manager

Attachments:

A – City of Cupertino Water Conservation Restriction Measures for City Operations

B – City Council Resolution Nos. 15-056 and 15-057

C – Valley Water Resolution 21-68

D – California Water Service Rule 14.1 Restrictions

E – San Jose Water Advice Letter 563



WATER CONSERVATION RESTRICTION MEASURES FOR CITY OPERATIONS

PUBLIC WORKS DEPARTMENT

ROGER LEE, DIRECTOR OF PUBLIC WORKS

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

RESTRICTION MEASURE PURPOSE

Collective impacts of drought, climate change, increased population demands, and potential natural disasters require the conservation and efficient use of water. The purpose of these measures are to conserve and efficiently use water at all City owned facilities while maintaining safe conditions for employees and the public.

Improvement of City owned facilities to reduce water use, other than those typical for normal operation or maintenance, are not covered in these measures.

RESTRICTION MEASURES

At all times the use of water at City facilities is to be as efficient as practically possible. During periods of drought, water conservation procedures will be followed at all City facilities. Wasting of water is to be avoided at all times of the year.

Annually, every City facility* is to have water use quantified in volume and dollars as follows:

- Amount of water use for buildings
- Amount of water use for landscape shrubs and/or trees
- Amount of water use for turf utilized by recreation programmed by the City or Cupertino Unified School District
- Amount of water use for turf utilized by permitted City events
- Amount of water use for remaining turf
- Amount of water used in ponds and/or fountains

**Metering of water at City facilities may or may not be separate for each identified water use. When one meter services several uses, amounts of individual water use is to be interpolated.*

Annually, water used for City operation shall be analyzed cumulatively and separately for each facility. Comparisons will be made to prior years.

Facilities included are:

1. Blackberry Golf Course
2. Canyon Oaks Park
3. Collins Elementary School / Portal Park
4. Creekside Park
5. Eaton Elementary School
6. Faria Elementary School
7. Franco Park
8. Garden Gate Elementary School
9. Hoover Park
10. Hyde Middle School
11. Jollyman Park

12. Kennedy Middle School
13. Library Field / Civic Center
14. Lincoln Elementary School
15. Linda Vista Park
16. McClellan Ranch Community Gardens
17. Memorial Park / Quinlan Community Center
18. Monta Vista Recreation Center
19. Oak Valley Park
20. Regnart Elementary School
21. Sommerset Square Park
22. Stevens Creek Elementary School / Varian Park
23. Sterling Barnhart Park
24. Three Oaks Park
25. Wilson Park

Attachment A to these measures shall identify each of the above facilities with an aerial site plan prepared and annually updated as site conditions change. Each site plan shall indicate:

- Area of all existing turf
- Area of existing turf intermittently used by City permitted events
- Area of existing turf programmed by for City or school recreation events

When conservation measures are implemented and it is likely that the public is impacted by the measures, educational signage shall be erected at every facility.

PROCEDURES

Drought conservation measures may be required individually or collectively by the State, Santa Clara Valley Water District (SCVWD), San Jose Water Company (SJWC) or California Water Service Company (CWSC). Water conservation measures recommended or mandated by SCVWD shall be followed for all City operations. If State requirements, specific to the Cupertino area, are more onerous than SCVWD measures, then State requirements shall be followed for all City operations. Water conservation rules, as implemented by either SJWC or CWSC and in support of either State and/or SCVWD requirements, shall be followed. Due to the limited area of the City serviced by CWSC, the rules implemented by SJWC shall be applied City-wide unless otherwise prohibited.

The description and action to be taken for various stages of drought are as follows:

Stage #	Condition	Action
1	No drought conservation measures required.	None
2	Reduction < 10% *	Reduce water programming of all outside irrigation by a minimum of the conservation amount.
3	10% < Reduction < 20%	<ul style="list-style-type: none"> • Reduce water programming of all outside irrigation by a minimum of the conservation amount.

		<ul style="list-style-type: none"> • No filling of ponds at Memorial Park. • Reduce operational hours of interactive fountain at Community Hall from 10AM – 8PM to Noon – 6PM. • Water used to clean asphalt areas / sidewalks / plaza areas to be minimized and follow stormwater requirements.
4	20% < Reduction < 40%	<ul style="list-style-type: none"> • Reduce water programming of all outside irrigation for trees / shrubs by a minimum of the conservation amount. <ul style="list-style-type: none"> • Large and/or desirable species to have priority over less desirable species • No watering of turf used passively. • Limited watering (consistent with 2 days / week watering or similar) of turf areas used intermittently by City permitted events. • A minimum of 20% reduced watering of turf areas programmed by City or school recreation events. <p>Each facility will be managed in accordance with the areas defined in Attachment A.</p> <ul style="list-style-type: none"> • No filling of ponds at Memorial Park. • No operation of the interactive fountain at Community Hall. • No water used to clean

		asphalt areas / sidewalks / plaza areas. <ul style="list-style-type: none"> • Water used for street sweeping to be minimized while complying with Santa Clara Valley Air Board requirements.
5	Reduction > 40%	<ul style="list-style-type: none"> • Reduce water programming of all outside irrigation for trees / shrubs by a minimum of the conservation amount. <ul style="list-style-type: none"> • Large and/or desirable species to have priority over less desirable species • No watering of turf unless required to maintain safe conditions. • No filling of ponds at Memorial Park. • No operational of the interactive fountain at Community Hall. • No water used to clean asphalt areas / streets / sidewalks / plaza areas. • Water used for street sweeping to be minimized while complying with Santa Clara Valley Air Board requirements.

*All reduction percentages are relative to water consumption in 2013.

Blackberry Farm Golf Course (BBGGC) and McClellan Ranch Community Gardens (MRCG) watering is not subject to the Stage 1-4 reductions. BBFGC and MRCG shall follow at a minimum the conservation requirements of SJWC.

Unless prohibited by water authorities, watering of all trees and desirable shrubs may occur during all stages of drought as necessary.

RESPONSIBILITY

All employees of the Public Works Department are responsible for the implementation of these measures.

APPROVED

Roger S. Lee

Roger Lee
Director of Public Works

ATTACHMENTS

Attachment A

Water Conservation Restriction Measures for City Operations

1. Blackberry Golf Course
2. Canyon Oaks Park
3. Collins Elementary / Portal Park
4. Creekside Park
5. Eaton Elementary
6. Faria Elementary
7. Franco Park
8. Garden Gate Elementary
9. Hoover Park
10. Hyde Middle School
11. Jollyman Park
12. Kennedy Middle School
13. Library Field / Civic Center
14. Lincoln Elementary
15. Linda Vista Park
16. McClellan Ranch Community Gardens
17. Memorial Park / Quinlan Community Center
18. Monta Vista Rec Center
19. Oak Valley Park
20. Regnart Elementary School
21. Sommerset Square Park
22. Stevens Creek Elementary / Varian Park
23. Sterling Barnhart Park
24. Three Oaks Park
25. Wilson Park





Canyon Oaks Park







Creekside Park Soccer Field





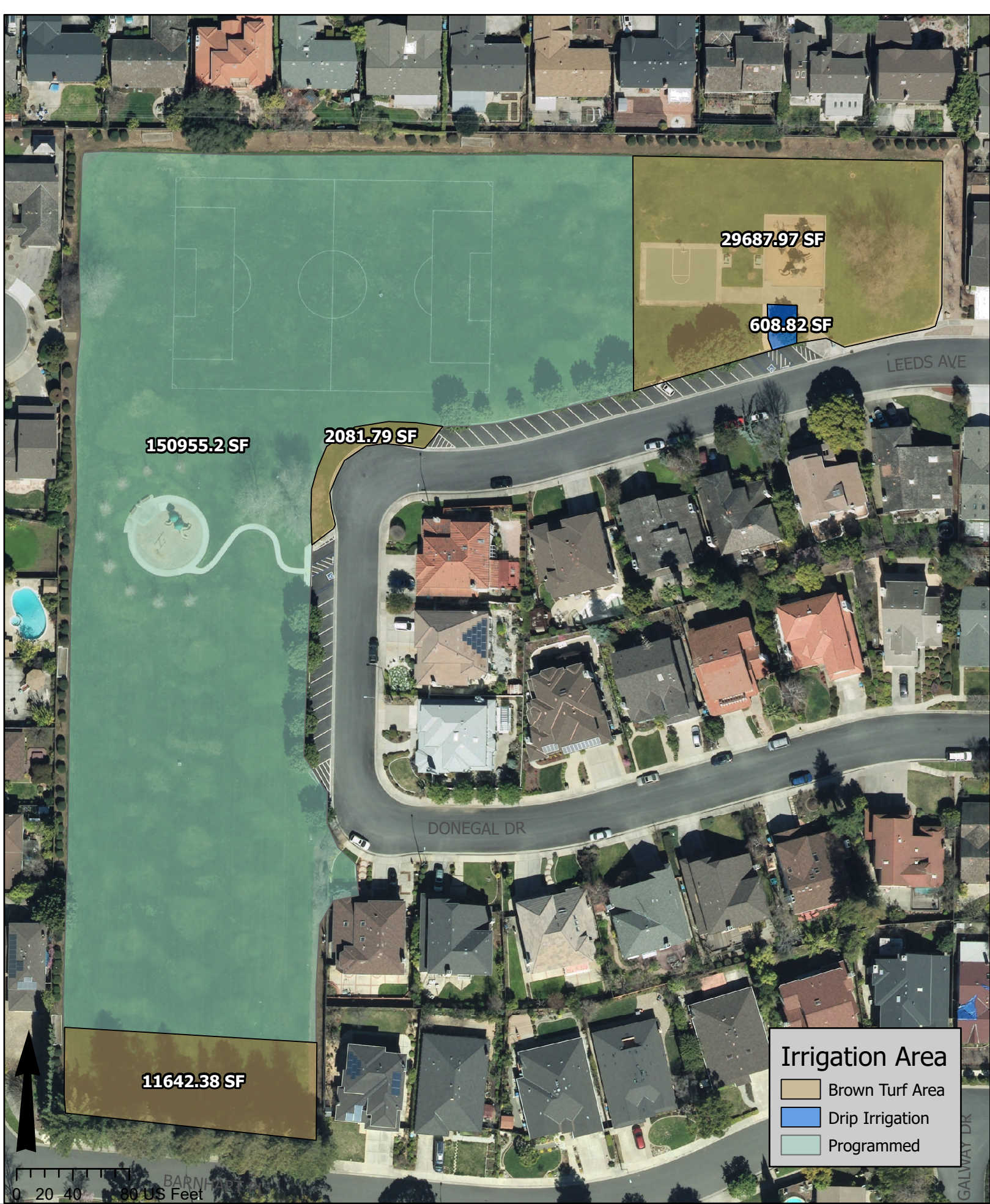




107246.15 SF

Irrigation Area
Programmed

0 12.5 25 50 US Feet



Hoover Park



Hyde Middle School



Jollyman Park





Library field

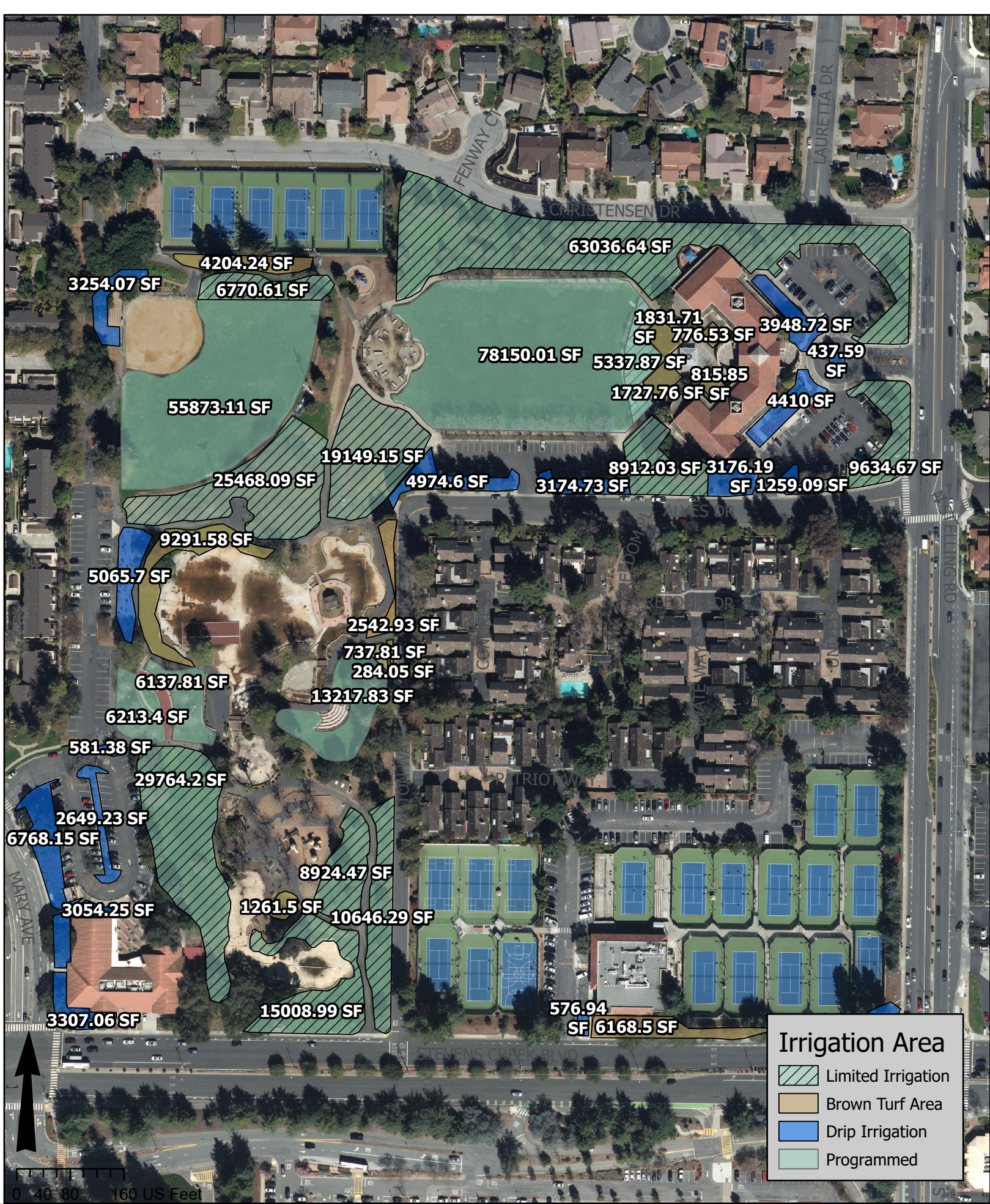


Lincoln Elementary School





McClellan Ranch Gardens



Memoria Park / Quinlan



Monta Vista Rec Center



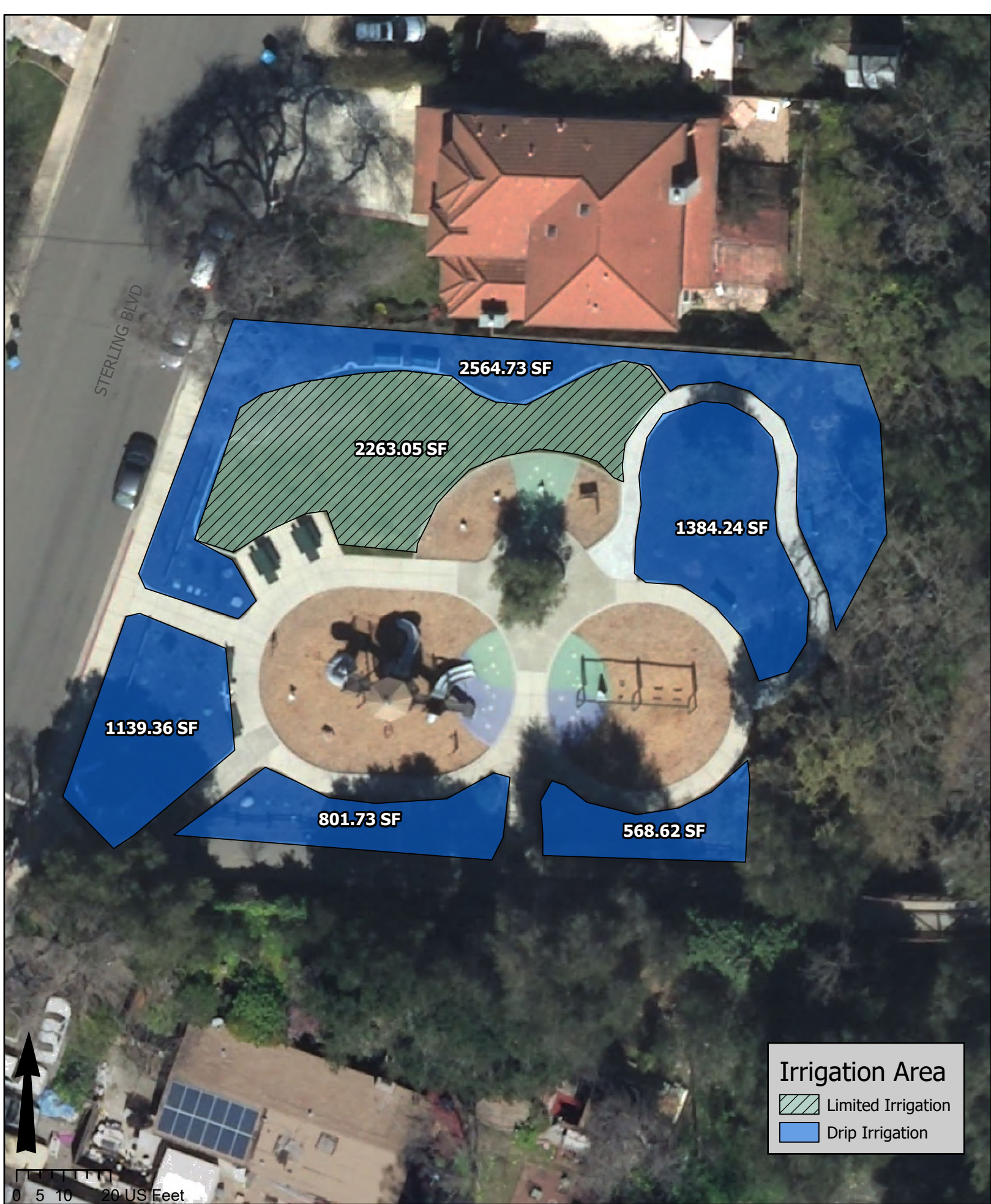


Regnart Elementary



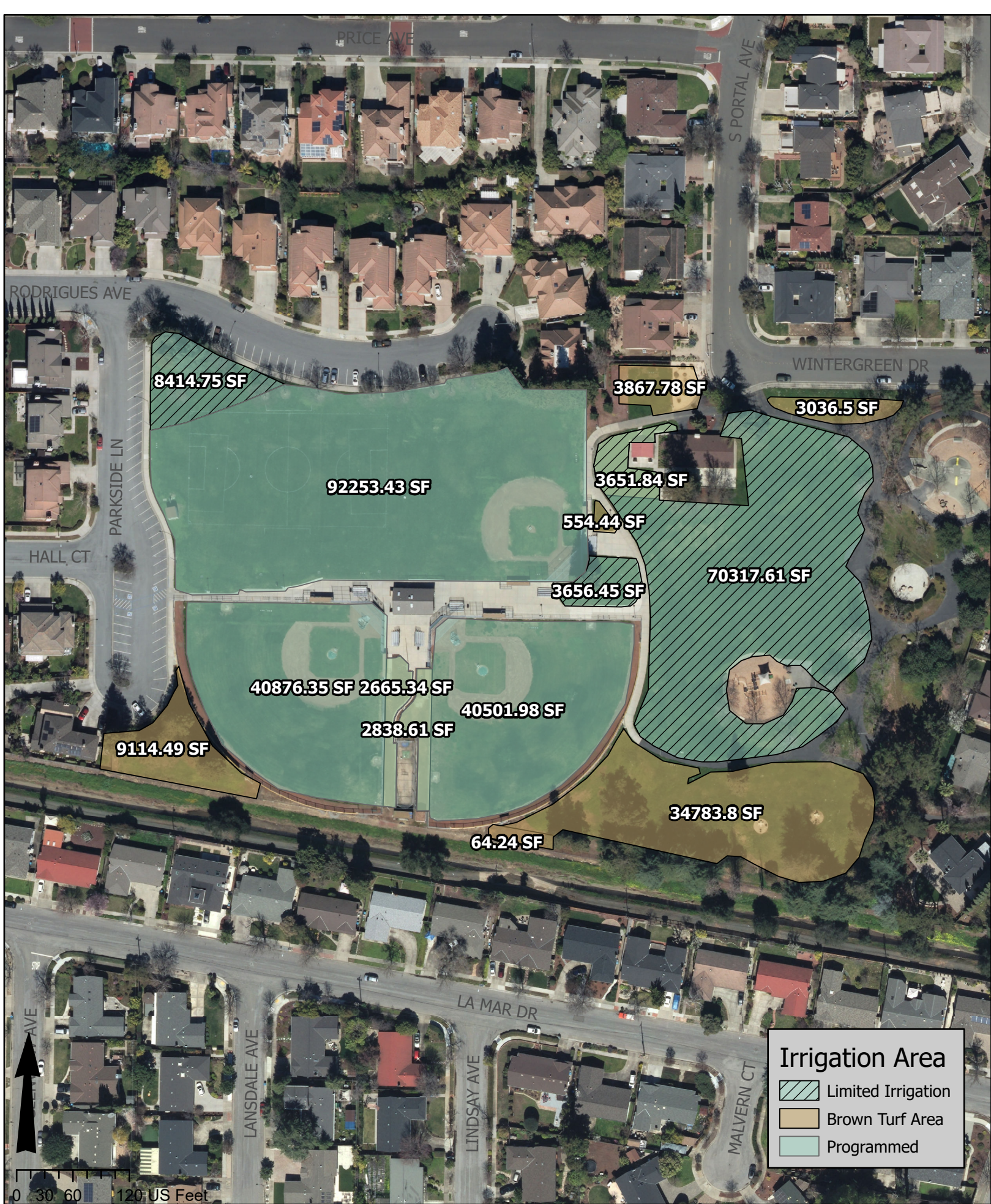
Sommerset Square Park







Three Oaks Park



Wilson Park

RESOLUTION NO. 15-056

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADOPTING REGULATIONS RESTRICTING WATER USE IN COMPLIANCE WITH THE
STATE WATER RESOURCES CONTROL BOARD'S MAY 5, 2015 EMERGENCY WATER
CONSERVATION REGULATIONS

WHEREAS, On January 17, 2014, Governor Edmund G. Brown Jr. issued Proclamation No. 1-17-2014 declaring a State of Emergency to exist in California due to severe drought conditions and calling on Californians to reduce their water usage by 20 percent; and

WHEREAS, On April 25, 2014, the Governor issued an Executive Order declaring a state of emergency to exist in California based upon the drought conditions and strengthening the state's ability to manage water and directed the State Water Resources Control Board (Water Board) under its authority in California Water Code Section 1058.5 to adopt emergency regulations as it deems necessary to address water shortage conditions; and

WHEREAS, On July 15, 2014, the Water Board adopted California Code of Regulations, Title 23, Sections 863, 864, and 865, emergency regulations finding a drought emergency in California and imposing water conservation measures on individuals and water suppliers; and

WHEREAS, On March 17, 2015, the Water Board readopted and expanded the emergency regulations in California Code of Regulations, Title 23, Sections 863, 864, and 865. Section 864 applies to all Californians and prohibits certain activities in promotion of water conservation, many of which are already required by the proposed amended Cupertino Municipal Code 15.32.030; and

WHEREAS, On May 5, 2015 the Water Board adopted 25% mandatory water conservation regulations; and

WHEREAS, The City receives potable water from two urban water suppliers who, in turn, receive the majority of their water from the Santa Clara Valley Water District (Water District). The Water District has requested a 30% voluntary water consumption reduction in response to the drought and their determination of available supplies in the regional water system. The Water Board has set 32% and 20% as water conservation requirements for Cupertino's two urban water suppliers. The City further demonstrates its commitment by responding to Water District's voluntary water consumption reduction request and achieved

an approximate 17% reduction in City operation water use in 2014 relative to 2013 and establishes a 30% City operation reduction requirement for 2015 relative to 2013; and

WHEREAS, The City supports the Water District's efforts to encourage conservation, with an emphasis on outdoor water use, to the extent it may do so within the context the Cupertino Municipal Code; and

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the Council declares that the present year has been critically dry and has been preceded by prior dry years; and

WHEREAS, the Council determines that regulations are necessary to promote further conservation efforts during this critical time of drought; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA"), the City determines that the provisions of this Resolution are exempt as a project intended to protect the environment and natural resources (14 Cal.Regs. 15307, 15308);

The Council of the City of Cupertino RESOLVES as follows:

SECTION 1. Regulations

A. Attachment A, "2015/16 Regulations Restricting Water Use" is hereby adopted in compliance with the Water Board's May 5, 2015 emergency drought regulations (Attachment B) and incorporated.

SECTION 2. Council directs the City Manager to establish an implementation process for 2015/16 Water Use Regulations by August 1, 2015.

SECTION 3. The 2015/16 Regulation Restricting Water Use will remain in effect for the time period specified in Water Board Resolution No. 2015-0013, or as extended by the Water Board.

SECTION 4. Council directs staff to further promote water conservation by coordinating educational outreach with urban water suppliers and the Water District to ensure that Cupertino customers fully understand drought restrictions and receive a consistent conservation message within the City.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 16th day of June, 2015, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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AYES:	Sinks, Chang, Paul, Vaidhyanathan, Wong
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NOES:	None
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ABSENT:	None
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ABSTAIN:	None
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ATTEST:



Grace Schmidt, City Clerk

APPROVED:



Rod Sinks, Mayor, City of Cupertino

ATTACHMENT A

2015/16 REGULATIONS RESTRICTING WATER USE

Moderate to exceptional drought conditions continue throughout California even though much of the State has received above average rainfall to date, including Santa Clara County. The March 2015 U.S. Drought Monitor reports that most of Santa Clara County is now “Extreme” drought severity, worsened from the previous “Severe” drought stage reported in February 2015. Water stored as snowpack in Sierras is also at a record low 15% of average for April 1st. This impacts the replenishment of groundwater in many areas throughout the State and is the source of about 55% of the water used by residents and businesses of Cupertino.

Implementation of individual regulations shall be carried out at the direction of the City Council, in response to its assessment of local water supply conditions, feasibility, and consumption trends. The Council may, in its discretion, opt to revise, delete or include different elements than those described below, so long as the restrictions implemented serve the overall purpose of reducing local consumption.

Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws. Pursuant to this power, the City Council of the City of Cupertino adopts the following Regulations in addition to any requirements set forth in Cupertino Municipal Code Chapter 15.32. These regulations are effective August 1, 2015 through March 1, 2016, or until repealed by Council, whichever comes first.

Section A:

To prevent the waste and unreasonable use of water and to promote water conservation, the following acts are prohibited, except where necessary to address an immediate health and safety need:

1. The application of potable water to driveways and sidewalks;
2. The use of potable water in a fountain or other decorative water feature, except where the water is part of a re-circulating system;
3. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
4. 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;
5. The irrigation with potable water of ornamental turf on public street medians;

6. 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.
7. 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.
8. Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week. Irrigation will be allowed on Monday and Thursday for odd numbered addresses; Monday and Thursday for numberless addresses; and Tuesday and Friday for even numbered addresses.
9. Other restrictions on use of potable water as prescribed from time to time by the Water Board or other governing body or agency.
10. None of the restrictions apply to the use of recycled or grey water. These restrictions also shall not apply to commercial nurseries, golf courses, or other water-dependent businesses, unless specifically included by the Water Board or other governing body or agency.

ATTACHMENT B

**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";
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;

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 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 1

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;
- (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.

(a) 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.

(b) 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.

(c) 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.
- (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.

RESOLUTION NO. 15-057

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND
ADMINISTER A MEMORANDUM OF UNDERSTANDING WITH THE SANTA CLARA
VALLEY WATER DISTRICT FOR A LANDSCAPE CONVERSION REBATE PROGRAM
AND APPROVE AN AMENDMENT TO FY15/16 ANNUAL OPERATING BUDGET TO
APPROPRIATE \$75,000

WHEREAS, the City of Cupertino, a municipal corporation and general law city duly organized and existing under and pursuant to the laws of the State of California (City) is authorized to enter contracts on its behalf and for the benefit of the City; and

WHEREAS, the reasons supporting the entrance of the City into the Memorandum of Understanding with the Santa Clara Valley Water District for Conservation Programs is set forth in detail in the staff reports and hearings for June 2, 2015 and June 16, 2015 Council meetings and are incorporated herein by reference; and

WHEREAS, the consideration by the City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and Council provided members of the public an opportunity to comment and be heard and considered all testimony and evidence in connection with the adoption of this Resolution; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA"), the City determines that the provisions of this Resolution are exempt as a project intended to protect the environment and natural resources (14 Cal.Regs. 15307, 15308); and

WHEREAS, the City Council determines that the adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES HEREBY FIND, DETERMINE, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine, and resolve that the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve that:

- a. The Memorandum of Understanding with the Santa Clara Valley Water District (MOU) for water conservation programs in substantially in the form attached hereto as Exhibit "A" is approved;
- b. The City Manager is delegated the authority and is authorized to negotiate and execute the MOU in substantially in the form as attached Exhibit "A", provided that the funds do not exceed seventy five thousand dollars (\$75,000.00).

Section 3: Effective date: This Resolution is effective immediately upon adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 16th day of June, 2015, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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AYES:	Sinks, Chang, Paul, Vaidhyanathan, Wong
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NOES:	None
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ABSENT:	None
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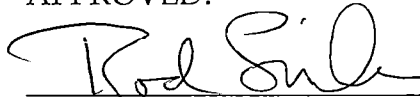
ABSTAIN:	None
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ATTEST:



Grace Schmidt, City Clerk

APPROVED:



Rod Sinks, Mayor, City of Cupertino

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT AND THE
CITY OF CUPERTINO FOR A LANDSCAPE CONVERSION REBATE
PROGRAM**

This MEMORANDUM OF UNDERSTANDING (MOU) between the Santa Clara Valley Water District, an Independent special district created by the California Legislature (hereinafter referred to as WATER DISTRICT) and the City of Cupertino (hereinafter referred to as CUPERTINO) sets forth the respective roles of the WATER DISTRICT and CUPERTINO in regard to the WATER DISTRICT'S WATER CONSERVATION LANDSCAPE CONVERSION REBATE PROGRAM (hereinafter referred to as PROGRAM) is made and entered into this June 16, 2015.

RECITALS

WHEREAS the PROGRAM involves providing Water Conservation Landscape Conversion Rebates for properties located within CUPERTINO's jurisdiction; and

WHEREAS the PROGRAM includes the Landscape Conversion Rebate Program for Water Efficient Landscape Conversions; and

WHEREAS the PROGRAM is an appropriate measure for the Best Management Practices addressed in the California Urban Water Conservation Council's MOU regarding Urban Water Conservation in California; and

WHEREAS the WATER DISTRICT has established the PROGRAM, in part, to provide financial incentive to remove existing turf lawns; and

WHEREAS CUPERTINO wishes to participate in the PROGRAM and provide additional incentives for Cupertino residents to remove existing lawns.

NOW, THEREFORE, in consideration of the recitals and mutual obligations of the parties expressed in this MOU, WATER DISTRICT and CUPERTINO agree as follows:

1. WATER DISTRICT'S RESPONSIBILITIES

- a) Administration of the PROGRAM, which administration shall include the creation of the PROGRAM brochures and applications.

- b) Collection and analysis of data to determine water savings.
- c) Administration of all PROGRAM funds including, but not limited to:
 - Processing the payment of the amounts set forth in 2.b. below, to eligible persons residing in CUPERTINO ("ELIGIBLE RESIDENTS"). This supplemental rebate amount shall be in addition to the customary amounts paid by the WATER DISTRICT for the PROGRAM.
 - Payment of standard PROGRAM amounts to ELIGIBLE RESIDENTS within 8-12 weeks of receipt of CUPERTINO residential applicant's request.
- d) Invoicing CUPERTINO, on a quarterly basis.
- e) Work cooperatively with CUPERTINO in appropriately advertising the PROGRAM to targeted customers.

2. CUPERTINO'S RESPONSIBILITIES

- a) Work cooperatively with WATER DISTRICT in appropriately advertising the PROGRAM to the targeted customers.
- b) CUPERTINO must pay WATER DISTRICT as set forth below for each activity performed by the WATER DISTRICT in the CUPERTINO service area:
 - Up to \$1.00 per each square foot of turf removed per qualified residential and for commercial rebate, up to \$1,000 per residential and up to \$10,000 per commercial site, as per the District's Landscape Rebate Program requirements.
- c) CUPERTINO's obligation to pay for the PROGRAM activities is capped at a total maximum of \$75,000.
- d) Make payment to WATER DISTRICT within 60 days of receipt of Invoice from WATER DISTRICT.

3. HOLD HARMLESS AND LIABILITY

Each Party ("Indemnifying Party") agrees to indemnify, defend at its own expense, including attorneys' fees, and hold harmless the other Party ("Indemnified Party") from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature

whatsoever, including but not limited to liability for bodily injury, sickness, disease or death, property damage (including loss of use) or violation of law, caused by or arising out of or related to the negligence, or willful misconduct of that Indemnifying Party, its officers or employees, or any other agent acting pursuant to this MOU.

4. DOCUMENT REVIEW

WATER DISTRICT and CUPERTINO will, upon reasonable advance written notice, make available for inspection to the other party records, books and other documents relating to the PROGRAMS.

5. TERM

The term of the MOU is from July 1, 2015 to June 30, 2016, or until funds are depleted, whichever occurs first. The term of the MOU may be extended by mutual consent of the Parties. This MOU shall be contingent upon approval of program funding each fiscal year by both the WATER DISTRICT'S Chief Executive Officer and by CUPERTINO.

6. NOTICE

Any notice, payment, credit or instrument required or permitted to be given hereunder shall be deemed received upon personal delivery or five (5) days after deposit in any United States mail depository, first class postage prepaid and addressed to the party for whom intended; or on the same day as a facsimile transmission is sent as long as original is placed in the mail on the same day.

If to WATER DISTRICT:

Santa Clara Valley Water District
5760 Almaden Expressway
San Jose, CA 96118
Attn: Conservation Programs

If to CUPERTINO:

Public Works Department
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014
Attn: Environmental Programs

Either party may change such address by notice given to the other party as provided in this Section 6.

7. AMENDMENTS

The MOU may only be amended by written agreement executed by both parties.

8. ASSIGNMENT

Neither party is allowed to assign, sublet, or transfer this MOU or any of the rights or interests in this MOU without the written consent of the other party.

9. SEVERABILITY

The partial or total invalidity of one or more parts of this MOU will not affect the intent or validity or remaining parts of this MOU.

10. GOVERNING LAW

This MOU is a contract under the laws of the State of California and for all purposes must be interpreted in accordance with such laws.

11. TERMINATION OF AGREEMENT

This MOU may be terminated by either party hereto for any reason upon thirty (30) days written notice to the other Party.

12. SIGNATURES

The individuals executing this MOU represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

In WITNESS WHEREOF, the parties have executed this MOU as of the effective date.

APPROVED AS TO FORM:

Carol Karode
City Attorney
City of Cupertino

David Brandt
City Manager
City of Cupertino

SANTA CLARA VALLEY WATER DISTRICT

An independent special district created by the California Legislature

Anthony Fulcher
Sr. Assistant District Counsel
Santa Clara Valley Water District

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 21-68

**RESCINDING RESOLUTION 17-43, DECLARING A WATER SHORTAGE
EMERGENCY CONDITION CALLING FOR WATER USE RESTRICTIONS, AND
URGING THE COUNTY OF SANTA CLARA TO PROCLAIM A LOCAL EMERGENCY**

WHEREAS, a public hearing was held on June 9, 2021, on the matter of whether the Santa Clara Valley Water District (Valley Water) Board of Directors should declare that a water shortage emergency condition exists within Santa Clara County (County); and

WHEREAS, notice of said hearing was published on June 2, 2021, in the *San Jose Mercury News*, a newspaper of general circulation printed and published within the County; and

WHEREAS, at said hearing, all persons present were given an opportunity to be heard by the Board; and

WHEREAS, the Board heard and considered public testimony, staff's presentation, and other evidence presented at said hearing; and

WHEREAS, the County is in its second consecutive year of drought, and the County is now in an extreme drought condition according to the United States Drought Monitor; and

WHEREAS, pursuant to Water Code Section 350 a "governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, shall declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection"; and

WHEREAS, the Board seeks to conserve the limited water supply of Valley Water for the greatest public benefit with particular regard to public health, fire protection, and domestic use without threatening local land subsidence, by ensuring the conservation of water, by avoiding the waste of water, and to the extent necessary and by reason of the existing water shortage emergency condition, by reducing water use in the County in a manner that is fair and equitable; and

WHEREAS, on March 22, 2021, the California State Water Resources Control Board mailed early warning notices to water rights holders in California, including Valley Water, urging them to plan for potential shortages by reducing water use and adopting practical conservation measures; and

WHEREAS, local watershed runoff was substantially limited in the 2020 and 2021 water years due to extreme dry conditions and Valley Water's current local surface water storage as of June 1 is at 26 percent of the 20-year average; and

WHEREAS, Anderson Reservoir is Valley Water's largest surface water reservoir and holds up to 89,278 acre-feet of water—more than all of Valley Water's other nine surface water reservoirs combined; and

WHEREAS, on February 20, 2020, the Federal Energy Regulatory Commission, for public health and safety reasons, ordered Valley Water to drain Anderson Reservoir to deadpool beginning no later than October 1, 2020; and

WHEREAS, Anderson Reservoir has been drained to deadpool and will not be available as a surface water storage facility for the duration of the Anderson Dam Seismic Retrofit Project, which is expected to last 10 years; and

WHEREAS, the availability of Coyote Reservoir, Valley Water's second largest reservoir, is also limited because of California Department of Water Resources Division of Safety of Dams storage limits; and

WHEREAS, due to the unavailability of Anderson Reservoir and limited availability of Coyote Reservoir due to regulatory restrictions, Valley Water's ability to store water locally for groundwater recharge and water treatment plant supplies, and as a buffer to mitigate against current and future water shortages, is significantly limited; and

WHEREAS, the snowpack in the northern Sierra Nevada Mountains was 5 percent of normal and the statewide snow water equivalent was zero percent of normal as of June 1, 2021; and the 2021 State Water Project allocation is 5 percent, and the 2021 South-of-Delta Central Valley Project allocation is currently 25 percent for Municipal & Industrial water and zero percent for Agricultural water; and

WHEREAS, there is significant uncertainty as to local and statewide water supply conditions, and imported supplies may continue to be negatively impacted; and

WHEREAS, Santa Clara County relies heavily on unpredictable imported water to supplement local water to supply its drinking water treatment plants, to replenish the local groundwater basins, and to prevent adverse community impacts such as the return of historic overdraft and land subsidence in northern Santa Clara County; and

WHEREAS, through careful groundwater management, Santa Clara County groundwater storage at the start of 2021 was well within the "Normal" stage (Stage 1) of Valley Water's Water Shortage Contingency Plan, but without additional water use reduction this storage is expected to drop significantly by as much as 80,000 acre-feet by the end of 2021 due to limited recharge and increased pumping as a result of drought conditions, reduced imported water allocations, and the loss of Anderson Reservoir as a surface water storage facility; and

WHEREAS, if drought conditions continue into 2022 and imported water supplies continue to be severely limited, the worst case scenario projects groundwater to drop to the "Emergency" stage (Stage 5) of the Water Shortage Contingency Plan without additional water use reduction, which would greatly increase the risk of resumed land subsidence in northern Santa Clara County, risk wells going dry in residential areas of the County where groundwater is the sole source of drinking water, and risk that the ordinary demands and requirements of water consumers will not be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, due to historic groundwater overdraft, the greater San José metropolitan area and heart of Silicon Valley had up to 14 feet of permanent subsidence, which resulted in seawater

intrusion, increased flood risk, and widespread damage to infrastructure, conservatively estimated to cost over \$947 million in 2021 dollars; and

WHEREAS, over 3,000 domestic wells users in southern Santa Clara County depend on groundwater for potable water supplies and these wells are often more vulnerable than public water supply wells, which are typically deeper; and

WHEREAS, Valley Water must maintain sufficient groundwater storage to guard against land subsidence, meet local water demands, cope with supply interruptions from natural disasters and ensure sufficient water for fire protection; and

WHEREAS, it is Valley Water's policy and is in the interest of Valley Water and the community to reduce the severity and occurrences of drought or dry weather induced water shortages by encouraging water use reduction measures so that available water supplies can meet at least 80 percent of average annual demand in drought years; and

WHEREAS, Santa Clara County and the region are subject to reoccurring droughts of varying severity, such as those prompting Valley Water to call for water use reductions in 1977, 1987 to 1992, 2007 to 2010; and

WHEREAS, Santa Clara County and California experienced a historic, multiyear drought from 2012 to 2016, prompting Valley Water to call for mandatory water use reductions between 20 to 30 percent since 2014; and

WHEREAS, on June 13, 2017, by Resolution 17-43, Valley Water continued its call for a voluntary 20 percent water use reduction (as compared to 2013 water use), and called for efforts to make water conservation a way of life; and

WHEREAS, on April 27, 2021, the Board voted to call for a voluntary 25 percent water use reduction (as compared to 2013 water use); and

WHEREAS, continuing the progress and momentum of community water use reductions and water wise efforts to make water conservation a way of life will improve long-term water supply reliability; and

WHEREAS, increasing long-term water conservation efforts and improving water use efficiency; strengthening local and regional drought planning; and increasing water supply and land use planning coordination are critical to Santa Clara County's resilience to drought, which may be intensified in the future with climate change; and

WHEREAS, Valley Water continues to work closely with its retail water agencies, untreated surface water customers, well owners, farmers, regulatory agencies, state and federal project operators, other water districts, and local municipalities and land use agencies to develop common sense approaches with the goal of achieving drought resiliency.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District hereby:

1. Rescinds Board Resolution 17-43; and
2. Declares pursuant to California Water Code Section 350 that a water shortage emergency condition now prevails within the County and a continued supply of water cannot be assured for human consumption, sanitation, and fire protection without threatening local land subsidence, and that such water shortage emergency condition shall continue until the Valley Water's Board adopts a finding determining otherwise; and
3. Establishes a water reduction program pursuant to Article C(4)(c) of Valley Water's treated water contracts by calling for water retailers to achieve a water use reduction equal to 33 percent of 2013 water use (15 percent of 2019 water use), which will result in a 23 percent reduction of Valley Water treated water scheduled deliveries to water retailers while such water reduction program is in effect; and
4. Commits to aggressively promote its conservation programs and information for the public, residents, businesses, agricultural and untreated water customers, and retailers to support all sectors in reducing water use; and
5. Urges Santa Clara County farmers and untreated water customers to consider the water shortage emergency condition in planting and irrigation practices; and
6. Calls for the public to restrict outdoor watering of ornamental landscapes or lawns with potable water to a maximum of three days a week; and
7. Urges local enforcement of other water waste restrictions currently in effect by local agencies and retailers, or as may be amended; and
8. Requests that the Santa Clara County Board of Supervisors proclaim a local emergency now exists throughout the County due to drought conditions; and
9. Supports local adoption and enforcement of additional water waste restrictions by cities, retailers, and the County as needed to achieve the water use reduction target of 15 percent of 2019 water use (33 percent of 2013 water use); these may include prohibitions against the following:
 - Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
 - Excessive use of water: when a utility has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to affect such repairs within five business days, the utility may install a flow restriction device;
 - Use of potable water that results in flooding or runoff in gutters or streets;

- Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;
 - Use of potable water for washing buildings, structures, driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
 - Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific schedule, for example: 1) before 9:00 a.m. and after 5:00 p.m.; 2) every other day; or 3) selected days of the week;
 - Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
 - Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used;
 - Use of potable water for construction purposes unless no other source of water or other method can be used;
 - Use of potable water for street cleaning;
 - Operation of commercial car washes without recycling at least 50 percent of the potable water used per cycle;
 - Use of potable water for watering outside plants, lawn, landscape, and turf areas during certain hours if and when specified in CPUC Tariff Schedule No. 14.1 when the schedule is in effect;
 - Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
 - Use of potable water for the filling or refilling of swimming pools;
 - Service of water by any restaurant except upon the request of a patron; and
 - Use of potable water to flush hydrants, except where required for public health or safety.
10. Recommends cities, retailers, and the County consider adopting water waste restrictions that are permanent.

Rescinding Resolution 17-43, Declaring a Water Shortage Emergency Condition Calling for
Water Use Restrictions, and Urging the County of Santa Clara to Proclaim a Local Emergency
Resolution No. 21-68

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by
the following vote on June 9, 2021:

AYES: Directors R. Santos, N. Hsueh, T. Estremera, B. Keegan, G. Kremen,
L. LeZotte, J. Varela

NOES: Directors None

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT


TONY ESTREMERERA
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk, Board of Directors

Schedule No. 14.1

Page 1

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

California Water Service's ("Cal Water") supply of water may be interrupted or reduced due to a variety of circumstances, for instance, in response to a drought or other catastrophic event. This Schedule builds upon Cal Water's Rule 14.1 and provides it with additional means to achieve necessary reductions in water use. (N)

A. APPLICABILITY (L)

1. This schedule applies to all of California Water Service's regulated ratemaking areas in California, as well as Grand Oaks Water.

B) GENERAL INFORMATION

1. All expenses incurred by California Water Service to implement Rule 14.1, and Schedule 14.1, that have not been considered in a General Rate Case or other proceeding shall be accumulated by Cal Water in a separate memorandum account, authorized by the Commission, for disposition as directed or authorized from time to time by the Commission. (T)
2. All monies collected by Cal Water through waste of water penalties established in this schedule shall be recorded in the appropriate memorandum account and used to offset the expenses described in Section 1 above. (T)
3. Except in the case of Grand Oaks, all monies collected by Cal Water through drought surcharges, as established by the Mandatory Budgets found in Schedule 14.1, shall be recorded in the appropriate Water Revenue Adjustment Mechanism ("WRAM") account and used to offset under-collected revenues. (T)
4. To the extent that any provision in this Schedule is inconsistent with Rule 14.1, the provisions of this Schedule apply. (D)

C) DEFINITIONS

For the purposes of this Schedule, the following terms have the meanings set forth in this section. (These are the same as in Rule 14.1, unless otherwise specified.)

1. "Commercial nursery" means the use of land, buildings or structures for the growing and/or storing of flowers, fruit, trees, ornamental trees, vegetable plants, shrubs, trees and similar vegetation for the purpose of transplanting, for use as stock or grafting, and includes the retail sale or wholesale distribution of such items directly from the premises/lot. (L)

(Continued)

(To be inserted by utility)	Issued By	(To be inserted by CPUC)
Advice Letter <u>2412</u>	<u>Greg A. Milleman</u>	Date Filed _____
Decision	<u>Vice President</u>	Effective _____
		Resolution _____

Schedule No. 14.1

Page 2

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

C) DEFINITIONS (continued)

2. "Drip irrigation system" means a non-spray, low-pressure, and low volume irrigation system utilizing emission devices with a precipitation or flow rate measured in gallons per hour (GPH), designed to slowly apply small volumes of water at or near the root zone of plants or other landscaping. (L)
3. "Flow rate" means the rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute (GPM), gallons per hour (GPH), inches per hour (IPH), hundred cubic feet (Ccf), or cubic feet per second (CFS).
4. "Flow-restricting device" means valves, orifices, or other devices that reduce the flow of potable water through a service line, which are capable of providing the premise with a minimum flow rate of 0.5 gallons per minute. (C)
(C)
5. "High-efficiency sprinkler systems" means an irrigation system with emission devices, such as sprinkler heads or nozzles, with a precipitation or flow rate no greater than one IPH.
6. "Irrigation" means the application of potable water by artificial means to landscape.
7. "Irrigation system" means the components of a system meant to apply water to an area for the purpose of irrigation, including, but not limited to, piping, fittings, sprinkler heads or nozzles, drip tubing, valves, and control wiring.
8. "Landscape" means all of the outdoor planting areas, turf areas, and water features at a particular location.
9. "Measurable rainfall" means any amount of precipitation of more than one-quarter of an inch (0.25"). (C)
(C)
10. "Micro spray irrigation system" means a low-pressure, low-volume irrigation system utilizing emission devices that spray, mist, sprinkle, or drip with a precipitation or flow rate measured in GPH, designed to slowly apply small volumes of water to a specific area.
11. "Ornamental landscape" means shrubs, bushes, flowers, ground cover, turf, lawns, and grass planted for the purpose of improving the aesthetic appearance of property, but does not include crops or other agricultural products or special landscape areas.
12. "Ornamental turf" means a ground cover surface of grass that can be mowed and is planted for the purpose of improving the aesthetic appearance of the property, but does not include crops or other agricultural products or special landscape areas.
13. "Plumbing fixture" means a receptacle or device that is connected to a water supply system, including, but not limited to, pipes, toilets, urinals, showerheads, faucets, washing machines, water heaters, tubs, and dishwashers. (L)

(Continued)

(To be inserted by utility)

Advice Letter 2412

Decision

Issued By

Greg A. Milleman

Vice President

(To be inserted by CPUC)

Date Filed _____

Effective _____

Resolution _____

Schedule No. 14.1

Page 3

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

C) DEFINITIONS (continued)

(L)

14. "Potable water" means water supplied by Cal Water which conforms to the federal and state standards for human consumption.
15. "Properly programmed" means a smart irrigation controller that has been programmed according to the manufacturer's instructions and site-specific conditions.
16. "Real-time water measurement device" means a device or system that provides regularly updated electronic information regarding the customer's water use.
17. "Runoff" means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape onto other areas.
18. "Smart irrigation controller" means an automatic device used to remotely control valves that operate an irrigation that has been tested by an American National Standards Institute accredited third-party certifying body or laboratory in accordance with the Environmental Protection Agency's WaterSense program (or an analogous successor program), and certified by such body or laboratory as meeting the performance and efficiency requirements of such program, or the more stringent performance and efficiency requirements of another similar program.
19. "Special landscape area" means an area of landscape dedicated solely to edible plants and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.
20. "Turf" means a ground cover surface of grass that can be mowed.
21. "Water feature" means a design element where open, artificially supplied water performs an aesthetic or recreation feature, including, but not limited to, ponds, lakes, waterfalls, fountains, and streams.
22. "Water use evaluation" means an evaluation of the efficiency of indoor water-using devices, including, but not limited to, measurement of flow rates for all existing showerheads, faucets, and toilets, inspection for leaks, and providing written recommendations to improve the efficiency of the indoor water-using fixtures and devices and/or an evaluation of the performance of an irrigation system, including, but not limited to, inspection for leaks, reporting of overspray or runoff, and providing written recommendations to improve the performance of the irrigation system.

D) WASTE OF WATER PENALTIES

Each Stage of this Schedule establishes certain restrictions on the use of potable water. Violating the restrictions set forth in a particular Stage while it is in effect is declared a non-essential, wasteful use of potable water.

(L)

(Continued)

(To be inserted by utility)	Issued By	(To be inserted by CPUC)
Advice Letter <u>2412</u>	<u>Greg A. Milleman</u>	Date Filed _____
Decision	<u>Vice President</u>	Effective _____
		Resolution _____

Schedule No. 14.1

Page 4

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

D) WASTE OF WATER PENALTIES (continued)

(L)

Cal Water is authorized to take the following actions when its personnel verify a customer is using potable water for non-essential, wasteful uses. No person shall have any right or claim in law or in equity against Cal Water because of, or as a result of, any matter or thing done or threatened to be done pursuant to the restrictions on using potable water for non-essential, wasteful uses. When a Stage in this Schedule has been activated, Section D in this Schedule supersedes Section D (Enforcement) in Rule 14.1.

(T)

1. FIRST VIOLATION

Cal Water shall provide the customer with a written notice of violation. In addition, Cal Water is authorized to take the following actions:

- a) If the customer currently receives service through a metered connection, install a real-time water measurement device on the customer's service line and provide the customer with access to information from the device. The cost of the device, including installation and on-going operating costs, may be billed to the customer, and nonpayment may result in discontinuation of service.
- b) If the customer does not currently receive service through a metered connection, install a water meter on the customer's service line, charge the customer for water use pursuant to Cal Water's metered service tariffs and rules, and install a real-time water measurement device on the customer's service line and provide the customer with access to information from the device. The cost of the device, including installation and ongoing operating costs, may be billed to the customer, and nonpayment may result in discontinuance of service.

2. SECOND VIOLATION

If Cal Water verifies that the customer has used potable water for non-essential, wasteful uses after having been notified of the first violation, Cal Water shall provide the customer with a second written notice of violation. In addition to the actions prescribed under the first violation above, Cal Water is authorized to take the following actions:

- a) Apply the following waste of water penalties which are in addition to any other charges authorized by this Schedule or other Cal Water tariffs.
 - (i) If Stage 1 is in effect, \$25 (Stage 1 is detailed in Section E)
 - (ii) If Stage 2 is in effect, \$50 (Stage 2 is detailed in Section F)
 - (iii) If Stage 3 is in effect, \$100 (Stage 3 is detailed in Section G)

(L)

(Continued)

(To be inserted by utility)

Issued By

(To be inserted by CPUC)

Advice Letter 2412

Greg A. Milleman

Date Filed _____

Decision

Vice President

Effective _____

Resolution _____

Schedule No. 14.1

Page 5

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

D) WASTE OF WATER PENALTIES (continued)

(L)

2. SECOND VIOLATION (continued)

- a) Apply the following waste of water penalties which are in addition to any other charges authorized by this Schedule or other Cal Water tariffs. (continued)

...

(iv) If Stage 4 is in effect, \$200 (Stage 4 is detailed in Section H)

(v) If Stage 5 is in effect, \$400 (Stage 5 is detailed in Section I)

(vi) If Stage 6 is in effect, \$800 (Stage 6 is detailed in Section J)

(N)

(N)

- b) At its sole discretion, waive the waste of water penalty if the customer participates in a water use evaluation provided by Cal Water and agrees to the recommendations provided.

(C)

(C)

3. THIRD VIOLATION

If Cal Water verifies that the customer has used potable water for non-essential, wasteful uses after having been notified of the second violation, Cal Water shall provide the customer with a third written notice of violation. In addition to the actions prescribed under the first and second violation above, Cal Water is authorized to take the following actions:

- a) Apply the following waste of water penalties, which are in addition to any other charges authorized by this Schedule or other Cal Water tariffs:

(i) If Stage 1 is in effect, \$50 (Stage 1 is detailed in Section E)

(ii) If Stage 2 is in effect, \$100 (Stage 2 is detailed in Section F)

(iii) If Stage 3 is in effect, \$200 (Stage 3 is detailed in Section G)

(iv) If Stage 4 is in effect, \$400 (Stage 4 is detailed in Section H)

(v) If Stage 5 is in effect, \$800 (Stage 5 is detailed in Section I)

(vi) If Stage 6 is in effect, \$1,600 (Stage 6 is detailed in Section J)

(N)

(N)

- b) At its sole discretion, waive the waste of water penalty if the customer participates in a water use evaluation provided by Cal Water and agrees to the recommendations provided.

(C)

(C)

4. FOURTH VIOLATION

If Cal Water verifies that the customer has used potable water for non-essential, wasteful uses after having been notified of the third violation, Cal Water shall provide the customer with a fourth notice of violation. In addition to actions set forth in the previous violations prescribed above, Cal Water is authorized to install a flow-restricting device on the customer's service line. Cal Water shall not be held liable for any injuries, damages, and/or consequences arising from the installation of a flow restricting device.

(L)

(Continued)

(To be inserted by utility)

Issued By

(To be inserted by CPUC)

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D) WASTE OF WATER PENALTIES (continued)

(L)

5. EGREGIOUS VIOLATIONS

Notwithstanding the foregoing framework for penalties, customers who Cal Water has verified are egregiously using potable for non-essential, wasteful uses are subject to having a flow-restricting device installed on their service line. After providing the customer with one written notice of egregious violation which documents the egregious use of potable water for non-essential, wasteful uses and explains that failure to correct the violation may result in the installation of a flow-restricting device on the customer's service line, Cal Water is authorized to install a flow-restricting device on the customer's service line. Cal Water shall not be held liable for any injuries, damages, and/or consequences arising from the installation of a flow-restricting device.

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6. NOTICES OF VIOLATION

- a) Unless otherwise specified, written notices of violation provided to customers pursuant to this Schedule shall document the verified violation and alert the customer to the fact that future violations of the restricted uses of potable water may result in a real-time water measurement device being installed on the customer's service line at the customers expense, waste of water penalties being applied to the customer's bill, the installation of a flow-restricting device on the customer's service line, or the discontinuation of the customer's service.
- b) If Cal Water elects to install a flow-restricting device on a customer's service line, the written notice shall document the steps the customer must take in order for the follow-restricting device to be removed, and shall explain that after the flow-restricting device is removed, it may be reinstalled, without further notice, if the customer is again verified by Cal Water to be using potable water for non-essential, wasteful uses.

(T)

7. FLOW RESTRICTING DEVICE CONDITIONS

The installation of a flow-restricting device on a customer's service line is subject to the following conditions:

- a) The device shall be capable of providing the premise with a minimum flow rate of 0.5 gallons per minute.
- b) The device may only be removed by Cal Water, and only after a minimum three-day period has elapsed.

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D) WASTE OF WATER PENALTIES (continued)

(L)

7. FLOW RESTRICTING DEVICE CONDITIONS (continued)

- c) Any tampering with the device may result in the discontinuation of the customer's water service and the customer being charged for any damage to Cal Water's equipment or facilities and any required service visits.
- d) After the removal of the device, if Cal Water's personnel verify that the customer is using potable water for non-essential, wasteful uses, Cal Water may install another flow-restricting device without prior notice. This device shall remain in place until water supply conditions warrant its removal. If, despite the installation of the device, Cal Water's personnel verifies that the customer is using potable water for non-essential, wasteful uses, then Cal Water may discontinue the customer's water service, as provided in its Rule No. 11.

8. FLOW RESTRICTING DEVICE REMOVAL CHARGES

The charge to customers for removal of a flow-restricting device installed pursuant to this Schedule is \$100 during normal business hours, and \$150 for the device to be removed outside of normal business hours.

E) STAGE ONE WATER USE RESTRICTIONS

1. WASTEFUL USES OF WATER (STAGE 1)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

- a) Outdoor Irrigation Restrictions (Stage 1)
 - (i) Irrigating ornamental landscape with potable water is prohibited during the hours between 8:00 a.m. and 6:00 p.m.
 - (ii) The foregoing irrigation restriction does not apply to:
 - (1) Landscape irrigation zones that exclusively use drip irrigation systems and/or micro spray irrigation systems;
 - (2) Irrigating ornamental landscapes with the use of a hand-held bucket or similar container, with a continuously monitored hose which is fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored, or for the express purpose of adjusting or repairing an irrigation system.

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E) STAGE ONE WATER USE RESTRICTIONS (continued)

(L)

1. WASTEFUL USES OF WATER (STAGE 1) (continued)

- b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within five (5) business days of written notification by Cal Water, unless other arrangements are made with Cal Water.
- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:
 - (i) The application of potable water to 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;
 - (ii) The use of a hose that dispenses potable water to wash vehicles, including cars, trucks, buses, boats, aircraft, and trailers, whether motorized or not, 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;
 - (iii) The application of potable water to driveways and sidewalks;
 - (iv) The use of potable water in a water feature, except where the water is part of a recirculating system;
 - (v) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);
 - (vi) Irrigation outside of newly constructed homes and buildings with potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the Department of Housing and Community Development, or other state agency.
 - (vii) The serving of drinking water other than upon request in eating and/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;
- d) 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 guest room using clear and easily understood language.
- e) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

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F) STAGE TWO WATER USE RESTRICTIONS

(L)

1. WASTEFUL USES OF WATER (STAGE 2)

(C)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

a) Outdoor Irrigation Restrictions (Stage 2)

(i) Irrigating ornamental landscapes with potable water is limited to no more than three (3) days per week, on a schedule established and posted by Cal Water on its website or otherwise provided to customers by bill message, bill insert, direct mail, or email.

(1) Notwithstanding the foregoing irrigation restriction, irrigation of special landscape areas or commercial nurseries may occur as needed, provided that the customer who wishes to irrigate a special landscape area or commercial nursery presents Cal Water with a plan to achieve water use reductions commensurate with those that would be achieved by complying with the foregoing restrictions.

(ii) Irrigating ornamental landscape with potable water is prohibited during the hours between 8:00 a.m. and 6:00 p.m.

(iii) The foregoing irrigation restrictions do not apply to:

(1) Landscape irrigation zones that exclusively use drip irrigation systems and/or micro spray irrigation systems;

(2) Irrigating ornamental landscapes with the use of a hand-held bucket or similar container, with a continuously monitored hose which is fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored, or for the express purpose of adjusting or repairing an irrigation system.

(iv) Notwithstanding the foregoing restrictions, when a city, county, or other public agency in one of Cal Water's service areas duly adopts restrictions on the number of days or hours of the day that customers may irrigate that are different than those adopted by Cal Water, Cal Water may enforce the city, county, or other public agency's restrictions.

b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within five (5) business days of written notification by Cal Water, unless other arrangements are made with Cal Water.

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F) STAGE TWO WATER USE RESTRICTIONS (continued)

(C)

1. WASTEFUL USES OF WATER (STAGE 2) (continued)

- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:
 - (i) The application of potable water to 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;
 - (ii) The use of a hose that dispenses potable water to wash vehicles, including cars, trucks, buses, boats, aircraft, and trailers, whether motorized or not, 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;
 - (iii) The application of potable water to driveways and sidewalks;
 - (iv) The use of potable water in a water feature, except where the water is part of a recirculating system;
 - (v) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);
 - (vi) Irrigation outside of newly constructed homes and buildings with potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the Department of Housing and Community Development, or other state agency.
 - (vii) The serving of drinking water other than upon request in eating and 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.
- d) 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 guest room using clear and easily understood language.
- e) New connections may not install single-pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons.
- f) New connections may not install non-recirculating systems for conveyer car wash applications.
- g) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

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G) STAGE THREE WATER USE RESTRICTIONS

(L)

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 3)

Water budgets may be imposed by Cal Water which may include provisions such as minimum water budgets to protect the health and safety of customers, an appeals process, and water banking allowing customer additional flexibility with regard to their required reductions.

(C)

In addition to the normal rate paid for the unit of water, a drought surcharge will be charged to a customer for each unit of water used over the established water budget for the billing period.

(C)

Details regarding the implementation of "Mandatory Water Budgets and Banking" will be submitted as part of any request to activate Stage 3 of this Schedule.

(N)

(N)

2. WASTEFUL USES OF WATER (STAGE 3)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

(D)

a) Outdoor Irrigation Restrictions (Stage 3)

- (i) Irrigating ornamental landscapes with potable water is limited to no more than three (3) days per week, on a schedule established and posted by Cal Water on its website or otherwise provided to customers by bill message, bill insert, direct mail, or email.

(C)

(D)

- (1) Notwithstanding the foregoing irrigation restriction, irrigation of special landscape areas or commercial nurseries may occur as needed, provided that the customer who wishes to irrigate a special landscape area or commercial nursery presents Cal Water with a plan to achieve water use reductions commensurate with those that would be achieved by complying with the foregoing restrictions.

(T)

- (ii) Irrigating ornamental landscape with potable water is prohibited during the hours between 8:00 a.m. and 6:00 p.m.

- (iii) The foregoing irrigation restrictions do not apply to:

- (1) Landscape irrigation zones that exclusively use drip irrigation systems and/or micro spray irrigation systems;

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G) STAGE THREE WATER USE RESTRICTIONS (continued)

(L)

2. WASTEFUL USES OF WATER (STAGE 3) (continued)

a) Outdoor Irrigation Restrictions (Stage 3)(continued)

(iii) The foregoing irrigation restrictions do not apply to: (continued)

...

(2) Irrigating ornamental landscapes with the use of a hand-held bucket or similar container, with a continuously monitored hose which is fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored, or for the express purpose of adjusting or repairing an irrigation system.

(iv) Notwithstanding the foregoing restrictions, when a city, county, or other public agency in one of Cal Water's service areas duly adopts restrictions on the number of days or hours of the day that customers may irrigate that are different than those adopted by Cal Water, Cal Water may enforce the city, county, or other public agency's restrictions.

(T)

(T)

b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within three (3) business days of written notification by Cal Water, unless other arrangements are made with Cal Water.

(C)

c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:

(i) The application of potable water to 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;

(T)

(ii) The use of a hose that dispenses potable water to wash vehicles, including cars, trucks, buses, boats, aircraft, and trailers, whether motorized or not, 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;

(T)

(iii) The application of potable water to driveways and sidewalks;

(iv) The use of potable water in a water feature, except where the water is part of a recirculating system;

(v) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);

(T)

(vi) Irrigation outside of newly constructed homes and buildings with potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the Department of Housing and Community Development, or other state agency.

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G) STAGE THREE WATER USE RESTRICTIONS (continued)

2. WASTEFUL USES OF WATER (STAGE 3) (continued)

- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions: (continued)
...
(vii) The serving of drinking water other than upon request in eating and/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;
(viii) Irrigation of ornamental turf on public street medians with potable water;
(ix) Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible);
(x) Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or method can be used.
- d) 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 guest room using clear and easily understood language.
- e) New connections may not install single-pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons.
- f) New connections may not install non-recirculating systems for conveyer car wash applications.
- g) Filling or re-filling ornamental lakes or ponds with potable water is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to the implementation of any staged mandatory restrictions of water use as described in this Schedule.
- h) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

H) STAGE FOUR WATER USE RESTRICTIONS

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 4)

Water budgets may be imposed by Cal Water which may include provisions such as minimum water budgets to protect the health and safety of customers, an appeals process, and water banking allowing customer additional flexibility with regard to their required reductions.

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H) STAGE FOUR WATER USE RESTRICTIONS (continued)

(L)

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 4) (continued)

In addition to the normal rate paid for the unit of water, a drought surcharge will be charged to a customer for each unit of water used over the established water budget for the billing period.

(C)
(C)

Details regarding the implementation of "Mandatory Water Budgets and Banking" will be submitted as part of any request to activate Stage 4 of this Schedule.

(N)
(N)

2. WASTEFUL USES OF WATER (STAGE 4)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

a) Outdoor Irrigation Restrictions (Stage 4)

(D)
(C)

(i) Irrigating ornamental landscapes with potable water is limited to no more than two (2) days per week, on a schedule established and posted by Cal Water on its website or otherwise provided to customers by bill message, bill insert, direct mail, or email, or as follows:

(1) Notwithstanding the foregoing irrigation restriction, irrigation of special landscape areas or commercial nurseries may occur as needed, provided that the customer who wishes to irrigate a special landscape area or commercial nursery presents Cal Water with a plan to achieve water use reductions commensurate with those that would be achieved by complying with the foregoing restrictions.

(ii) Irrigating ornamental landscape with potable water is prohibited during the hours between 8:00 a.m. and 6:00 p.m.

(iii) The foregoing irrigation restrictions do not apply to:

(1) Landscape irrigation zones that exclusively use drip irrigation systems and/or micro spray irrigation systems;

(2) Irrigating ornamental landscapes with the use of a hand-held bucket or similar container, with a continuously monitored hose which is fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored, or for the express purpose of adjusting or repairing an irrigation system.

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H) STAGE FOUR WATER USE RESTRICTIONS (continued)

(L)

2. WASTEFUL USES OF WATER (STAGE 4) (continued)

a) Outdoor Irrigation Restrictions (Stage 4) (continued)

...

(iv) Notwithstanding the foregoing restrictions, when a city, county, or other public agency in one of Cal Water's service areas duly adopts restrictions on the number of days or hours of the day that customers may irrigate that are different than those adopted by Cal Water, Cal Water may enforce the city, county, or other public agency's restrictions.

b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within two (2) business days of written notification by Cal Water, unless other arrangements are made with Cal Water.

(C)

c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:

(i) The application of potable water to 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;

(ii) The application of potable water to driveways and sidewalks;

(iii) The use of potable water in a water feature, except where the water is part of a recirculating system;

(iv) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);

(T)

(v) Irrigation outside of newly constructed homes and buildings with potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the Department of Housing and Community Development, or other state agency.

(N)

(N)

(vi) The serving of drinking water other than upon request in eating and/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;

(T)

(vii) Irrigation of ornamental turf on public street medians with potable water;

(N)

(viii) The use of potable water to fill or refill decorative fountains or pools;

(ix) The use of potable water for recreational facilities such as water parks;

(x) Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible);

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H) STAGE FOUR WATER USE RESTRICTIONS (continued)

(L)

2. WASTEFUL USES OF WATER (STAGE 4) (continued)

- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions: (continued)
...
(xi) Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or method can be used.
- d) 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 guest room using clear and easily understood language.
- e) New connections may not install single-pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons.
- f) New connections may not install non-recirculating systems for conveyer car wash applications.
- g) Filling or re-filling ornamental lakes or ponds with potable water is prohibited, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to the implementation of any staged mandatory restrictions of water use as described in this Schedule.
- h) Car washing is only permitted using a commercial car wash that recirculates water or by high pressure/low volume wash systems.
- i) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

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(N)

(N)

(T)

(N)

(N)

(L)

I) STAGE FIVE WATER USE RESTRICTIONS

(C)

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 5)

Water budgets may be imposed by Cal Water which may include provisions such as minimum water budgets to protect the health and safety of customers, an appeals process, and water banking allowing customer additional flexibility with regard to their required reductions.

In addition to the normal rate paid for the unit of water, a drought surcharge will be charged to a customer for each unit of water used over the established water budget for the billing period.

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I) STAGE 5 WATER USE RESTRICTIONS (continued)

(N)

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 5) (continued)

...

Details regarding the implementation of "Mandatory Water Budgets and Banking" will be submitted as part of any request to activate Stage 5 of this Schedule.

2. WASTEFUL USES OF WATER (STAGE 5)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

a) Outdoor Irrigation Restrictions (Stage 5)

- (i) Irrigating ornamental landscapes with potable water is limited to no more than one (1) day per week, on a schedule established and posted by Cal Water on its website or otherwise provided to customers by bill message, bill insert, direct mail, or email, or as follows:

- (1) Notwithstanding the foregoing irrigation restriction, irrigation of special landscape areas or commercial nurseries may occur as needed, provided that the customer who wishes to irrigate a special landscape area or commercial nursery presents Cal Water with a plan to achieve water use reductions commensurate with those that would be achieved by complying with the foregoing restrictions.

- (ii) Irrigating ornamental landscape with potable water is prohibited during the hours between 8:00 a.m. and 6:00 p.m.

- (iii) The foregoing irrigation restrictions do not apply to:

- (1) Landscape irrigation zones that exclusively use drip irrigation systems and/or micro spray irrigation systems;
- (2) Irrigating ornamental landscapes with the use of a hand-held bucket or similar container, with a continuously monitored hose which is fitted with an automatic shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use or monitored, or for the express purpose of adjusting or repairing an irrigation system.

- (iv) Notwithstanding the foregoing restrictions, when a city, county, or other public agency in one of Cal Water's service areas duly adopts restrictions on the number of days or hours of the day that customers may irrigate that are different than those adopted by Cal Water, Cal Water may enforce the city, county, or other public agency's restrictions.

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I) STAGE FIVE WATER USE RESTRICTIONS (continued)

2. WASTEFUL USES OF WATER (STAGE 5) (continued)

...

- b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within one (1) business day of written notification by Cal Water, unless other arrangements are made with Cal Water.
- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:
 - (i) The application of potable water to 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;
 - (ii) The application of potable water to driveways and sidewalks;
 - (iii) The use of potable water in a water feature, except where the water is part of a recirculating system;
 - (iv) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);
 - (v) Irrigation outside of newly constructed homes and buildings with potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission, the Department of Housing and Community Development, or other state agency.
 - (vi) The serving of drinking water other than upon request in eating and 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;
 - (vii) Irrigation of ornamental turf on public street medians with potable water;
 - (viii) The use of potable water to fill refill decorative fountains or pools;
 - (ix) The use of potable water for recreational facilities such as water parks;
 - (x) Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes;
 - (xi) Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses.
- d) 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 guest room using clear and easily understood language.

(N)

(N)

(Continued)

(To be inserted by utility)

Advice Letter 2412

Decision

Issued By

Greg A. Milleman

Vice President

(To be inserted by CPUC)

Date Filed

Effective

Resolution

Schedule No. 14.1

Page 19

WATER SHORTAGE CONTINGENCY PLAN

WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

I) STAGE FIVE WATER USE RESTRICTIONS (continued)

(N)

2. WASTEFUL USES OF WATER (STAGE 5) (continued)

...

- e) New and existing connections may not install or utilize single-pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons.
- f) New connections may not install non-recirculating systems for conveyer car wash applications.
- g) Filling or re-filling ornamental lakes or ponds with potable water is prohibited.
- h) Car washing is only permitted using a commercial car wash that recirculates water or by high pressure/low volume wash systems.
- i) Pool covers are required for all pools and spas.
- j) New service connections must result in a net zero demand increase.
- k) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

J) STAGE SIX WATER USE RESTRICTIONS

1. MANDATORY WATER BUDGETS AND BANKING (STAGE 6)

Water budgets may be imposed by Cal Water which may include provisions such as minimum water budgets to protect the health and safety of customers, an appeals process, and water banking allowing customer additional flexibility with regard to their required reductions.

In addition to the normal rate paid for the unit of water, a drought surcharge will be charged to a customer for each unit of water used over the established water budget for the billing period.

Details regarding the implementation of "Mandatory Water Budgets and Banking" will be submitted as part of any request to activate Stage 6 of this Schedule.

2. WASTEFUL USES OF WATER (STAGE 6)

The following restrictions may be imposed by Cal Water, except where necessary to address an immediate health or safety need, or to comply with a term or condition in a permit issued by a state or federal agency:

(N)

(Continued)

(To be inserted by utility)

Issued By

(To be inserted by CPUC)

Advice Letter 2412

Greg A. Milleman

Date Filed _____

Decision

Vice President

Effective _____

Resolution _____

Schedule No. 14.1

Page 20

WATER SHORTAGE CONTINGENCY PLAN
WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

J) STAGE SIX WATER USE RESTRICTIONS (continued)

(N)

2. WASTEFUL USES OF WATER (STAGE 6) (continued)

...

- a) Outdoor Irrigation Restrictions (Stage 6)
 - (i) Irrigating ornamental landscapes with potable water is prohibited.
 - (ii) Notwithstanding the foregoing irrigation restriction, when a city, county, or other public agency in one of Cal Water's service areas duly adopts restrictions on the number of days or hours of the day that customers may irrigate that are different than those adopted by Cal Water, Cal Water may enforce the city, county, or other public agency's restrictions.
- b) Obligation to Fix Leaks, Breaks, or Malfunctions: All leaks, breaks, or other malfunctions in the customer's plumbing fixtures and/or irrigation system must be repaired within one (1) business day of written notification by Cal Water, unless other arrangements are made with Cal Water.
- c) Prohibited Uses of Water: Customers are prohibited from using potable water for the following actions:
 - (i) The application of potable water to 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;
 - (ii) The application of potable water to driveways and sidewalks;
 - (iii) The use of potable water in a water feature, except where the water is part of a recirculating system;
 - (iv) The application of potable water to outdoor landscapes during and within forty-eight (48) hours after measurable rainfall (see Definitions);
 - (v) The serving of drinking water other than upon request in eating and 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;
 - (vi) The use of potable water to fill or refill decorative fountains or pools;
 - (vii) The use of potable water for recreational facilities such as water parks;
 - (viii) Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes;
 - (ix) Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses.
- d) 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 guest room using clear and easily understood language.

(N)

(Continued)

(To be inserted by utility)

Issued By

(To be inserted by CPUC)

Advice Letter 2412

Greg A. Milleman

Date Filed _____

Decision

Vice President

Effective _____

Resolution _____

Schedule No. 14.1

Page 21

WATER SHORTAGE CONTINGENCY PLAN

WITH STAGED MANDATORY REDUCTIONS AND DROUGHT SURCHARGES

J) STAGE SIX WATER USE RESTRICTIONS (continued)

(N)

2. WASTEFUL USES OF WATER (STAGE 6) (continued)

...

- e) New connections may not install single-pass cooling systems for air conditioning or other cooling system applications unless required for health or safety reasons.
- f) New connections may not install non-recirculating systems for conveyer car wash applications.
- g) Filling or re-filling ornamental lakes or ponds with potable water is prohibited.
- h) Car washing is only permitted using a commercial car wash that recirculates water or by high pressure/low volume wash systems;
- i) Pool covers are required for all pools and spas.
- j) New service connections shall not be allowed.
- k) Other duly adopted restrictions on the use of potable water as prescribed from time to time by the Commission or other authorized government agencies are incorporated herein by reference.

(N)

(To be inserted by utility)

Advice Letter 2412

Decision

Issued By

Greg A. Milleman

Vice President

(To be inserted by CPUC)

Date Filed _____

Effective _____

Resolution _____



110 W. Taylor Street
San Jose, CA 95110-2131

June 18, 2021

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Advice Letter No. 563

San Jose Water Company (U-168-W) (SJWC) hereby transmits for filing the following changes in tariff schedules applicable to its service area and which are attached hereto:

<u>Cal. P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Cancelling Cal. P.U.C. Sheet No.</u>
2118-W	Rule 14.1 – Water Shortage Contingency Plan (Continued)	1658-W
2119-W	Rule 14.1 – Water Shortage Contingency Plan (Continued)	1659-W
2120-W	Rule 14.1 – Water Shortage Contingency Plan (Continued)	1781-W
2121-W	Rule 14.1 – Water Shortage Contingency Plan (Continued)	1782-W
2122-W	Rule 14.1 – Water Shortage Contingency Plan (Continued)	
2123-W	Table of Contents	2115-W
2124-W	Table of Contents (Continued)	2081-W

With this advice letter, SJWC requests authorization to update and activate its Rule 14.1 in response to the declared Water Shortage Emergency by Valley Water.

These tariffs are submitted pursuant to General Orders (GO) No. 96-B Water Industry Rules 7.3.2. This advice letter is designated as a Tier II Advice Letter.

The present rates for SJWC became effective January 1, 2021, by Advice Letter No. (AL) 556.

Background

SJWC originally updated and activated Schedule No. 14.1, including Drought Allocations and Excess Usage Surcharges, through AL 473, filed May 11, 2015, and its supplement, AL-473A. This was in response to the drought conditions and the local government actions taken in response to the drought during that time.

On July 11, 2016, SJWC filed AL 492 to modify Schedule No. 14.1 and set Drought Allocations at 20% of 2013 water usage. AL 492 was filed in response to the reduction in conservation requirements by the Santa Clara Valley Water District (Valley Water).

Through AL 505, filed January 27, 2017, SJWC notified the Commission that it was suspending its allocation program and all drought surcharges provided for in Schedule 14.1: Water Shortage Contingency Plan with Staged Mandatory Reductions and Drought Surcharges.

Due to current drought conditions, Valley Water has again issued mandatory water conservation use reductions. On June 9, 2021, Valley Water adopted a resolution calling for mandatory water use reductions of 15% compared to 2019 water use. Valley Water's resolution is attached hereto as Attachment A.

Request

SJWC is filing Advice Letter 563 to update its Rule No. 14.1, Water Shortage Contingency Plan, to align with its recently updated 2020 Urban Water Management Plan. In addition, this filing seeks to activate Stage 3 of its Water Shortage Contingency Plan to comply with Valley Water's mandatory conservation resolution. Proposed tariff sheets with the requested updates are attached hereto.

Effective Date

SJWC requests that the updated tariff sheets become effective June 9, 2021, the effective date of Valley Water's resolution.

Protests and Responses

Anyone may respond to or protest this advice letter. A response does not oppose the filing but presents information that may prove useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds may include the following:

- 1) The utility did not properly serve or give notice of the advice letter;
- 2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- 3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- 4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- 5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or

- 6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require relitigating a prior order of the Commission).

A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

Tariff Unit, Water Division, 3rd floor
California Public Utilities Commission,
505 Van Ness Avenue
San Francisco, CA 94102
water_division@cpuc.ca.gov

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy of the protest by mail to us, addressed to:

Regulatory Affairs
San Jose Water Company
110 West Taylor Street
San Jose, CA 95110
Fax 408.279.7934
regulatoryaffairs@sjwater.com.

The advice letter process does not provide for any responses, protests or comments, except for the utility's reply, after the 20-day comment period. Public notice is not required.

In compliance with Paragraph 4.3 of General Order 96-B, a copy of this advice letter has been emailed to all interested and affected parties as detailed in Attachment B. Due to the pandemic, no hardcopies of this filing is being mailed.

SJWC has Advice Letters 557, 561, and 562 pending before the Commission.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Very truly yours,

A handwritten signature in blue ink, appearing to be 'John Tang', with a stylized, cursive script.

JOHN TANG
Vice President of Regulatory Affairs
Enclosures

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 563

ATTACHMENT A

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 21-68

**RESCINDING RESOLUTION 17-43, DECLARING A WATER SHORTAGE
EMERGENCY CONDITION CALLING FOR WATER USE RESTRICTIONS, AND
URGING THE COUNTY OF SANTA CLARA TO PROCLAIM A LOCAL EMERGENCY**

WHEREAS, a public hearing was held on June 9, 2021, on the matter of whether the Santa Clara Valley Water District (Valley Water) Board of Directors should declare that a water shortage emergency condition exists within Santa Clara County (County); and

WHEREAS, notice of said hearing was published on June 2, 2021, in the *San Jose Mercury News*, a newspaper of general circulation printed and published within the County; and

WHEREAS, at said hearing, all persons present were given an opportunity to be heard by the Board; and

WHEREAS, the Board heard and considered public testimony, staff's presentation, and other evidence presented at said hearing; and

WHEREAS, the County is in its second consecutive year of drought, and the County is now in an extreme drought condition according to the United States Drought Monitor; and

WHEREAS, pursuant to Water Code Section 350 a "governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, shall declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection"; and

WHEREAS, the Board seeks to conserve the limited water supply of Valley Water for the greatest public benefit with particular regard to public health, fire protection, and domestic use without threatening local land subsidence, by ensuring the conservation of water, by avoiding the waste of water, and to the extent necessary and by reason of the existing water shortage emergency condition, by reducing water use in the County in a manner that is fair and equitable; and

WHEREAS, on March 22, 2021, the California State Water Resources Control Board mailed early warning notices to water rights holders in California, including Valley Water, urging them to plan for potential shortages by reducing water use and adopting practical conservation measures; and

WHEREAS, local watershed runoff was substantially limited in the 2020 and 2021 water years due to extreme dry conditions and Valley Water's current local surface water storage as of June 1 is at 26 percent of the 20-year average; and

WHEREAS, Anderson Reservoir is Valley Water's largest surface water reservoir and holds up to 89,278 acre-feet of water—more than all of Valley Water's other nine surface water reservoirs combined; and

WHEREAS, on February 20, 2020, the Federal Energy Regulatory Commission, for public health and safety reasons, ordered Valley Water to drain Anderson Reservoir to deadpool beginning no later than October 1, 2020; and

WHEREAS, Anderson Reservoir has been drained to deadpool and will not be available as a surface water storage facility for the duration of the Anderson Dam Seismic Retrofit Project, which is expected to last 10 years; and

WHEREAS, the availability of Coyote Reservoir, Valley Water's second largest reservoir, is also limited because of California Department of Water Resources Division of Safety of Dams storage limits; and

WHEREAS, due to the unavailability of Anderson Reservoir and limited availability of Coyote Reservoir due to regulatory restrictions, Valley Water's ability to store water locally for groundwater recharge and water treatment plant supplies, and as a buffer to mitigate against current and future water shortages, is significantly limited; and

WHEREAS, the snowpack in the northern Sierra Nevada Mountains was 5 percent of normal and the statewide snow water equivalent was zero percent of normal as of June 1, 2021; and the 2021 State Water Project allocation is 5 percent, and the 2021 South-of-Delta Central Valley Project allocation is currently 25 percent for Municipal & Industrial water and zero percent for Agricultural water; and

WHEREAS, there is significant uncertainty as to local and statewide water supply conditions, and imported supplies may continue to be negatively impacted; and

WHEREAS, Santa Clara County relies heavily on unpredictable imported water to supplement local water to supply its drinking water treatment plants, to replenish the local groundwater basins, and to prevent adverse community impacts such as the return of historic overdraft and land subsidence in northern Santa Clara County; and

WHEREAS, through careful groundwater management, Santa Clara County groundwater storage at the start of 2021 was well within the "Normal" stage (Stage 1) of Valley Water's Water Shortage Contingency Plan, but without additional water use reduction this storage is expected to drop significantly by as much as 80,000 acre-feet by the end of 2021 due to limited recharge and increased pumping as a result of drought conditions, reduced imported water allocations, and the loss of Anderson Reservoir as a surface water storage facility; and

WHEREAS, if drought conditions continue into 2022 and imported water supplies continue to be severely limited, the worst case scenario projects groundwater to drop to the "Emergency" stage (Stage 5) of the Water Shortage Contingency Plan without additional water use reduction, which would greatly increase the risk of resumed land subsidence in northern Santa Clara County, risk wells going dry in residential areas of the County where groundwater is the sole source of drinking water, and risk that the ordinary demands and requirements of water consumers will not be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, due to historic groundwater overdraft, the greater San José metropolitan area and heart of Silicon Valley had up to 14 feet of permanent subsidence, which resulted in seawater

intrusion, increased flood risk, and widespread damage to infrastructure, conservatively estimated to cost over \$947 million in 2021 dollars; and

WHEREAS, over 3,000 domestic wells users in southern Santa Clara County depend on groundwater for potable water supplies and these wells are often more vulnerable than public water supply wells, which are typically deeper; and

WHEREAS, Valley Water must maintain sufficient groundwater storage to guard against land subsidence, meet local water demands, cope with supply interruptions from natural disasters and ensure sufficient water for fire protection; and

WHEREAS, it is Valley Water's policy and is in the interest of Valley Water and the community to reduce the severity and occurrences of drought or dry weather induced water shortages by encouraging water use reduction measures so that available water supplies can meet at least 80 percent of average annual demand in drought years; and

WHEREAS, Santa Clara County and the region are subject to reoccurring droughts of varying severity, such as those prompting Valley Water to call for water use reductions in 1977, 1987 to 1992, 2007 to 2010; and

WHEREAS, Santa Clara County and California experienced a historic, multiyear drought from 2012 to 2016, prompting Valley Water to call for mandatory water use reductions between 20 to 30 percent since 2014; and

WHEREAS, on June 13, 2017, by Resolution 17-43, Valley Water continued its call for a voluntary 20 percent water use reduction (as compared to 2013 water use), and called for efforts to make water conservation a way of life; and

WHEREAS, on April 27, 2021, the Board voted to call for a voluntary 25 percent water use reduction (as compared to 2013 water use); and

WHEREAS, continuing the progress and momentum of community water use reductions and water wise efforts to make water conservation a way of life will improve long-term water supply reliability; and

WHEREAS, increasing long-term water conservation efforts and improving water use efficiency; strengthening local and regional drought planning; and increasing water supply and land use planning coordination are critical to Santa Clara County's resilience to drought, which may be intensified in the future with climate change; and

WHEREAS, Valley Water continues to work closely with its retail water agencies, untreated surface water customers, well owners, farmers, regulatory agencies, state and federal project operators, other water districts, and local municipalities and land use agencies to develop common sense approaches with the goal of achieving drought resiliency.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District hereby:

1. Rescinds Board Resolution 17-43; and
2. Declares pursuant to California Water Code Section 350 that a water shortage emergency condition now prevails within the County and a continued supply of water cannot be assured for human consumption, sanitation, and fire protection without threatening local land subsidence, and that such water shortage emergency condition shall continue until the Valley Water's Board adopts a finding determining otherwise; and
3. Establishes a water reduction program pursuant to Article C(4)(c) of Valley Water's treated water contracts by calling for water retailers to achieve a water use reduction equal to 33 percent of 2013 water use (15 percent of 2019 water use), which will result in a 23 percent reduction of Valley Water treated water scheduled deliveries to water retailers while such water reduction program is in effect; and
4. Commits to aggressively promote its conservation programs and information for the public, residents, businesses, agricultural and untreated water customers, and retailers to support all sectors in reducing water use; and
5. Urges Santa Clara County farmers and untreated water customers to consider the water shortage emergency condition in planting and irrigation practices; and
6. Calls for the public to restrict outdoor watering of ornamental landscapes or lawns with potable water to a maximum of three days a week; and
7. Urges local enforcement of other water waste restrictions currently in effect by local agencies and retailers, or as may be amended; and
8. Requests that the Santa Clara County Board of Supervisors proclaim a local emergency now exists throughout the County due to drought conditions; and
9. Supports local adoption and enforcement of additional water waste restrictions by cities, retailers, and the County as needed to achieve the water use reduction target of 15 percent of 2019 water use (33 percent of 2013 water use); these may include prohibitions against the following:
 - Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
 - Excessive use of water: when a utility has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to affect such repairs within five business days, the utility may install a flow restriction device;
 - Use of potable water that results in flooding or runoff in gutters or streets;

- Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;
 - Use of potable water for washing buildings, structures, driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
 - Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific schedule, for example: 1) before 9:00 a.m. and after 5:00 p.m.; 2) every other day; or 3) selected days of the week;
 - Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
 - Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used;
 - Use of potable water for construction purposes unless no other source of water or other method can be used;
 - Use of potable water for street cleaning;
 - Operation of commercial car washes without recycling at least 50 percent of the potable water used per cycle;
 - Use of potable water for watering outside plants, lawn, landscape, and turf areas during certain hours if and when specified in CPUC Tariff Schedule No. 14.1 when the schedule is in effect;
 - Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
 - Use of potable water for the filling or refilling of swimming pools;
 - Service of water by any restaurant except upon the request of a patron; and
 - Use of potable water to flush hydrants, except where required for public health or safety.
10. Recommends cities, retailers, and the County consider adopting water waste restrictions that are permanent.

Rescinding Resolution 17-43, Declaring a Water Shortage Emergency Condition Calling for
Water Use Restrictions, and Urging the County of Santa Clara to Proclaim a Local Emergency
Resolution No. 21-68

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by
the following vote on June 9, 2021:

AYES: Directors R. Santos, N. Hsueh, T. Estremera, B. Keegan, G. Kremen,
L. LeZotte, J. Varela
NOES: Directors None
ABSENT: Directors None
ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT


TONY ESTREMER
Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk, Board of Directors

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 563

ATTACHMENT B

**SAN JOSE WATER COMPANY (U-168-
W) ADVICE LETTER 563 SERVICE LIST**

Big Redwood Park Water	waldburford@gmail.com
Brush & Old Well Mutual Water Company	BOWMWC@brushroad.com
Cal Water	cwsrates@calwater.com
City of Campbell	publicworks@cityofcampbell.com
City of Cupertino City Attorney	cityattorney@cupertino.org
City of Cupertino Director of Public Works	rogerl@cupertino.org
City of Milpitas	tndah@ci.milpitas.ca.gov
City of Milpitas	smachida@ci.milpitas.ca.gov
City of Monte Sereno	steve@cityofmontesereno.org
City of Monte Sereno	bmekechuk@cityofmontesereno.org
City of Santa Clara	water@santaclaraca.gov
City of San Jose	jeffrey.provenzano@sanjoseca.gov
City of Saratoga	jcherbone@saratoga.ca.us
County of Santa Clara	county.counsel@cco.sccgov.org
DB Davis	dbdavis@rockwellcollins.com
Dept. of Water Resources, Safe Drinking Water Office	sdwo@water.ca.gov
Valley Water	dtaylor@valleywater.org
Gillette Mutual Water Company	gapowerz@gmail.com
Gillette Mutual Water Company	goldiey@pacbell.net
Gillette Mutual Water Company	keyoung@pacbell.net
Great Oaks Water	jroeder@greatoakswater.com
Great Oaks Water	tguster@greatoakswater.com
Cal Water	jpolanco@calwater.com
James Hunter	j88hunter882@gmail.com
City of Cupertino	KirstenS@cupertino.org
Public Advocates Office	mukunda.dawadi@cpuc.ca.gov
Public Advocates Office	PublicAdvocatesWater@cpuc.ca.gov
Mountain Springs Mutual Water Co.	Lorenroy@icloud.com
Mt. Summit Mutual Water Company	wshoefler@comcast.net
Oakmount Mutual Water Company	gortiz12@comcast.net
Patrick Kearns MD	pjk3@comcast.net
Raineri Mutual Water Company	info@rainerimutual.org
Ridge Mutual Water Company	pmantey@yahoo.com
Rishi Kumar	rkumar@saratoga.ca.us
San Jose Mercury News	progers@bayareanewsgroup.com
Valley Water	afulcher@valleywater.org
Valley Water	abaker@valleywater.org
Saratoga Heights Mutual Water Company	sjw@shmwc.org
SouthWest Water Company	kcarlson@swwc.com
Stagecoach Mutual Water Company	stagecoachroadMWC@gmail.com
Summit West	RJonesPE@aol.com
Summit West	board@summitwest.org
Town of Los Gatos Dir. of Public Works	ppw@losgatosca.gov
WRATES	rita_benton@ymail.com
Villa Del Monte	mntmom33@comcast.net

RULE NO. 14.1
WATER SHORTAGE CONTINGENCY PLAN

A. GENERAL INFORMATION (Continued)

5. All monies collected by the utility through surcharges or fees shall be booked to the WRAM or a similar memorandum account to offset recovery of lost revenues.
6. All expenses incurred by the utility to implement Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding shall be recoverable by the utility if determined to be reasonable by Commission. These additional monies shall be accumulated by the utility in a separate memorandum account, for disposition as directed or authorized from time to time by the Commission.
7. When Schedule 14.1 is in effect and the utility determines that water supplies are again sufficient to meet normal demands, and mandatory restrictions are no longer necessary, the utility shall seek Commission approval via a Tier 1 advice letter to deactivate the particular stage of mandatory reductions or allocations that had been authorized.
8. None of the below restrictions apply to the use of recycled water. These restrictions also shall not apply (except for Stage 4) to commercial nurseries, golf courses, or other water-dependent businesses, unless specifically required by SJWC or a governing jurisdiction.

B. CONSERVATION – NONESSENTIAL OR UNAUTHORIZED USES

STAGE 1 (CONSERVATION AND OUTREACH): Stage 1 is a call for voluntary conservation. This stage will be called by SJWC when customers are asked to meet conservation targets.

(N)

The following non-essential or unauthorized uses of water are declared to be a wasteful of water and are subject to the terms and conditions of Rule No. 11:

1. Limits on Watering: Watering or irrigating of outside plants, lawn, landscape, and turf areas with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than 15 minutes of watering per day per station, with no watering between 10:00 a.m. and 8:00 p.m. This provision does not apply to landscape irrigation zones that exclusively use drip-type irrigation systems. This provision also does not apply to low precipitation sprinkler systems that apply water at or less than 1.0 inch per hour. This provision also does not apply to watering or irrigating by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive action shut-off nozzle or device that causes it to cease dispensing water immediately when not in use, or for the express purpose of adjusting or repairing an irrigation system. However no irrigation can occur regardless of method that results in runoffs.
2. Use of potable water for watering outside plants lawn, landscape, and turf areas during and up to 48 hours after measurable rainfall.

(N)

(Continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice No. 563

JOHN TANG
Vice President,
Regulatory Affairs

Date Filed _____

Effective _____

Dec. No. _____

Resolution No. _____

TITLE

RULE NO. 14.1
WATER SHORTAGE CONTINGENCY PLAN

(N)

B. CONSERVATION -NON-ESSENTIAL OR UNAUTHORIZED WATER USES (Continued)

STAGE 1 (CONSERVATION AND OUTREACH)

3. Obligation to Fix Leaks, Breaks or Malfunctions: Use of water through any broken or defective plumbing fixture, sprinkler, watering or irrigation system on the customer's premises when the utility has notified the customer in writing to repair the broken or defective plumbing fixture, sprinkler, watering or irrigation system, and the customer has failed to make such repairs within 5 business days after receipt of such notice.
4. Limits on Washing Vehicles: Use of potable water through a hand-held hose for washing cars, buses, boats, trailers, aircraft or other vehicles without a positive shut-off nozzle or device that causes it to cease dispensing water immediately when not in use.
5. Limit on Washing Structures and Paved Surfaces: Use of potable water through a hand-held Hose for washing buildings, structures, sidewalks, walkways driveways, patios, tennis courts, Or other had-surfaces, non-porous areas without a positive shut-off nozzle or devise that Causes it to cease dispensing water immediately when not in use.
6. Operation of commercial car washes that do not recycle the potable water used as required by the California Water Code Sections 10950-10953.
7. The serving of water, other than upon request, in eating and drinking establishments, including but not limited to restaurants, hotels, cafes, bars, or other public places where food or drink are served and/or purchased.
8. Operators hotels and motels are to provide guests with the option of choosing not to have towels and linens laundered daily and/or to require hotels and motels to prominently display a notice of this option in each guest bathroom using clear and easily understood language.
9. No Excessive Water Flow or Runoff: The use of potable water for washing buildings, structures, sidewalks, walkways, driveways, patios, tennis courts, or other hard-surfaced, non-porous areas in a manner that results in excessive run-off onto sidewalks, driveways, gutters or streets, or waste of water.
10. The use of potable water in a fountain or other decorative water device that does not have a fully automatic recirculation system, or the filling or topping off of decorative lakes or ponds, except where the water is part of a recirculating system.
11. Other restrictions on use of potable water as prescribed from time to time by the Commission, SJWC, or another governing body or agency.

(N)

(Continued)

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RULE NO. 14.1
WATER SHORTAGE CONTINGENCY PLAN

B. CONSERVATION -NON-ESSENTIAL OR UNAUTHORIZED WATER USE (Continued)

(N)

STAGE 2 (WATER REDUCTION NEEDED): Stage 2 is a call for voluntary conservation. This stage occurs when the Stage 1 limitations are deemed insufficient to achieve identified conservation targets established by SJWC. In addition to the non-essential or unauthorized uses of water listed in Stage 1, the following non-essential or unauthorized uses of water may be declared:

1. Limits on Watering Days: Watering or irrigating of lawns, landscape or other vegetated areas with potable water is limited to no more than three days per week. Irrigation will be allowed Mondays, Thursdays, and Saturdays for odd numbered and numberless addresses; irrigation will be allowed Tuesdays, Fridays and Sundays for even numbered addresses.
2. No Runoff: The use of potable water for washing for washing buildings, structures, sidewalks, walkways, driveways, patios, tennis courts, or other hard-surfaced, non-porous areas in a manner that results in run-off onto sidewalks, driveways, gutters or streets that is not redirected to landscape or vegetated areas.
3. Obligation to Fix Leaks, Breaks, or Malfunctions: Use of water through any broken or defective plumbing fixture, sprinkler, watering or irrigation system on the customer's premises when the utility has notified the customer in writing to repair the broken or defective plumbing fixture, sprinkler, watering or irrigation system, and the customer has failed to make such repairs within 72 hours after receipt of such notice
4. Other restrictions on use of potable water as prescribed by the Commission, SJWC, or Another governing body or agency.

C. STAGED REDUCTION OF WATER USAGE AND MANDATORY RESTRICTIONS

STAGE 3 (SEVERED WATER REDUCTION): Stage 3 (Severe Water Reduction) occurs when State 2 limitation are deemed insufficient to achieve identified water usage goals established by Authorized government entities. The following restriction will be enacted:

1. Limits on Watering Days: Watering or irrigation of lawns, landscape or other vegetated areas with potable water is limited to two days per week. Irrigation will be allowed Mondays and Thursdays for odd numbered and numberless addresses; irrigation will be allowed on Tuesdays and Fridays for even numbered addresses.
2. Limits on Filling Decorative Fountains or Ornamental Lakes or Pond: prohibition of the use of potable water for filling or re-filling decorative fountains, ornamental lakes or ponds more than one foot, except when fountains or ponds/lakes are drained for repairs, and except to the extent needed to sustain aquatic life in ponds/lakes, provided that such animals are of significant value and have been actively managed within the water featured prior to declaration of a supply shortage level under this Rule.

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RULE NO. 14.1
WATER SHORTAGE CONTINGENCY PLAN

(N)

C. STAGED REDUCTION OF WATER USAGE AND MANDATORY RESTRICTIONS
(continues)

STAGE 3 (SEVERED WATER REDUCTION):

3. Limits on Washing Vehicles: Washing of vehicles, except at a commercial car washing that utilizes recycled water or re-circulating water system to capture or reuse water.
4. Use of potable water for washing buildings, structures, sidewalks, walkways, driveways, Patios, tennis courts, or other hard-surfaces, non-porous areas, except to protect the health and safety of the public.
5. Use of potable water for construction purposes, including washing streets, backfill, and dust control, if other actions to accomplish the same purposes without water are feasible and/or permitted or if recycled water is reasonably available as determined by a government agency.
6. Other restriction on use of potable water as prescribed by the Commission, SJWC, or another Governing body or agency.

STAGE 4 (CRITICAL WATER REDUCTION): Stage 4 (Critical Water Reduction) occurs when the Stage 3 limitations are deemed insufficient to achieve identified water usage goals established by authorized government entities. The following restrictions will be enacted:

1. Limits on Water Days: Watering or irrigating of lawns, landscape or other vegetated areas with potable water is limited to one day per week. Irrigation will be allowed Mondays for odd numbered and numberless addresses; irrigation will be allowed on Tuesdays for even numbered addresses.
2. Limits on filling Residential Swimming Pools or Spas: prohibition of the use of potable water for filling or re-filling residential swimming pools or spas more than one foot, except when pools/spas are drained for repairs.
3. Obligations to Fix Leaks, Breaks , or Malfunctions: Use o water through any broken or defective plumbing fixture, sprinkler, watering or irrigation system on the customer's premise when the utility has notified the customer in writing to repair the broken or defective plumbing fixture, sprinklers, watering or irrigation system, and the customer has failed to make such repairs within 48 hours after receipt of such notice.

(N)

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RULE NO. 14.1
WATER SHORTAGE CONTINGENCY PLAN

C. STAGED REDUCTION OF WATER USAGE AND MANDATORY RESTRICTIONS
(continues)

(N)

STAGE 5 (EMERGENCY WATER REDUCTION): Stage 5 (Emergency Water Reduction) occurs when the Stage 4 limitations are deemed insufficient to achieve identified water usage goals established by authorized government entities. The following restrictions will be enacted:

1. No Watering or Irrigating: Watering or irrigation of lawn, landscape or other vegetated area with potable water is prohibited. This restriction does not apply to the following categories of use:
 - i. Maintenance of vegetation, including trees and shrubs, that are watered using a hand-held bucket or similar container, hand-held hose equipped with a positive action shut-off nozzle or device;
 - ii. Maintenance of existing landscape necessary for fire protection, with the exception of turf grass;
 - iii. Maintenance of existing landscape for soil erosion control;
 - iv. Maintenance of plant materials identified to be rare or essential to the well-being of a protected species;
 - v. Maintenance of landscape within active public parks and playing fields, day care centers, golf course greens, fringes and tee boxes, and school grounds, provided that such irrigation does not exceed 2 days per week.
2. Limits on Filling Residential Swimming Pools or Spas: prohibition of the use of potable water for filling or re-filling residential swimming pools or spas.
3. Limits on Filling Ornamental Lakes or Ponds: prohibition of the use of potable water for filling or refilling ornamental lakes or ponds, except to the extent needed to sustain aquatic life in ponds/lakes, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a supply shortage level under this Rule.
4. Limits on Filling Decorative Fountains: prohibition of the use of potable water for filling or re-filling fountains or other decorative water devices.
5. Other restrictions on use of potable water as prescribed by the Commission, SJWC, or another governing body or agency.

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The following listed tariff sheets contain all effective rates, rules and regulations affecting the rates and service of the Utility, together with information relating thereto:

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CITY OF CUPERTINO

Agenda Item

21-9676

Agenda Date: 7/22/2021
Agenda #: 2.

Subject: Public Employee Performance Evaluation. (Government Code Section 54957(b)). Title: City Manager