

ORDINANCE NO. 33

ORDINANCE OF THE MESA WATER DISTRICT BOARD OF DIRECTORS MAKING FINDINGS, ADOPTING THE MESA WATER DISTRICT WATER SHORTAGE RESPONSE ORDINANCE RESCINDING ORDINANCE NO. 32 AND TAKING RELATED ACTIONS

WHEREAS, Mesa Water District (Mesa Water® or District) is a county water district organized and operating pursuant to the provisions of the laws of the State of California (State or California); and

WHEREAS, water is a limited natural resource and the District desires to use this natural resource in the most efficient manner possible; and

WHEREAS, periodic droughts are a historic fact in the State; and

WHEREAS, Mesa Water has the authority to adopt water conservation requirements and programs to promote and effectuate water conservation and avoid water wastage; and

WHEREAS, the District desires to rescind and supersede its existing Water Conservation Programs and establish an updated Water Shortage Response Ordinance to conform to current State Water Resources Control Board Regulations; and

WHEREAS, the District's service area is located in a region with a mediterranean climate, densely populated demographics and a mixed economic base including residential, commercial, industrial and institutional consumers; and

WHEREAS, the District derives the water that it delivers to Mesa Water customers from local groundwater sources and supplemental water supply imported from outside the District's boundaries; and

WHEREAS, the quality and quantity of supplemental imported water is under the control of other agencies, and may be subject to conditions beyond the control of those other agencies or Mesa Water; and

WHEREAS, pursuant to California Water Code Section 31026, Mesa Water may restrict the use of water that the District provides during any emergency caused by drought, or other threatened or existing water shortage, and prohibit the wastage of water or the use of water Mesa Water provides during such periods, for any purpose other than domestic uses or such other restricted uses as may be determined to be necessary by the District, and may prohibit use of water Mesa Water provides during such periods for specific uses that Mesa Water may from time to time find to be non-essential; and

WHEREAS, California, including Orange County, experienced significant dry year conditions in 2012-2017, which led local water agencies to declare water shortage conditions that triggered various water conservation actions; and

WHEREAS, Mesa Water has experienced direct impacts on the reliability of available water supplies from time to time; and

WHEREAS, the District's water delivery reliability was increased through customer curtailment in response to demand management measures implemented by Mesa Water; and

WHEREAS, water demand management measures actions were specified in Mesa Water's 2015 Urban Water Management Plan (specifically the Water Shortage Contingency Plan chapter) that adopted Water Shortage Contingency Plan actions based on levels of drought severity, which provided the legal authority for implementation and enforcement through Mesa Water's existing Ordinance No. 32; and

WHEREAS, following the end of the most recent drought, the California Legislature modified the Urban Water Management Planning Act in 2018 to include additional water shortage planning requirements; and

WHEREAS, legislative changes to the California Water Code, specifically to Water Code Section 10632, currently mandate new elements to be included in public agency Urban Water Management Plans and Water Shortage Contingency Plans, including an annual drought risk assessment, reference to State Water Shortage Levels and Statewide water use prohibitions; and

WHEREAS, the Municipal Water District of Orange County (MWDOC) has adopted a 2020 Urban Water Management Plan that includes water conservation as a necessary and effective component of MWDOC's programs to provide a reliable supply of water to meet the needs of MWDOC's 28 member agencies, including Mesa Water; and

WHEREAS, MWDOC's Urban Water Management Plan also includes a chapter on contingency analysis of actions to be taken in response to water supply shortages; and

WHEREAS, this Ordinance is consistent with MWDOC's Urban Water Management Plan and Water Shortage Contingency Plan; and

WHEREAS, the imported water supplies available to Mesa Water through MWDOC are subject to the Water Shortage Allocations determined by the Metropolitan Water District of Southern California (Metropolitan); and

WHEREAS, subsequently, when triggered, MWDOC, as a wholesaler of Metropolitan's water supplies, will be required to curtail deliveries of imported water based

on MWDOC's Water Shortage Allocation Plan, which from time to time in the future is expected to be activated when a state of shortage exists; and

WHEREAS, as of July 1, 2021, both MWDOC and Mesa Water were required to prepare an Annual Water Supply and Demand Assessment and Drought Risk Assessment as part of their respective Urban Water Management Plans for submission to the California Department of Water Resources; and

WHEREAS, annually, by July 1st of each year, beginning the year following the adoption of the 2020 Urban Water Management Plan, MWDOC and Mesa Water are required to monitor, report, and if declared a drought emergency, then notify the California Department of Water Resources, in order to comply with the California Water Code Section 10632.1 reporting requirements; and

WHEREAS, Mesa Water has adopted, and amended, a Water Shortage Contingency Plan as part of Mesa Water's 2020 Urban Water Management Plan, to establish standards and procedures to enable implementation and enforcement of local water shortage contingency measures; and

WHEREAS, these measures align with the provisions of California Water Code Section 353, which specifies that "when the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection"; and

WHEREAS, the State has also directed Mesa Water to adopt a water conservation program to mitigate demands in California Water Code Section 375; and

WHEREAS, the Board of Directors (Board) of Mesa Water finds and determines that a water shortage or threat of a water shortage may be found to exist based upon the occurrence of one or more of the following conditions or circumstances:

- A. A general water supply shortage due to increased demand and/or limited supplies;
- B. Water distribution or storage facilities of Mesa Water or any agency supplying water to the District become inadequate or are restricted;
- C. A major failure of the water supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to the District;
- D. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to the District; and/or

- E. Acts of nature which in the opinion of Mesa Water constitute an emergency situation and/or which require special water conservation actions.

WHEREAS, prior to the adoption of this Ordinance, the Board has conducted a noticed public hearing to receive public comments concerning the subject matter hereof; and

WHEREAS, the purpose of this Ordinance is to adopt and enact the Water Shortage Response Ordinance within the District's service area.

NOW, THEREFORE, BE IT ORDAINED BY THE MESA WATER DISTRICT BOARD OF DIRECTORS AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. The Board hereby finds and determines as follows:

- a. A reliable minimum supply of potable water is essential to the public health, safety, and welfare of the people, and economy of the southern California region.
- b. Water management that includes active water use efficiency measures not only in times of drought, but at all times, is essential to ensure a reliable minimum supply of water to meet current and future water supply needs.
- c. California Water Code Section 375 authorizes water suppliers to adopt and enforce a comprehensive water conservation program to reduce water consumption and conserve supplies.
- d. Mesa Water has the authority, pursuant to California Water Code Sections 353-355, 31000, 31001 and 31026-31029, inclusive, to take action(s) relative to the use and conservation of water within Mesa Water's service area.
- e. The adoption and enforcement of a permanent Water Shortage Response Ordinance is necessary to help manage the District's potable water supply in the short and long-term and to avoid or minimize the effects of periodic drought and shortage conditions within, or affecting its service area and potable water supplies. Such ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.
- f. The Board does hereby find that the following circumstances may constitute an emergency condition or a threatened or existing water

shortage condition within or affecting Mesa Water:

- i. A general water supply shortage due to increased demand and/or limited supplies;
- ii. Distribution or storage facilities of Mesa Water or any agency supplying water to the District become inadequate;
- iii. A major failure of the supply, storage and/or distribution facilities of Mesa Water or any agency supplying water to Mesa Water's service area;
- iv. Contamination of the water supply, storage, and/or distribution facilities of Mesa Water or any agency supplying water to Mesa Water's service area; and/or
- v. Acts of nature, which in the opinion of the District constitute an emergency situation.

Section 3. Ordinance Designation; Purpose; Intent and Integration.

- a. This Ordinance establishes water management requirements necessary to conserve water, enables effective water supply planning, assures reasonable and beneficial use of water, prevents waste of water, prevents unreasonable use of water, prevents unreasonable methods of use of water within the boundaries of Mesa Water in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.
- b. This Ordinance establishes regulations to be implemented during times of declared water shortages or declared water shortage emergencies.
- c. This Ordinance establishes six Water Shortage Levels that are most often triggered due to drought or water shortage conditions to provide defined response actions to be implemented during times of declared water shortage or declared water shortage emergency, with increasing restrictions on water use in response to worsening drought or emergency conditions and decreasing supplies.
- d. This Ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. This Ordinance shall not act to repeal, supersede or amend any federal, State or local law, ordinance or

regulation relating to protection of water quality or control of drainage or runoff (including, but not limited to, any and all National Pollution Discharge Elimination System (NPDES) permits or requirements which may be applicable in such instance) or exempt any person or party from compliance therewith.

- e. Mesa Water's prior Water Conservation Programs, and Ordinance No. 32, as adopted and supplemented, as applicable, are rescinded and superseded upon this Ordinance becoming effective.

Section 4. Water Shortage Response Ordinance Provisions.

- a. The Water Shortage Response Ordinance provisions are set forth in Exhibit A to this Ordinance and are incorporated herein by this reference.
- b. The Water Shortage Response Ordinance shall be referred to in Mesa Water's Rules and Regulations for Water Service.
- c. The Board reserves the right to amend, revise, and/or supplement this Ordinance in the future based upon the District's needs, circumstances and requirements.
- d. This Ordinance is adopted by this Board pursuant to the provisions and authority set out in the California Constitution and California law as referenced herein.
- e. All penalties set forth in the Water Shortage Response Ordinance are administrative and regulatory penalties and are not fees or charges for water service or water capacity.

Section 5. California Environmental Quality Act (CEQA) Exemption.

The Board finds that this Ordinance, the Water Shortage Response Ordinance and actions taken hereafter pursuant to the Ordinance, are exempt from the California Environmental Quality Act as specific actions necessary to prevent or mitigate an emergency pursuant to 14 California Code of Regulations, Sections 15269, 15273, and 15321, and the applicable statutes of the Public Resources Code.

The General Manager and District Secretary are hereby authorized and directed to file a Notice of Exemption as soon as possible following the adoption of this Ordinance.

Section 6. Terms and Provisions. The terms and provisions of this Ordinance enacted hereby, shall be subject to, and shall be interpreted pursuant to, State law.

Section 7. Notice and Provisions. Notice of the adoption of this Ordinance, and the provisions hereof, have been, and shall be, as applicable, provided as set out in State law, including, but not limited to, the requirements of Water Code Section 31027.

Section 8. Other Actions. Mesa Water staff and officers are hereby authorized and directed to take such other and further action(s) as may be reasonably necessary to carry out the determinations, findings and directives set forth herein, within the limits set forth by, and in accordance with, direction of the Board.

Section 9. Effective Date. This Ordinance No. 33 shall take effect on February 9, 2022.

ADOPTED, ORDAINED, SIGNED, AND APPROVED this 9th day of February 2022 by a roll call vote:

AYES: DIRECTORS: Atkinson, Bockmiller, Fisler, Dewane
NOES: DIRECTORS:
ABSTAIN: DIRECTORS:
ABSENT: DIRECTORS: DePasquale

DocuSigned by:

Marice DePasquale

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Marice H. DePasquale
President, Board of Directors

ATTEST:

DocuSigned by:

Denise Garcia

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Denise Garcia
District Secretary